

ORDINANCE CONCERNING HIGHWAY BOUNDARY STONE WALLS

BE IT ORDAINED by the legal voters of the Town of Goshen in meeting assembled:

SECTION 1. This Ordinance is adopted pursuant to Connecticut General Statutes §§7-148(c)(6)(C), 7-148(c)(10) and 7-152c. The purpose of this Ordinance is: (a) to preserve highway boundary stone walls as important monuments, (b) prevent the scavenging and destruction of these historic agrarian landmarks, (c) preserve Goshen's historic scenic highways, and (d) regulate excavation within or adjacent to highways.

SECTION 2. As used in this Ordinance:

(a) "Town highway" means any improved or unimproved highway of the Town of Goshen designated as such on the current town aid road list prepared by the Public Works Supervisor pursuant to Connecticut General Statutes Chapter 240, Part II A and any other highway of the Town of Goshen which has not been statutorily discontinued or lawfully abandoned.

(b) "Highway boundary" shall mean the centerline of a highway boundary stone wall unless there is evidence establishing said highway boundary as other than the centerline of a highway boundary stone wall.

(c) "Highway boundary stone wall" means a stone or masonry wall, or portion thereof, located on, or adjacent to, the boundary between a town highway and the property of the adjacent owner, which thereby constitutes a monument which determines, either directly or as a point of reference, the limits of the highway commonly known as the "highway line" or the "street line" which delineates the limits of the public highway.

SECTION 3. (a) No property owner, and no person acting on behalf of a property owner, shall remove, dismantle, demolish, bury or relocate a highway boundary stone wall without first having obtained a permit from the Board of Selectmen or its designee.

(b) Application for such permit shall be made by the property owner on forms furnished by the Town of Goshen and shall be accompanied by a plot plan, drawn to scale by a Connecticut licensed land surveyor, showing the limits of work, and an estimate from a Connecticut licensed land surveyor for cost of preparing an A-2 Mylar survey map of the highway boundary along that portion of the owner's property where the highway boundary stone wall is to be removed, dismantled, demolished, buried or relocated and setting concrete or granite highway monuments in accordance with such survey map and statutory requirements in addition to filing such survey map with the Goshen Town Clerk's Office.

A Minimum refundable cash permit fee equal to the surveyor's estimate, (and the Town's judgement of the scope of the work) shall be posted by the property owner to secure the completion of the surveying, monumenting and filing of the survey with the Goshen Town Clerk.

50% of the permit fee will be refunded upon submission to the Board of Selectmen of a signed and sealed completed A-2 survey of the highway boundary stone wall removed, dismantled, demolished, buried or relocated and 50% will be refunded upon completion of the highway boundary monumenting and filing of the Mylar A-2 survey of the highway boundary with the Goshen Town Clerk.

Permits shall be valid for a period of 180 days from the date of issuance. If permitted work has not been started within 180 days of issuance of the permit, the permit shall thereupon terminate and the permit fee shall be refunded to the property owner. If work is not completed per the application proposal within one year from the date of issuance, the permit shall thereupon terminate and the permit fee will be forfeited to the Town. It will be required of the property owner to reapply for a permit if work is to continue. Permits may not be transferred with the sale of property.

(c) The Board of Selectmen or its designee may issue a permit if it determines that the proposed removal, dismantling, demolition, burying or relocation of a highway boundary stone wall is:

- (i) permitted as of right under this Ordinance;
- (ii) required for safe driveway access, highway intersection layout or sight lines, or other necessary highway improvements approved by the town's professional engineer or traffic safety consultant;
- (iii) restricted to the minimum amount of highway boundary stone wall disturbance necessary to accomplish the foregoing objectives; and
- (iv) includes proposed measures to mitigate the loss of that portion of the highway boundary stone wall, such as landscaping, fencing and/or relocating or reconstructing the stone wall in an alternate location on the owner's property as part of a highway boundary stone wall or other property boundary stone wall.

(d) Upon completion of the work, the permittee shall submit a recordable A-2 Mylar survey map of the highway line along the owner's property and shall set concrete or granite highway monuments in accordance with such survey map and statutory requirements, which survey map shall be filed in the Goshen Town Clerk's Office.

SECTION 4. The following activities shall be permitted as of right under this Ordinance: (a) maintenance of existing driveways and barways in highway boundary stone walls; (b) the removal of not more than fourteen (20) linear feet of a highway boundary stone wall required for the construction of a new driveway pursuant to a permit issued in accordance with the Town's Driveway Ordinance; (c) the maintenance, rebuilding or landscaping of highway boundary stone walls in their current locations; (d) maintenance and repair of drainage openings and drainways pursuant to historic rights to drain or easements to the Town of Goshen or the State of Connecticut; (e) highway maintenance, necessary construction, safety improvements, and the

removal of highway obstructions and encroachments by the Town of Goshen or the State of Connecticut.

SECTION 5. The regulation and protection of highway boundary stone walls within proposed subdivisions or adjacent to proposed subdivision roads shall be regulated by the Goshen Planning and Zoning Commission until such time as the subdivision roads are accepted as public highways of the Town of Goshen.

SECTION 6. Any person who knowingly violates this Ordinance by engaging in the removal, dismantling, demolition, burying or relocation of a highway boundary stone wall without a permit may be issued a cease and desist order by the Board of Selectmen. If such person fails to comply with such order, such person may be issued a citation with a \$100.00 fine for each violation of this Ordinance. The procedure for issuing such a citation, the right to a hearing and the right to appeal set forth in the Ordinance Establishing Citation Issuance Procedures (Title 66) shall apply to any citation issued pursuant to the terms of this Ordinance.

SECTION 7. This Ordinance shall take effect fifteen (15) days after publication thereof in a newspaper having circulation in the Town of Goshen.