CHAPTER 56: WATER, SEWER, AND PUBLIC ROAD EASEMENT AND ENCROACHMENT REGULATIONS

General Provisions

56.001 Purpose and Authority

56.002 Applicability

56.003 Definitions

56.004 General Policy

Allowable Structures and Uses

56.005 Allowable Structures and Uses

56.005.1 Allowed with No Permit (General Allowance)

56.005.11 Allowed by Major Encroachment Permit

56.005.12 Allowed by Minor Encroachment Permit

56.005.3 Generally Prohibited Encroachments

Permitting and Enforcement

56.006 Encroachment Permit Process

56.007 Removal of Unapproved or Obstructive Encroachments

56.008 Easement and ROW Maintenance Responsibility

56.009 Indemnity and Liability

56.010 Appeals

56.011 Penalties and Enforcement

56.012 Severability

56.013 Easement Certificate for Plats

Inspections

56.014 Inspection Procedure for Easements and Encroachments

56.014.1 Routine Inspections

56.014.2 Complaint-Driven Inspections

56.014.3 Post-Encroachment Permit Inspections

56.014.4 Emergency Inspections

56.014.5 Inspection Timeline and Compliance Deadlines

56.015 Fee Schedule

56.016 Visual Diagram

GENERAL PROVISIONS

§ 56.001 PURPOSE AND AUTHORITY.

This ordinance is enacted pursuant to the authority granted by North Carolina General Statutes §§ 160D and 160A, to protect public water and sewer infrastructure, preserve access for maintenance and emergency repair, and ensure the safe and lawful use of public road rights-of-way and utility easements within the jurisdiction of the Town of Liberty within its municipal boundaries.

§ 56.002 APPLICABILITY.

This ordinance applies to:

- New development;
- Longitudinal installations;
- Bores; and
- Public road rights-of-way under the Town's jurisdiction.
- For existing water and/or sewer lines held by or for the benefit of the Town, unless the property owner voluntarily wishes to enter into an agreement, these utilities shall hold prescriptive easements in accordance with common law.

§ 56.003 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

PERMANENT ENCROACHMENT. Any structure or object that is fixed or not readily removable, such as a building, carport, retaining wall, or similar installation.

PUBLIC RIGHT-OF-WAY (ROW). Land reserved or dedicated for use by the public for vehicular or pedestrian travel, utilities, drainage, or other public purposes.

TEMPORARY ENCROACHMENT. An encroachment that is easily movable or removable within 48 hours without structural alteration.

UNOBSTRUCTED ACCESS. A condition in which town or utility crews can freely and safely reach, operate, inspect, or service infrastructure without removal, damage, or impairment of any encroaching structure or use.

§ 56.004 GENERAL POLICY.

It is the policy of the Town that:

- Encroachments into water, sewer, and roadway easements or ROWs are discouraged but may be permitted if the infrastructure remains fully accessible for routine and emergency maintenance.
- Encroachments shall not:
  - Block manholes, valves, clean-outs, or access points.
  - Interfere with pipeline integrity or cover.
  - Prevent safe access by vehicles or personnel.

ALLOWABLE STRUCTURES AND USES

§ 56.005 ALLOWABLE STRUCTURES AND USES.

The following may be permitted within easements or public ROWs, subject to conditions:

§ 56.005.1 Allowed with No Permit (General Allowance):

- Grass, groundcover, or mulch
- Decorative plants, provided they do not grow over 4 feet tall and are not within 3 feet of any utility structure
- Non-fixed improvements (e.g., movable lawn furniture)

§ 56.005.11 Allowed by Major Encroachment Permit:

- Hardscape (pavers, fences, retaining walls)
- Streetscape (benches, bike racks)
- Utilities (stormwater devices, wells, grease traps, meter repair)
- Building elements (balconies, doors, stairs, landings, ramps)

§ 56.005.12 Allowed by Minor Encroachment Permit:

May be permitted if certified as not obstructing access or damaging infrastructure, and removable if required:

- Fences (must include removable panels or a gate with a minimum of 20' width and not block access points)
- Driveways or walkways (provided no curb or surface drainage is altered)
- Decks or patios that do not cover manholes or water/sewer appurtenances

- Sheds or carports on skids or raised foundations (subject to approval and removability)

§ 56.005.3 Generally Prohibited Encroachments:

- Permanent buildings or structures directly over utility lines or manholes
- In-ground pools, garages, or additions within an active easement
- Retaining walls that restrict access by maintenance vehicles

PERMITTING AND ENFORCEMENT

§ 56.006 ENCROACHMENT PERMIT PROCESS.

