

ORDINANCE 2022-01

AN ORDINANCE CREATING THE PERMITTING PROCESS AND PROCESS FOR ROAD OPENINGS AND RIGHT OF WAY WORK IN THE TOWN OF DEERFIELD, DANE COUNTY, WISCONSIN.

WHEREAS the Town Board of Deerfield gives permission for public utilities to locate facilities within the Road Right of Way (ROW) and that restoration of the ROW to original conditions has created substantial safety issues and;

WHEREAS the Town Board of Deerfield may give permission to create road openings for utility work and is again concerned about the length of time and safety to the public when the encumbrance is present and;

WHEREAS the Town Board of Deerfield recognizes that some contractors fail to restore the ROW properly and the Town Board of Deerfield may have to use a different contractor to complete the restoration and;

WHEREAS the Town Board of Deerfield does not want these additional and unbudgeted costs to be funded by the constituents of the Town of Deerfield,

NOW THEREFORE, the Town Board of the Town of Deerfield, Dane County, Wisconsin, does hereby ordain as follows:

SECTION 1. PURPOSE

The purpose of this ordinance is to:

- a) Establish a permitting process for excavations, road openings and obstructions in the public right-of-way ("ROW"), to better protect the public and Town property.
- b) Establish the rules for working within the Town of Deerfield Road ROWs.
- c) Create a bonding process funding additional restoration if required.

SECTION 2. ACTIVITIES REQUIRING A PERMIT

No person, including corporations, their agents, employees and contractors, shall make or cause to be made any opening in or excavation upon any ROW, or place any obstruction or encumbrance upon any ROW, within a permit issued pursuant to this ordinance. The requirements of a permit do not extend to:

- a) Creating any obstruction or encumbrance of a ROW for less than eight hours.
- b) Moving any building along or across any ROW.
- c) Any work or activity in the ROW by the Town of Deerfield or an authorized representative of the Town of Deerfield, and any work by any other governmental entity over which the governmental entity has jurisdiction over the ROW.

SECTION 3. APPLICATION FOR PERMIT

A permit under this ordinance shall be issued only upon payment of any required fee and a written application signed by the applicant, which shall include the following:

- a) The applicant's full name, address, and other contact information requested by the Town, and if the applicant is a contractor, the full name of the company or other entity which has hired the applicant for the proposed work;
- b) A description and location of the work proposed to be performed with such certainty that the same may at all times be readily located;
- b) A complete copy of the construction plans for the proposed work;
- c) The purpose for which said excavation or other work is to be made;
- d) The date and time the work will commence;
- e) The duration of time from making of the excavation to completion of all repair to the area; and,
- f) Bond information, if required.

An annual permit may be issued to a utility or telecommunications company without specific dates and locations of work in the ROW, but in those circumstances the utility or telecommunications company shall notify the Town in advance of any such work and provide the dates, times and locations of the proposed work.

SECTION 4. CONDITIONS OF OCCUPYING ROWs

The following terms and conditions apply to all excavations and openings in the ROW, and the placement of any obstruction or encumbrance in the ROW:

- a) No obstruction or encumbrance shall cover more than 1/3 of any road. No excavation, opening or obstruction or encumbrance shall close all traffic in the ROW, except upon permission by the Town.
- b) Any excavation, obstruction or encumbrance shall be protected by a temporary fence or barrier at least three feet high and at night shall be marked by yellow flashing lights. Open excavations shall have yellow flashing lights placed at each end and no less than every 50 feet along the length of the excavation.
- c) All equipment and vehicles occupying the ROW close to or on the pavement will be marked with traffic safety cones according to the roadway Wisconsin Safety Standards.
- d) There shall be no obstruction of the flow of water upon any road or in any ditches, culverts or ROWs.
- e) The moving of any building or structure shall be as continuous as practical until completed and shall be subject to the directions of the Town Patrollers.
- f) Any road, ditch or ROW surface that has been disturbed shall be restored to the same condition as prior to construction. New pavement shall be installed in any areas in which pavement was removed, in a manner and quality as good as that existed prior to the excavation, as may be determined by the Town of Deerfield Patroller. Any defective work in said repairs shall be promptly replaced by the permittee or other person performing said work.

