

TOWN OF BROTHERTOWN
CALUMET COUNTY, WISCONSIN

**Ordinance for Restricting Use and Obstruction of Town Road
Right-of-Way Ditches and Embankments
Ordinance #2018-01**

SECTION ONE. Permit required for excavations; fee; insurance.

A. Permit required.

- (1) No person, partnership, utility or corporation, or his or its agents or employees or contractors, shall make or cause to be made any opening or excavation in any public road, public way, public ground, public sidewalk or Town-owned easement, or fill or alter any culvert or construction or install additions or extensions to his or its existing facilities within the Town of Brothertown without a permit therefor from the Town.
- (2) The applicant shall submit to the Town a written request for a utility construction/street excavation permit and a plan of the proposed alteration, extension or addition, showing its location and details of construction, including specified depth, method of excavation, open cut or augering, provisions of restoration and any other materials requested by the Town. By submitting an application, the applicant agrees to be bound by the terms of this Ordinance.

B. Fee. The fee for a permit shall be determined by resolution of the Town Board. The fee shall be paid at the time of application.

C. Insurance required. A permit shall be issued only upon condition that the applicant submit to the Town satisfactory written evidence that the applicant has in force and will maintain during the time the permit is in effect liability insurance of not less than \$1,000,000 per occurrence and \$2,000,000 aggregate. The Town shall be named an additional insured on the policy.

SECTION TWO. Regulations governing excavations and openings.

A. Frozen ground. No openings in the roads or public ways shall be permitted when the ground is frozen except where it is deemed necessary by the Town.

B. Removal of paving. In any opening or excavation, all paving or ballasting materials shall be removed with the least possible loss of or injury to surfacing materials and together with the excavated materials from the opening shall be placed so as to cause the least practicable inconvenience to the public and permit free flow of water.

C. Protection of public.

- (1) Every opening and excavation shall be enforced with barriers. Warning lights shall be kept on from sunset to sunrise. Such lights shall be spaced so as to give adequate warning of the existence of the opening and of piled excavated materials. No open flame warning pots shall be used. Except by special permission from the Town, no trench shall be excavated more than 250 feet in advance of pipe or conduit laying nor left unfilled more than 500 feet where pipe or conduit has been laid.
- (2) All necessary precautions shall be taken to guard the public from accidents or damage to persons or property through the period of the work. Each person making such opening shall be held liable for all damages, including costs incurred by the Town in defending any action brought against it for damages, as well as costs of any appeal, that may result from the neglect by such person or his employees of any necessary precaution against injury or damage to persons, vehicles or property of any kind.

D. Replacing road surface. Upon completion of work pursuant to a permit issued by the Town, the applicant shall restore the site to its original condition.

E. Notice. The permittee shall notify the Town Road Supervisor, Calumet County Sheriff's Department and all private individuals, firms and corporations affected by the work to be done at least 24 hours before such work is to commence. The Town Road Supervisor shall also be notified at least four hours prior to backfilling and/or restoring the surface.

F. Validity of Permit. Unless the work shall be commenced within the time prescribed in the permit, the permit shall be void and a new permit must be obtained and an additional fee charged. The Town may extend the time limitation for good cause. The utility or contractor shall have present at the site of construction and during the restoration period a copy of the construction plans and Town permit.

G. Emergency excavation. In the event of an emergency, any person, firm or corporation owning or controlling any sewer, gas main, water main, conduit or other utility in or under any public road or way and his agents and employees may take immediate proper emergency measures to remedy dangerous conditions for the protection of property, life, health or safety without obtaining an excavation permit, provided that such person, firm or corporation shall apply for an excavation permit not later than the next business day.

H. Exception. The provisions of this section shall not apply to excavation work done by Town employees or contractors performing work under contract with the Town.

SECTION THREE. Obstruction of intersections or signs; trees, fences, poles and other structures.

- A. Obstruction of intersections. No person shall maintain, plant or permit to remain on any private or public premises situated at the intersection of two or more roads in the Town any hedge, tree, shrub or other growth or object which may obstruct the view of the operator of any motor vehicle or pedestrian approaching such intersection.
- B. Obstruction of signs. It is unlawful for any person to plant, cause to grow, allow to grow or maintain any trees, bushes, shrubbery or vegetation of any kind which is an obstruction to the clear and complete vision of any traffic sign in the Town. It shall be the duty of every owner of such tree, bush, shrubbery or vegetation to remove such obstruction.
- C. Abatement procedure. Any shrub, tree or other plant which obstructs the view at an intersection or the view of a traffic sign shall be deemed to be danger to public travel, and the Town shall notify the property owner in writing, describing the conditions, stating the steps necessary to correct the conditions, and establishing a reasonable time within which the corrective steps shall be taken. In the event that effective steps are not taken within the time specific, it shall be lawful for the Town to abate these conditions to the extent necessary to assure compliance with the foregoing requirements, and the costs thereof may be assessed to the owner.
- D. Vegetation in right-of-way. Other than mowing, no person shall till, graze, kill or destroy the vegetation in the right-of-way. No person shall plant additional vegetation in the right-of-way.
- E. Fences, poles and other structures. No person shall build or reconstruct any fence, pole or other structure within the public road right-of-way measured from the center of the road to a point 18 inches from the back line of the right-of-way unless otherwise approved by the Town. This provision shall not apply to mailboxes and boxes for delivery of newspapers.
- F. Overhead utility wires shall cross the roadway as close to perpendicular as possible.

SECTION FOUR. Deposit of waste or rubbish on right-of-way.

It shall be unlawful for any person to throw or deposit any weeds, sod, brush, cans, glass, gravel, stones, boulders, dirt, machinery, garbage or other waste or rubbish in or on the right-of-way of any highway located in the Town of Brothertown.

SECTION FIVE. Structures and construction in Town right-of-way.

- A. Mailboxes and boxes for delivery of newspapers. The provision of this Ordinance shall not apply to the installation of mailboxes and boxes for the delivery of newspapers.
- B. Existing structures and obstructions. Any existing structure, sign, fence, wall, pavement or other obstruction (including trees) which, in the judgment of the Town, will prevent proper snow removal from the pavement and shoulders or mowing of the ditches of the Town highway shall be removed by the owner or occupant of the adjacent property

within 15 days of receiving written notice from the Town. If the owner or occupant does not remove said structure or obstruction within the allotted time, the Town shall remove it or make arrangements to have the obstruction removed and the expense of removal shall be charged to the adjacent property as a special charge or special assessment.

SECTION SIX. Violations.

Any person, persons, partnerships, company or corporation who violates any provision of this Ordinance shall be subject to a forfeiture of not less than \$200 nor more than \$1,000 for each violation. For purposes of determining forfeitures, each day that a violation continues shall be considered a separate offense. In addition, the Town shall be entitled to recover its reasonable attorneys' fees included in any enforcement action and shall be entitled to injunctive relief, abatement orders, and other equitable relief.

Dated this 9th day of February, 2018.

TOWN OF BROTHERTOWN

By: Charles J. Schneider
Chuck Schneider, Chairperson

Attest:

Leanne Karls, Clerk
Leanne Karls, Town Clerk