

TOWN OF DELLONA ORDINANCE REGARDING UTILITIES IN TOWN ROAD RIGHT OF WAYS

1.01 Purpose

The purpose of this Ordinance is the regulation of the use of Town Right of Ways in the interest of public health, safety, welfare and convenience, and the operation and protection of public works infrastructure. These standards are required to preserve the integrity, operational safety, and function of the public Right of Way. These regulations are also adopted pursuant to section 86.16 of the Wisconsin Statutes.

1.02 Application

This ordinance shall apply to the construction, installation, maintenance or repair of all cable, wire, telegraph, telephone or electric lines, or pipes or pipelines for the purpose of transmitting information, gas, water, heat, light or power along, across or within the limits of a Town right of way. This shall not apply to repairs, construction or maintenance of the Town Roads or right of ways by the Township.

Any entity requesting permission for construction, installation, maintenance or repair of all cable, wire, telegraph, telephone or electric lines, or pipes or pipelines for the purpose of transmitting information, gas, water, heat, light or power along, across or within the limits of a Town right of way, shall apply for a permit under this ordinance.

1.03 Protective Measures And Routing Of Traffic

(a) *Safe crossings.* The permittee shall in general maintain safe crossings for two (2) lanes of vehicle traffic where possible and safe crossings for pedestrians at intervals of not more than two hundred (200) feet. If any excavation is made across any public road, street, alley or sidewalk, adequate crossings shall be maintained for vehicles and for pedestrians. If the street or road is not wide enough to hold the excavated material without using part of the adjacent sidewalk, a passageway at least forty-eight (48) inches in width shall be maintained along such sidewalk line.

(b) *Barriers and warning devices.* It shall be the duty of every permittee cutting or making an excavation in or upon any public place, to place and maintain barriers and warning devices necessary for safety of the general public. Traffic control near all excavations affecting vehicular, pedestrian and other traffic shall be subject to final review and approval of the Town. Barriers, warning signs, lights, etc., shall conform to the latest edition of the "Wisconsin Manual on Uniform Traffic Control Devices (WMUTCD).

(c) *Normalization of traffic conditions.* The permittee shall take appropriate actions to assure that during the performance of the excavation work, traffic conditions shall be maintained as near normal as possible, at all times, so as to minimize inconvenience to the occupants of the adjoining property and to the general public.

(d) ***Closing of streets.*** When traffic conditions permit, the Town may, by written approval (or by verbal approval from the Town Chair in the case of emergency), permit the closing of streets and alleys to all traffic for a period of time prescribed, if in the Town's opinion it is necessary.

(e) ***Warning signs to channel traffic.*** Warning signs shall be placed in accordance with the applicable section of the most current edition of the WMUTCD in advance of the construction operation to alert traffic within a public street, and cones or other approved devices shall be placed to safely channel traffic, in accordance with the instructions of the Town, after the Town's review of the proposed traffic control measures for the project.

1.04 Relocation And Protection Of Installations

The permittee shall not interfere with any existing cable, wire, line, pipe, culvert or other installation without the written consent of the Town and the owner of the installation. If it becomes necessary to relocate an existing installation, this shall be done by its owner. No installation owned by the Town shall be moved to accommodate the permittee unless the cost of such work is borne by the permittee. The cost of moving privately owned installations shall be similarly borne by the permittee unless it makes other arrangements with the person owning the facility. The permittee shall support and protect by timbers or otherwise all installations which may be in any way affected by the excavation work, and do everything necessary to support, sustain and protect them under, over, along or across the work. The permittee shall secure approval of method of support and protection from the owner of the facility. In case any installation should be damaged, the permittee shall promptly notify the owner thereof. All damaged installations shall be repaired by the agency or person owning them and the expense of such repairs shall be charged to the permittee. It is the intent of this section that the permittee shall assume all liability for damage to installations and any resulting damage or injury to anyone because of such damage and such assumption of liability is a legal obligation of the permittee. The only exception will be such instances where damage is exclusively due to the negligence of the owning utility. The Town shall not be made a party to any action because of this section. The permittee shall inform itself as to the existence and location of all underground installations and protect the same against damage.

1.05 Protection Of Public Property

(a) The permittee shall not remove, even temporarily, any trees or shrubs which exist in a public place without first obtaining the consent of the Town and/or owner of the tree or shrub.

(b) Any monument set for the purpose of locating or preserving the lines of any road, street or property subdivision, or a precise survey reference point, or a permanent survey bench mark within the Town, shall not be removed or disturbed or caused to be removed or disturbed without first obtaining permission in writing from the Town to do so. Permission to remove or disturb such monuments, reference points or benchmarks shall be granted only when no alternate route for the proposed installation is available. If the

Town is satisfied that no alternate route is available, permission shall be granted only upon condition, by an agreement in writing, that the person or utility applying for such permission shall pay all expenses incident to the proper replacement of this monument by the Town.

