

AN ORDINANCE TO REPEAL AND RECREATE ORDINANCE J-02-002
PERTAINING TO OPENINGS IN STREETS AND HIGHWAYS
IN THE TOWN OF JACKSON

The Town Board for the Town of Jackson, Washington County, Wisconsin, DO ORDAIN AS
FOLLOWS:

SECTION 1: The ordinance for opening streets and highways in the Town of Jackson is
hereby repealed and recreated to read as follows:

OPENINGS IN STREETS AND HIGHWAYS.

1. REGULATION.

Street and highways as used herein shall include the entire length and width of the public
right-of-way from property line to property line.

2. PERMIT, APPLICATION REQUIRED.

A. No person shall disturb the surface of, open cut, or install any product, device or
equipment by means of boring in, any public street, or highway within the Town of
Jackson, or cause the same to be done without first obtaining a permit therefore pursuant to
this Ordinance.

B. All applications for permits shall be in writing and be filed with the Town Clerk. Every such
application for a permit shall identify the applicant and provide contact information,
identify the street or highway upon which the proposed disturbance, opening or boring
is to be made and shall identify the location of the proposed disturbance, opening or boring
of such street or highway with specificity together with the locations of any curb and
gutter, intersecting street(s), catch basins/inlets, above- and below-ground utilities,
trees, driveways, carriage walks and all proposed conditions including but not limited to
exact size and location of excavations, structures, equipment, appurtenances and
attachments to structures and equipment as well as any other obstructions in the vicinity
of the proposed installations and location of structures on abutting properties. The
application shall further show the length, width and depth of the proposed opening or
boring in the public street or highway and shall state the purpose for which such opening
or boring is made.

C. The completed application shall be submitted by the Applicant to the Town Clerk together
with the permit fee in the amount as established by resolution of the Town Board from
time-to-time and an agreement by the applicant to reimburse the Town for fees and costs
incurred by the Town for any professional services provided by the Town Attorney, Town
Engineer, or any other professional providing services to the Town on a contract basis. In
the event of the Applicant's failure to make reimbursement, the Town may recover its fees
and costs through any remedy available at law or in equity including, but not limited to, by
charging such costs and fees as a special charge against the property pursuant to Wis. Stat.
§ 66.0627 where the service provided is not provided to the Town of Jackson as a whole.

D. Certificate of insurance. Before a permit may be issued the applicant shall file

a certificate of insurance with the Town Clerk in the minimum sum of \$1,000,000 insuring such permit holder and the Town against any claim, loss or demand and have a thirty-day cancellation or change notice to the Town.

3. PERFORMANCE STANDARDS.

a. Excavations In Asphalt, Macadam Or Unpaved Streets, Etc.

Any excavation(s) are made in any street paved with asphalt or macadam street(s) or in any unpaved street(s) or alley(s), such excavation(s) shall be made and filled in the following manner:

1. The backfilling below the surface shall be done with gravel, sand or crushed stone, firmly compacted as required in Section 5 below, or flushed with water, and all earth, stone or other material excavated shall be hauled away by the person authorized to make the excavation, unless otherwise specified by the Town of Jackson which shall be the final authority on acceptance of the excavation material for the use of backfill. In case of dispute the decision of the Town Board shall be final and binding upon the parties affected. All such excavations shall be given a temporary blacktop surfacing two (2) inches thick immediately following the completion of the refilling or backfilling provided, however, that the final surfacing shall be completed in accordance with the applicable standards established by the Town Board or Town Engineer.

b. Excavations In Paved Streets.

