

Town of Calais
Use of Town Highway Right-of-way Ordinance
March 10, 2008

Section 1 This ordinance is adopted pursuant to the authority vested in the Town of Calais and its Selectboard under 24 V.S.A. §872, and 19 V.S.A. §1111, and is independent of any review conducted under zoning or other regulations. It is intended to protect and promote the safety of the traveling public by regulating building and planting within the town highway right-of-way. This ordinance repeals and replaces the Town of Calais ordinance Erection of Fences, Walls, and Signs, and Planting of Ornamental Trees and Shrubbery Within the Town Highway Right-of-Way adopted by the Calais Selectboard on April 27, 1987.

Section 2 Application forms for use of right-of-way permits are available at the Town Clerk's Office. A sketch drawing and location map must be attached to the application form.

Section 3 In this ordinance, "structure" means a sign, fence, wall, building, or obstruction, which may impair the safety of persons traveling on the highway. No person shall place a structure other than a building, ornamental tree, or shrub, which is above the level of the adjacent traveled portion of a town highway, in a town highway right-of-way without a permit issued by the Selectboard. No person shall place a building in a town highway right-of-way without a permit issued by the Selectboard.

Section 4 In order to protect and promote the safety of the traveling public, applications for a right-of-way permit shall be evaluated under the following criteria:

- The structure or planting shall not interfere with sight distances necessary for the safety of the traveling public.
- The structure or planting shall not interfere with the town road commissioner's ability to maintain and plow the road.
- The structure or planting will not reduce the scenic quality of the road.
- The structure or planting shall not impair the safety and convenience of the traveling public in any other way.

Section 5 Following receipt of a complete application, the Selectboard, in consultation with the town road commissioner, shall evaluate each application for compliance with the criteria of Section 3 of this ordinance. The Selectboard may inspect the property if it determines that this would be helpful in evaluating the application and may charge an administrative fee to offset expenses incurred in the inspection and processing of the application. The Selectboard shall attempt to issue a decision to allow the project as requested, allow the project with modifications, or deny the project within 30 days of receipt of a complete application, although it may take longer. If the project is allowed, the Selectboard shall issue a use of right-of-way permit. If the project is not completed within two years of issuance of a permit, the permit shall be deemed invalid. Upon completion, the permit holder shall notify the town road commissioner who may inspect the project to insure compliance with the permit.

Section 6 The Selectboard may revoke a granted use of right-of-way permit:

- for violation of any condition set forth in the permit,
- for failure to maintain the structure or planting in accordance with permit conditions or in a fashion acceptable to the road commissioner,

- if it finds that it is necessary to modify the traveled portion of the road in order to protect and promote the safety and convenience of the traveling public, or
- if a planting grows to the extent that it becomes a hazard to the safety of the traveling public.

Upon revocation of a permit, the landowner shall remove the structure or planting within 10 days of written notice of the revocation, or longer if the Selectboard grants a longer time period. Following revocation, the landowner may file with the town clerk a written request for appeal of the revocation prior to the deadline for removal of the structure or planting. In this case, the structure or planting need not be removed until the appeal is resolved. The Selectboard shall attempt to hear the appeal within 30 days and make a decision within 15 days of close of the hearing although it may take longer.

Section 7 The landowner shall save and hold harmless the Town of Calais from all damages that may occur to others as a consequence of placement of a structure or planting in the town right-of-way whether the structure or planting is permitted or not. Issuance of a permit under this ordinance does not confer upon any person a right to seek payment for a permitted or non-permitted structure or planting which is injured or damaged by the maintenance or plowing of the road, nor for the cost of the structure or planting if the Selectboard subsequently orders it removed.

Section 8 The following may be placed in a town right-of-way, out of the traveled portion of the road, without a permit:

- mail and newspaper boxes,
- temporary signs,
- fences used for agricultural purposes which do not impair the safety or convenience of the traveling public,
- trees or shrubs replacing trees or shrubs either in the town right-of-way at the time of adoption of this ordinance or which are permitted under this ordinance, provided that the replacement trees or shrubs are no closer to the center line of the road than the original plantings, and provided that the Selectboard may order their removal if it finds the safety or convenience of the traveling public is impaired.

Section 9 Violations of this ordinance are subject to penalties set forth in Title 19, Section 1111, of fines not less than \$100.00 nor more than \$10,000.00 for each violation.