

**CHAPTER 181**  
**RIGHT OF WAY PERMITS**  
**WORK TO BE PERFORMED IN CITY OWNED RIGHT-OF-WAY**

**181.01 Permit required.** No person, firm or corporation shall perform any regulated activity in the city right-of-way without first obtaining the appropriate permit(s) from the city to do so.

**181.02 Regulated activity.** As used in this chapter, the term "regulated activity" shall include, but not be limited to the following:

- a) Cut, remove, alter, obstruct, or construct any curbing, alley, driveway approach, sidewalk, vehicular access, street or roadway;
- b) Excavate any hole or trench;
- c) Make any sanitary sewer or storm sewer connection or repair;
- d) Place any drainage tube;
- e) Place any obstruction such as a dumpster or materials;
- f) Obstruct any roadway or interfere with traffic or sight triangle;
- g) Erect any structure, permanent or temporary;
- h) Bore;
- i) Tunnel;
- j) Hang cable;
- k) Grading; and
- l) Landscaping

**181.03 Emergencies.** If an emergency arises which would require the performance of any of the regulated activities to be performed immediately so as to protect the public safety, then and in that event, it shall not be necessary to secure the permits prior to performing the activity. However, all appropriate permits will be obtained immediately upon the termination of the emergency condition. The property owner for whose benefit the work is being performed and the contractor shall hold harmless, indemnify and defend the city against all claims and suits arising out of the work performed.

**181.04 Indemnity agreement: Issuance required.** No person will be granted a permit under this chapter unless they have agreed in writing to hold harmless, indemnify and defend the city of Carter Lake from any and all suits and actions of every description that may be brought against said city on account of property damage or personal injury, including death, received or sustained by any person or persons through negligence of the permit holder, their agents and employees.

**181.05 Insurance and bond.** No permits shall be issued for the regulated activities in the city right-of-way until such time that the applicant has provided proof of insurance and a bond to the public works department in amounts and coverages that either meet or exceed the standards established by the Building Inspector.

**181.06 Indemnity agreement - Issuance required.** If contractors and/or subcontractors are utilized in the performance of any of the regulated activities, and they are not expressly covered by the insurance and bond documents provided pursuant to Section 10.20.040, then such

contractors and/or subcontractors shall be required to provide their own proof of insurance and bond prior to performing any of the regulated activities.

**181.07 Additional requirements.** For regulated activities being performed in the actual roadway portion of the right-of-way, the additional requirements set out herein shall be met.

- a) For the purposes of this chapter the roadway portion of the right-of-way is that portion which lies between the curbs. On rights-of-way where there are no curbs, it shall mean the roadway that is used or intended to be used for travel and parking.
- b) The site will be barricaded in accordance with the Manual on Uniform Traffic Control Devices (MUTCD) and the review and approval of the Building Inspector.
- c) The site will be posted with a contractor identification sign visible from all routes approaching the work. This sign shall include the name of the contractor and a telephone number which will be answered twenty-four hours a day, seven days a week. This sign shall be, at a minimum, one foot by two feet. The name shall be in three-inch letters, and the phone number in one and one-half inch letters.
- d) Street repair patches meeting city specifications shall be in place, and the road will be open to traffic within seventy-two hours of the completion of the work. "Work," as used herein, shall mean uninterrupted and continuous until its completion.
- e) Temporary patches may be authorized in certain cases, but they must meet city specifications and requirements.
- f) If the roadway is an arterial or collector street, a drawing illustrating what and how traffic control devices will be utilized must be submitted to the city for review at least seventy-two hours prior to the commencement of the proposed work.

**181.08 Permit application.** Prior to the performance of any regulated activity in the right-of-way, the owner of the abutting property, or the person who is to perform the work, shall file an application in the office of the Building Inspector. This application shall contain the following information:

- a) the name of the property owner abutting the regulated activity;
- b) the street address or legal description of the parcel of land abutting the regulated activity;
- c) the name and address of the contractor or other person who is to undertake the regulated activity;
- d) the date work is scheduled to commence;
- e) a scale drawing attached to the application, showing the proposed location of the work, its relation to the abutting right-of-way, adjacent properties, any driveway approaches and the traveled way of the abutting street;
- f) all information required by other sections of this chapter; and
- g) any other information as may be deemed necessary by the Building Inspector.

**181.09 Reservation of right to remove driveway approach.** The granting of a permit for the construction of a driveway approach and the issuance of a certificate of completion shall in no way vest any right in the permittee or in any person having any vested interest in the land to which said approach may run, or in any person who may subsequently acquire any interest in such land, to maintain such approach, and the city of Carter Lake specifically reserves the right and power to remove such approach or any part thereof if such removal is deemed necessary as a matter of public convenience, necessity, or safety, or if such removal becomes necessary in order to facilitate

drainage upon or along any street right-of-way or traveled way, or if such removal becomes necessary in order to widen, change, or otherwise improve the traveled way or the right-of-way of any street, alley, or other public thoroughfare. The cost of such action under this section shall be borne by the City of Carter Lake.

**181.10 Resolution of council for construction of sidewalks.** The city council of Carter Lake, Iowa, may by resolution order the construction of any sidewalk within the city of Carter Lake as a public improvement in accordance with the procedures of Chapter 384, Division IV, of the State Code of Iowa, and assess the cost of such construction as provided for in the State Code.