- g) Parking is not permitted except for temporary unloading.
- h) No permit for permitted activity granted under the provisions of this ordinance shall be deemed to convey or grant any privilege to occupy the space within or below any road, ditch or right-of-way, or any utility, vault, pipe, drain or any other thing.
- i) Upon termination of the work under the permit, all areas occupied under the permit shall be vacated, cleaned of all rubbish and obstructions and placed in a safe condition for public travel at the expense of the permit holder.
- j) When excavations are made under the provisions of this section, the excavations shall not be left open longer than the necessities of the work. In refilling the excavation, all earth, stone and screenings shall be thoroughly and properly tamped and the surface of the road, ditch, or right-of way left in as good condition as before the excavation was made.
- k) Before any excavation, road opening, or blockage in any road, ditch or ROW is made under the provisions of this section, during normal working hours, 24 hours advance notice shall be given by the utility, contractor or person creating the excavation, road cut or blockade to the Town of Deerfield Patroller, except in cases where it is necessary for the protection or preservation of property or of the health, safety, life or limb of some person.
- l) No work will be performed on Sundays without the prior written permission of the Town of Deerfield Chairman of the Board.

SECTION 5. SECURITY OR FAILURE TO PERFORM

- a) If by reason of violation of the conditions of the application(s), permit(s), or this ordinance, it becomes necessary to repair or clean the ROW, such work shall be done at the direction of the Patrollers, and the entire cost thereof shall be charged to the permit holder, who shall be, under all circumstances, fully liable and responsible for the Town's costs to repair or clean the ROW.
- b) To guarantee compliance with the terms of this permit, payment of costs incurred by the Town of Deerfield in accordance with this permit, or the remediation of any damage caused by the permittee's failure to comply with the terms of this permit, the permittee shall furnish security initially in the form of a bond, satisfactory to the Town. The bond shall remain in an amount equal to \$10,000 minimum or \$10,000 per mile of excavations, subject to allowable draws by the Town of Deerfield. The bond requirement does not apply to any entity that is exempted under the law from such requirement.

SECTION 6. DURATION OF PERMIT; SUSPENSION OR TERMINATION OF PERMITTED ACTIVITY

- a) Any permit granted may be terminated by the Town Board for any violation of the conditions of the permit or this ordinance. In any event, the permit shall terminate at the end of three months from the date of issuance, except that annual permits shall terminate at the end of one year from the date of issuance.
- b) Any permit granted may be temporarily suspended by the Town Board for any violation of the conditions of the permit or this ordinance, and in any event shall

terminate at the end of three months from the date of issuance, except that annual permits shall terminate at the end of one year from the date of issuance.

SECTION 7. LIABILITY AND REPAIR REQUIREMENTS

- a) Any person excavating any ROW or placing any obstruction in a ROW is liable for damages to person or property by reason of the excavation or obstruction, as well as any costs incurred by the Town in repairing the excavation or removing the obstruction.
- b) Any person excavating or occupying a ROW shall remove the obstruction or excavation upon 10 days' notice by the Town.

SECTION 8. APPLICATION AND FEES

- a) Application for a permit under Section 3 shall be made to the Clerk. The Town Clerk shall process the application and schedule the request for consideration by the Town Board at a regularly scheduled meeting of the Board.
- b) Fees for all permits and applications related to this section shall be set, from time to time, by the Town Board and posted on the Town Website in the Town of Deerfield Schedule of Fees and Forfeitures.

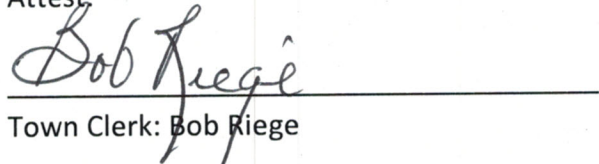
This ordinance shall take effect upon its passage and publication or posting as required by law. All other sections under this ordinance shall remain in full force and effect as drafted. Any Ordinance, or parts thereof, inconsistent herewith is hereby repealed.

Adopted and approved this 8th day of August, 2022 , by the Board of Supervisors of the Town of Deerfield, Dane County, Wisconsin.



Town Chair: Mike Schlobohm

Attest:



Town Clerk: Bob Riege