(c) No installation shall be placed within four (4) feet of the edge of the traveled portion of any street or road without approval from the Town. All installations must be at least twenty-four (24) feet from the center of any street or road and must be at least forty-eight (48) inches below the surface of the ground at the place of installation. If the installation is in solid rock, it must be at least twenty-four (24) inches below the surface of the ground at the place of installation and be encased in steel and concrete. An installation by a sole permittee may be on either side of the roadway but not on both sides.

1.06 Prompt Completion Of Work

After an excavation is commenced, the permittee shall carry out with diligence and expedition all excavation work covered by the permit and shall promptly complete such work and restore the road, street or sidewalk as specified by the Town. The permittee shall perform such restoration work so as not to obstruct, impede or create a safety hazard to public travel.

All excavations shall be covered or backfilled at the end of each workday. Covered shall mean steel plated over the entire trench plus two (2) feet around the edges. The steel shall be of strength to hold pedestrian traffic. Barriers approved by the Town must be installed if the excavation is to be plated.

1.07 Noise, Dust And Debris

Each permittee shall conduct and carry out excavation work in such manner as to avoid unnecessary inconvenience and annoyance to the general public and occupants of neighboring property. To the fullest extent practicable, the permittee shall act to reduce noise, dust, and unsightly debris in the performance of the excavation work. Excavation work, including the use of any tool, appliance, or equipment, shall be performed between the hours of 7:00 a.m. and 7:00 p.m. only, exclusive of emergency work. Time waiver requests may be submitted to the public works authority for work outside of this time period and will be subject to neighborhood concerns. Excavation work shall not occur on Sundays, holidays or on major holiday weekends, unless expressly authorized by the public works authority or as a result of emergency need.

1.08 Restoration Of Streets And Sidewalks

All street and sidewalk restorations, including temporary and permanent work within any street shall be performed by and at the permittee's sole expense and in accordance with Town standards. All repairs and restoration work shall be completed by the permittee in a manner and to the extent deemed acceptable to the Town.

1.09 Warranty Of Work

The permittee shall, for a period of two (2) years thereafter, be fully liable for all defects in materials and workmanship relating to work performed pursuant to a permit, required by this ordinance and shall promptly repair or replace the same upon notice from the Town and to the satisfaction thereof.

1.10 Liability

This ordinance shall not be construed as imposing upon the Town or any official or employee any liability or responsibility for damages to any person injured by the performance of work for which a permit is required under this ordinance, nor shall the Town or any official or employee thereof be deemed to have assumed any such liability or responsibility by reason of inspections authorized hereunder, the issuance of any permit, or the approval of any work. In the case of a dedicated-but-unaccepted street or way, this ordinance shall not be construed as authorizing any action which is inconsistent with any private rights in said street or way, nor shall the issuance of any permit hereunder be construed as an acceptance of said street or way by the Town for highway or any other purposes. For purposes of this section, every permittee shall maintain at all times comprehensive general liability and property damage insurance coverage in a suitable amount, not less than \$300,000, protecting himself, his agents and the Town from all such claims for damages or injuries and naming the Town as an additional insured. All such insurance shall include, without being limited to, endorsements for completed operations and special hazards/underground collapse, and shall be primary to any insurance or self-insurance of the Town. Evidence of such coverage shall be a condition precedent to the issuance of any permit hereunder.

1.11 Inspections

- (a) No underground installations shall be covered prior to inspection by the Town.
- (b) The Town shall make such inspections as are reasonably necessary in the enforcement of this ordinance.
- (c) The Town may order such actions as it deems necessary to ensure that this ordinance is not violated.
- (d) In the event that any dispute exists as to the amount, nature, or scope of the work required under this ordinance, the decision and judgment of the responsible Town official will be final and binding unless appealed to or stayed by a court of competent jurisdiction.

1.12 Drawings

The permittee shall submit to the Town a drawing to a scale of not less than one (1) inch to fifty (50) feet, showing in detail the plan, location, size and kind of installation, if known, of all new and existing installations in the area where the permittee is requesting permission to work. Within 60 days after work is completed, the permittee, shall file with the Town a map or set of maps each drawn to a scale of not less than one (1) inch to fifty (50) feet, showing in detail the final location, size and kind of installation, if known, of all installations.