**181.11 Damage of sidewalks and notices.** No person shall knowingly or willfully drive any vehicle or livestock upon any portion of any sidewalk or approach thereto, while in the course of construction, reconstruction or repair or upon any portion of any completed sidewalk or approach thereto, or shall remove, destroy, mar, or deface any sidewalk at any time, or destroy, mar, remove, or deface any notice provided for by this chapter.

**181.12 Preliminary review.** Within ten (10) working days from the filing of an application, the Building Inspector shall review the permit application for the proposed work and shall determine upon its completion that it will conform to and be in accordance with all specifications adopted herein. As in other portions of this Code, Other Inspections, the Building Inspector may make or require any other inspections or any other construction or work to ascertain compliance with the provisions of this chapter and other laws which are enforced by the Building Inspector. If it is necessary for the Building Inspector to request a review of any plans submitted by an applicant or if the Building Inspector needs to request the services of special inspector at any phase of the construction, the cost of the Building Inspector's consultation with and any cost incurred by the City for their services of such special inspector shall be passed on to the applicant. If a bill is submitted to the applicant and/or contractor, and payment is not made forthwith, the Building Inspector shall be entitled to enforce this Ordinance as provided through fines, revocation of permit, penalties and/or withhold the approval of the project until the bill is paid in full. If the applicant or contractor believes the bill is unreasonable or unnecessary, the contractor may appeal the Building Inspector's position to the City Council by written request within ten (10) days of the submission of the bill by the Building Inspector to the applicant or contractor. The Council shall grant a hearing on the request as soon as practicable. If a special meeting is necessitated to determine the fair and reasonableness of the bill, the applicant shall be required to pay the cost of any special meeting of the Council. These extra fees incurred by the Building Inspector may include but shall not be limited to consultations with or reviews of plans by licensed engineers, architects and surveyor.

**181.13 Permits — Issuance — Fee.** Upon completion of the preliminary review, if it is determined that the proposed work will conform to and be in accordance with all specifications adopted hereunder and otherwise will meet the requirements of all other laws and regulations, such permit shall be issued in the name of the applicant.

- a) If it is determined that the proposed construction will not be in conformity with this chapter or the provisions of any law or regulation, the Building Inspector shall advise the applicant of any and all changes which will be necessary, and the applicant will file with the Building

Inspector such amendments to his or her application as may be necessary to incorporate such changes.

- b) At the discretion of the Building Inspector, such permit may be issued with the required corrections incorporated into the permit.
- c) If such amendments are sufficient to show the necessary changes, the Building Inspector shall issue such permit as provided in this section.
- d) No permit shall be issued if the proposed construction will be in violation of this chapter or any other law or regulation.
- e) In order to defray the cost of administering this chapter, a fee as set forth in the prevailing schedule of fees shall be charged for each permit issued.
- f) Whenever any work for which a permit is required by this chapter has been commenced without first obtaining a permit, except as provided for in Section 3 above, the applicant will pay (3) three times the established permit fee for the proposed work.

**181.14 Specifications.** All work shall be performed in accordance with the plans and specifications for such work as are currently established by the Building Inspector, and that may be established by the Building Inspector in the manner outlined in Section 12 above

**181.15 Notice of commencement of construction - Time for completion.** The permittee shall provide the Building Inspector with 24 hour notice prior to the start of construction. Upon commencement of the work, permittee shall have twenty (20) calendar days to complete the work unless an extension of time is granted by the Building Inspector. Such extension may be granted upon written application by the permittee and demonstration of sufficient cause for the extension. Within forty-eight hours after completion of the work, permittee shall notify the Building Inspector. The provisions in this section are superseded by those in Section 16, below,, which are more restrictive.

**181.16 Inspection.**

- a) Once construction is commenced, the Building Inspector may periodically inspect the site to assess progress. An inspection is required before the placement of concrete. The permittee must contact the Building Inspector 24 hours in advance to arrange for this inspection. Failure to do so could result in rejection of the work.
- b) If the Building Inspector finds that the construction is not in conformance with the approved permit application and amendments, the specifications, or any other law or regulation, he/she shall notify the permittee in writing of items of noncompliance. The permittee shall have ten (10) days within which to remedy all items of noncompliance.

**181.17 Expiration date of permit.** Each permit issued hereunder shall be valid for a period of sixty (60) calendar days from the date of issuance, and the work must be commenced under such permit within that sixty (60) day period. The Building Inspector shall have the authority to waive this requirement on work being performed in conjunction with Title 13, Buildings and Construction.

**181.18 Penalty.** Any person found guilty of a violation of any of the provisions of this chapter shall upon conviction be subject to the penalty provisions of this Code found in Chapter 8.03. Each day that a violation is allowed to continue shall constitute a separate and distinct violation. At the

discretion of the city attorney, any violation of the provisions of this chapter may be pursued as a municipal infraction according to the terms of Chapter 8 of this code, in lieu of criminal prosecution.

PASSED AND APPROVED this 4<sup>th</sup> day of June, 2018

RON CUMBERLEDGE, Mayor

ATTEST:  
JACKIE STENDER, City Clerk

**ORDINANCE NO. 655**

FIRST CONSIDERATION: April 16, 2018

SECOND CONSIDERATION: May 21, 2018

THIRD CONSIDERATION: June 4, 2018

The undersigned as City Clerk of Carter Lake, Iowa does hereby certify that on June 4, 2018, I posted true and exact copies of the foregoing ordinance in four public places to-wit: City Hall, Carter Lake Senior Center, Owen Memorial Library, and American National Bank all within the limits of the City of Carter Lake, Iowa.

Jackie Stender, City Clerk