Any person seeking to place a structure or improvement within a utility easement or ROW must obtain an Encroachment Permit from the Town. The application must include:

- Site plan with:
  - Aerial of vicinity of work;
  - Survey of existing easement boundaries; and
  - Proposed location of structure/construction/development;
- Construction details (materials, foundation, height)
- Confirmation that no infrastructure will be impaired

The Town Manager or designee shall coordinate review with public works staff and determine approval within 30 calendar days.

Permits may be revoked if access is later obstructed due to future changes or degradation of conditions.

§ 56.007 REMOVAL OF UNAPPROVED OR OBSTRUCTIVE ENCROACHMENTS.

If the Town determines that an encroachment:

- Was not permitted, or
- Obstructs access or damages infrastructure,

then the Town shall issue a written Notice of Violation to the property owner, requiring correction or removal within 10 calendar days.

In emergencies, or if access is urgently needed, the Town may remove any encroachment without prior notice and bill the property owner for removal costs.

§ 56.008 EASEMENT AND ROW MAINTENANCE RESPONSIBILITY.

Property owners shall keep easement and ROW areas clear of debris, vegetation overgrowth, or materials that impede maintenance access. No regrading, landscaping berms, or drainage obstructions are permitted in these areas without Town approval.

§ 56.009 INDEMNITY AND LIABILITY.

Owners who install any permitted encroachment within a public easement or ROW shall indemnify and hold harmless the Town of Liberty from any damages, liability, or costs related to the installation, use, or required removal of such encroachments.

§ 56.010 APPEALS.

Permit denials or removal orders may be appealed in writing to the Town Council within 30 days. The Council shall render a decision at its next regular meeting following notification requirements per NCGS 160D-405.

§ 56.011 PENALTIES AND ENFORCEMENT.

- Violation of this ordinance constitutes a civil offense subject to: A fine of $100 per day, per violation;
- Recovery of all removal and restoration costs; and
- Injunctive relief as authorized under North Carolina law in accordance with NCGS 160A-175 and 160D-404.

§ 56.012 SEVERABILITY.

If any part of this ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions.

§ 56.013 EASEMENT CERTIFICATE FOR PLATS.

All final subdivision or site plan plats submitted for recordation and/or plan approval that include any public utility easement or public road right-of-way shall contain the following Easement Certificate:

EASEMENT CERTIFICATE

This plat contains one or more utility or public access easements. These easements are reserved for the installation, inspection, maintenance, and repair of public infrastructure including, but not limited to, water lines, sewer lines, manholes, drainage facilities, and roadway improvements.

No permanent structure or improvement may be placed within these easements or rights-of-way without written permission from the Town of Liberty, and all encroachments are subject to removal at the owner's expense.

This _____ day of _____, 20____

Professional Land Surveyor

(NC License # _____) Date: _____

Signature: _____

Owner or Developer

Signature: _____ Date: _____

Printed Name: _____

Town of Liberty Representative

Signature: _____ Date: _____

Printed Name: _____ Title: _____

INSPECTIONS

§ 56.014 INSPECTION PROCEDURE FOR EASEMENTS AND ENCROACHMENTS.

The Town of Liberty shall conduct periodic and on-demand inspections of easement and right-of-way areas to ensure compliance with this ordinance.

§ 56.014.1 Routine Inspections.

- Town staff or authorized agents shall inspect all recorded easements:
  - Prior to final plat approval;
  - During site development and utility installation;
  - As part of routine utility maintenance cycles (annually or biennially).
- Inspections will check for:
  - Visual obstructions;
  - Structural encroachments;
  - Damage to infrastructure; and
  - Vegetation or materials impeding access.

§ 56.014.2 Complaint-Driven Inspections.

- Any resident, contractor, or utility provider may report suspected violations.
- Town staff will respond within 10 business days to conduct a visual inspection.
- Findings shall be documented, with photos if applicable.

§ 56.014.3 Post-Encroachment Permit Inspections.

- Within 30 days of completion of a permitted encroachment, the Town will:
  - Verify compliance with permit conditions;
  - Confirm continued unobstructed access to utility infrastructure; and
  - Issue either a Certificate of Compliance or a Correction Notice.

§ 56.014.4 Emergency Inspections.

- In case of a utility outage, leak, or infrastructure failure, staff are authorized to:
  - Enter private property under North Carolina law;
  - Remove encroachments if necessary to access or protect infrastructure; and
  - Document and report any violations found.

§ 56.014.5 Inspection Timeline and Compliance Deadlines.