1.13 Emergency Action

Nothing in this ordinance shall be construed to prevent the making of such excavations as may be necessary for the preservation of life or property or for the location of trouble in an installation which may be a threat to life or property, or for making emergency repairs, provided that the person making such excavation shall apply to the Town for such a permit on the first working day after such work is commenced. Before any excavation work is started, the person or utility excavating must contact all utilities for on the spot locations.

1.14 Application Requirements

An application for a permit must include:

1. a description of the proposed installation,
2. a general location for the proposed installations,
3. a traffic plan, if necessary, a plan for protection of existing installations,
4. a scale drawing of the proposed installation as provided above,
5. a construction plan, and
6. a remediation plan.

Four copies of these materials shall be submitted to the Town Clerk.

After a Town approves of all of the requirements in the application, a permit will be granted.

1.15 Excavation Requirements

(A) All work must be conducted in strict accordance with the latest regulations of OSHA for excavations.

(B) All excavations shall be performed in accordance with the Town specifications.

(C) All material excavated from trenches and piled adjacent to the trench or in any street or road shall be piled and maintained in such manner as not to endanger those working in the trench, pedestrians or users of the streets, and so that as little inconvenience as

possible is caused to those using streets and adjoining property. Where the confines of the area being excavated are too narrow to permit the piling of excavated material beside the trench, the Town shall have the authority to require that the permittee haul the excavated material offsite.

(D) It shall be the permittee's responsibility to secure the necessary permission and make all necessary arrangements for all required storage and disposal sites.

(E) All material excavated shall be laid compactly along the side of the trench and kept trimmed so as to cause as little inconvenience as reasonably possible to vehicular and pedestrian traffic, or as specified by the Town. Whenever necessary in order to expedite the flow of traffic or to abate the dirt or dust nuisance, boards or bins may be required by the Town to prevent the spreading of dirt into traffic lanes. If any portion of the excavated material is allowed to be used as backfill, it shall be stockpiled separately from all other materials.

(F) Breaking through pavement in streets.

(1) The permittee shall make every effort to keep the amount of pavement damage to a minimum. Pavement shall be cut in a rectangular shape to ensure a proper repair. Any pavement damage created by permittee's excavation shall be repaired by the permittee.

(2) All excavations on paved street surfaces shall be pre-cut in a neat straight line with pavement saws.

(3) Heavy-duty pavement breakers may be prohibited by the Town when the use endangers existing substructures or other property.

(4) Cutouts of the trench lines must be normal or parallel to the trench line. No irregular shapes will typically be allowed.

(5) Pavement edges shall be trimmed to a vertical face and neatly aligned with the centerline of the trench.

(6) Unstable pavement shall be removed over cave-outs and over-breaks; and the sub-grade shall be treated as the main trench.

(G) The permittee shall not be required to repair pavement damage existing prior to the excavation unless his or her cut results in small floating sections that may be unstable, in which case, the permittee shall remove the unstable portion and the area shall be treated as part of the excavation.

(H) When two or more street openings are made under the same permit in sequence seven (7) feet or less (edge to edge) between each adjacent opening, the permittee shall neatly

cut and remove the area of pavement between these adjacent openings and shall repair the entire area as one trench.

(I) Where additional excavations are made for the same client or utility which are within seven (7) feet (edge to edge) of previous excavations still under a guarantee period, the permittee shall neatly cut and remove the area of pavement between these adjacent openings and shall repair the area between openings and the most recent opening as one trench.

1.16 Restoration of Streets

(A) If excavation (or pavement damage) occurs at or within twenty-four (24) inches of the edge of pavement, the permittee shall be responsible for repair to the edge of pavement.

(B) Where two (2) or more street openings are made under the same permit in sequence seven (7) feet or less (edge to edge) between each adjacent opening, the permittee shall be responsible for repairing the entire area between openings measured from the first opening through to the last opening.

(C) Where additional excavations made for the same client or utility are within seven (7) feet (edge to edge) of previous excavations still subject to a guarantee, the permittee shall be responsible for repairing the area between openings.

(D) Upon the completion of proper backfilling, the permittee shall construct temporary pavement. Before paving operations shall begin, the permittee must notify the Town, allowing adequate time as determined by the Town for inspection. All hot-mixed asphalt paving must first be approved by the Town as to depth and materials. Should the circumstances of the trench backfilling require:

(1) Notification of the anticipated timing of all paving activity must be acknowledged by the Town; any notification delivered by facsimile machine must be preceded or followed up by a telephone conversation to assure its proper and timely receipt.

(2) Permittees shall endeavor to make notification by 9:00 a.m. of each workday that paving is anticipated. In the event of schedule changes or emergencies, the permittee is requested to provide a minimum of one-hour notification to assure inspection availability.

(3) If the Town is not able to be on-site within 30 minutes of the acknowledged anticipated start time of paving activity, the permittee shall be allowed to commence paving in accordance with this Section.

(E) All temporary pavement shall be installed according to these specifications which include a minimum of three (3) inch thickness hot-mixed asphalt Grade B placed in two (2), one and one-half (1½) inch compacted lifts.

(F) Hot-mixed asphalt paving of trenches greater than one hundred (100) feet in length shall be paver applied unless otherwise authorized by the Town.

(G) The permittee shall be responsible for the proper placement and maintenance of the temporary pavement and shall keep the temporary pavement level with the surface of the surrounding existing pavement and in proper repair and condition until the end of the guarantee period.

(H) Any street markings or traffic loops disturbed by the permittee shall be promptly replaced by the permittee.

(I) It shall be the responsibility of the permittee to perform the necessary restoration beyond the limits of the pavement which shall include, but not be limited to, restoration of lawns, esplanades, shrubs, gardens, curbing, sidewalks, under-drains, separations, fabrics, fences, walls, etc. Upon completion of the permanent repairs outside the limits of the pavement, the permittee shall notify the Town in writing that the permanent repairs or replacement has been completed, setting forth the date of completion. The permittee shall, and has the duty and responsibility to, maintain the replacement area outside of the pavement for a period of five (5) years after completion.

(J) Refilling of bar holes. Any person or utility making bar holes in the street or sidewalk immediately, upon completion of the work, shall fill these bar holes by the use of an approved asphalt plug.

(K) Permanent Pavement Restoration:

(1) Permanent restoration of streets shall, with the exception noted below, be made by the Town through a separate bid contract with qualified contractors commencing within twenty-four (24) months after termination of the appropriate guarantee period; typically 3 or 5 years.

(2) The Town shall allow those permittees to undertake their own permanent pavement restorations, provided that the restoration meets or exceeds the specifications of the Town.

(L) Permanent restorations shall not be allowed to commence until at least one (1) winter moratorium cycle has passed since the installation of approved temporary hot-mixed asphalt.

1.17 Methods of Construction

(A) Workmanship

(1) The permittee is required to furnish all materials and will be responsible for the job to be done in an orderly, timely, quality controlled manner, and will be required to utilize quality workmanship and construction techniques conducted in accordance with industry standards for the successful completion of the utility work, backfilling, appurtenant restorations and temporary pavement repair.

(2) The permittee shall keep a competent foreman and sufficient competent employees to carry on the work with all proper speed and in accordance with the requirements of law and other public authorities and to the reasonable satisfaction of the Director.

(3) The permittee shall conduct the work in such a manner as not to unreasonably interfere with other work being done by the Town, by contract or otherwise. If deemed necessary by the Director, the work done under these specifications shall conform to the progress of said other work. The permittee shall cooperate with the contractors or employees who may be doing work for the Town, and with public service corporations affected by the work in arranging for storage places, temporary support for structures, repairs, etc.

(4) All temporary repairs must be maintained by the permittee until the end of the guarantee period or until permanent repair has been made, whichever first occurs.

(B) "Top" Joint Sealing

(1) All top surface joints between the pavement repair and the existing pavement are to be sealed with an asphaltic emulsion by swabbing or brushing a minimum three (3) inch width paint-like application over the joint to seal the surface air voids.

(C) Installations

(1) No permittee shall, without written permission from the Town, place any installation, except manholes, valve casings, culverts, and catch basins at a vertical distance less than:

(i) Forty-eight (48) inches below the surface.

1.18 Definitions

Excavate shall mean to dig into or in any way remove or physically disturb or penetrate any part of a Right of Way.

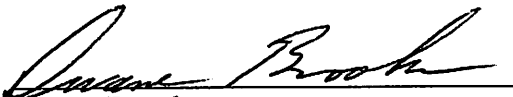
Installation(s) shall include culverts, cables, wires, telegraph, telephone or electric lines, or pipes or pipelines for the purpose of transmitting information, gas, water, heat, light or power along, across or within the limits of a Town right of way, shall apply for a permit under this ordinance, and shall also include all improvements such as, but not limited to, sidewalks, walls, structures, sidewalks, and mailboxes.

Permittee shall mean a person who has obtained, or applied for, a permit as required by this ordinance.

1.19 Effective Date

This ordinance shall take effect the day after publication as required by law. The town clerk shall properly post or publish this resolution as required under s. 60.80, Wis. stats.

ADOPTED this 4 day of SEP., 2006.



Duane Brooks
Town Board Chairperson

[Published / Posted] this 24th day of January, ~~2006~~ 2007

Attest: Michelle White
Michelle White
Town Clerk