The following timelines apply to permit processing, inspections, and enforcement:

Action/Event	Deadline
Encroachment Permit Review	Within 30 calendar days of a complete application
Post-Permit Compliance Inspection	Within 30 calendar days of completion of work
Response to Complaint or Reported Violation	Within 10 business days
Removal Notice for Unapproved Encroachment	30 calendar days to comply
Emergency Access Violation	Immediate removal or entry, as needed
Appeal Filing Window	Within 30 calendar days of a written decision*
Board Decision on Appeal	At next regular Board meeting after receipt

* A written decision includes notification on a letterhead and/or email of decision.

§ 56.015 FEE SCHEDULE.

All fees associated with:

- Encroachment permit applications
- Re-inspections
- Plat or easement certificate review
- Late removal or enforcement actions

...shall be charged in accordance with the official Town of Liberty Fee Schedule, adopted by resolution of the Town Council for each fiscal year. These fees are subject to periodic amendment and are available upon request or on the Town's website.

§ 56.016 VISUAL DIAGRAM.

The following diagram is provided to aid in public understanding of acceptable and unacceptable uses within utility easements and public rights-of-way:

✓ ALLOWED

✓ Grass / Shrubs / Mulch

✓ Driveway or Sidewalk (if not obstructing access)

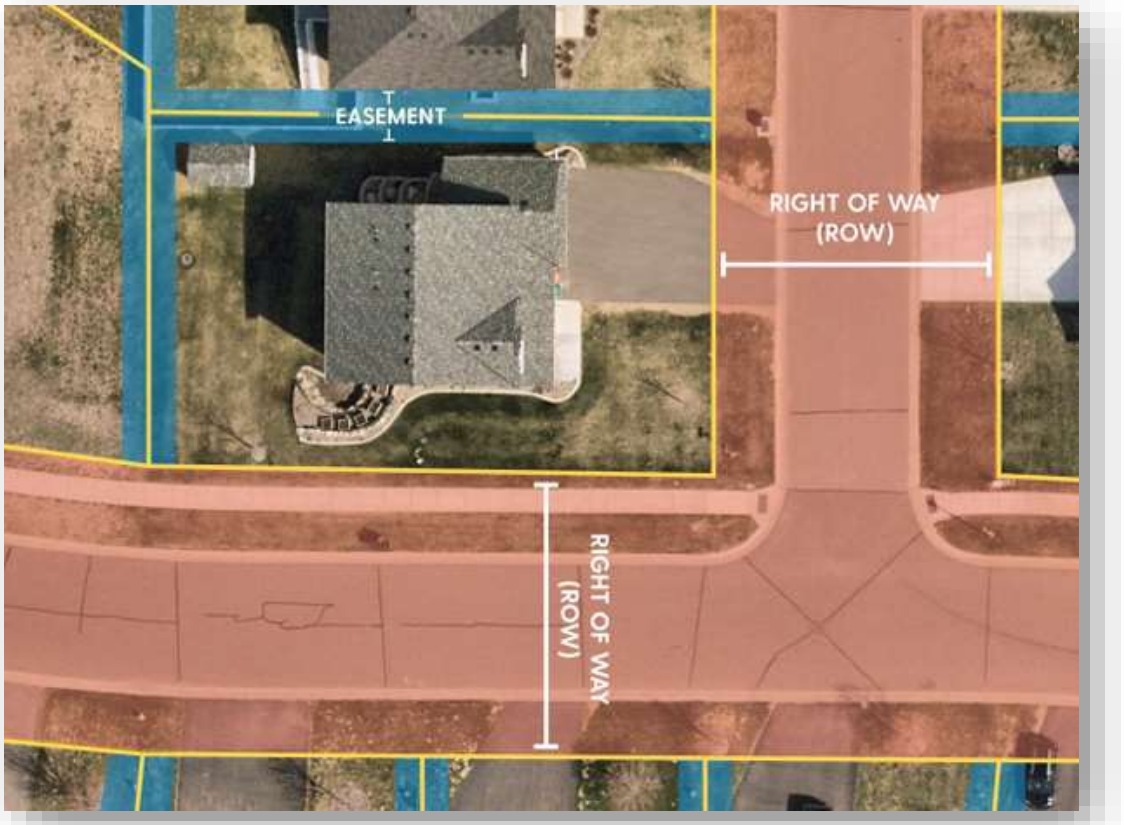
✓ Fence with gate access if required by the Town

✓ Raised deck (not over manholes or valves)

✗ PROHIBITED

✗ No permanent structures (garage, shed, additions) over line

✗ No tree roots within 5' of pipes

✗ No retaining walls blocking equipment access

✗ No grading that raises or lowers the easement above original design grade