- i. Unless expressly waived by the Town Board in its sole discretion, no excavation(s) shall be permitted in any paved Town street(s) or road(s). All installations in paved streets shall be done by boring under the street surface in such a manner so as the surface of the street shall not be affected by the tunnel. Any settling of the street surface caused by said boring shall be immediately repaired by the permittee.
- ii. Where the Town Board, in its discretion, permits the opening of the surface of the paved street then said excavation shall be done as follows:
 - (a) The opening in the pavement shall be saw-cut unless otherwise stated in the permit issued by the Town Board.
 - (b) The foundation must be at least sixteen (16) inches larger in all directions than the size of the trench to be excavated so that there may be a shoulder of solid earth eight (8) inches wide on all sides of the opening to support the new pavement. If the side wall(s) of the excavation/trench cave, collapse, or shift during the progress of the work, additional pavement must be removed so that eight (8) inches of the shoulder may be retained.
 - (c) The backfill below the pavement shall consist of gravel, sand or crushed stone, firmly compacted as set forth in Section 5 of this Ordinance. All materials used shall comply with Town regulations and specifications which may require a "slurry" mixture.

- c. All stone, earth and other material excavated remaining after the closure of the site shall be hauled away by the permit holder or their contractor. No street which has been surfaced with bituminous or concrete material at least one and one-half (1-1/2") inches in thickness within the previous 36 months shall be cut or

excavated unless in an emergency. Any such emergency cut shall be back filled with a "slurry" mixture and the surface repaved to Town standards.

d. Excavations Outside Of Pavement In Right-Of-Way

No person shall dig, excavate, bore, or disturb soils outside of the street or highway payment in the Town of Jackson right-of-way or cause the same to be done without first obtaining a permit therefore from the Town pursuant to this Ordinance. All applications for such permits shall comply with the requirements in Section 2 of this Ordinance. The disturbed surface shall be restored to the condition present prior to the conduct of the applicant's activities. Where grass surface has been disturbed, the restoration shall be made through placement of sod, which shall be maintained by the applicant until fully established.

4. **DIGGING TRENCHES.**

- (a) When opening any street surface or other public highway, it must be straight cut or sawn,
- (b) All material for paving and ballasting must be removed with the least possible loss of surface material, and such material, together with that excavated from the trenches, or otherwise, must be placed where it will cause the least inconvenience to the public. All such materials must be so placed as to permit the free passage of water along the gutters or ditches.
- (c) Any street or public highway upon which an opening is made must not be obstructed so as to interfere with the traffic thereon.
- (d) No more than the necessary amount of the trench may be dug until the slant or junction piece to the sewer or water main is found.
- (e) The backfilling must be compacted as provided in Section 5 of this Ordinance, and paving and ballast must be replaced in as nearly the original condition as possible and to the satisfaction of the Town Board. When the sides of the trench will not stand perpendicular, sheeting and braces must be used to prevent caving. When caving occurs, all the street or highway surface thus disturbed must be restored in the same careful manner as though it were originally excavated or trenched.

5. **BACKFILL MATERIAL.**

When any excavation is made in the Town right-of-way of the highway or street, and the shoulder thereof, from property line to property line, the clay excavated must be removed and the excavation entirely backfilled with crushed road gravel thoroughly compacted in one-foot lifts with a vibrating plate compactor. Any tunnels dug in pavements shall be backfilled and compacted with crushed gravel subject to the approval of the Town Board.

6. **MAINTENANCE OF STREET AFTER COMPLETION.**

Any person obtaining a permit as herein provided shall be responsible and shall be required to maintain and repair that portion of any public right-of-way in the Town whereon such opening, or boring pit is made for a period of one (1) year from the date that completion is approved pursuant to (3) above, and shall keep and maintain the right-of-way whereon the opening, or boring pit is made in the same condition as the remainder of the highway or public street whereon such opening was made. If such

repairs are not made as herein provided, the Town Board shall order the same made by the person obtaining a permit as herein provided upon five (5) days written notice. In the event such repairs are not made after receipt of written notice as herein provided, the Town Board shall cause the repairs to be made and charge the expense thereof to the person obtaining the permit and the bond deposited.

7. PROTECTION OF THE PUBLIC.

Every person opening or excavating boring pits in any public street or highway within the Town must enclose each such opening with surface barriers. Flashers must be kept illuminated from sunset to sunrise, each light to be placed at intervals of not more than ten (10) feet. All necessary precautions shall be taken to protect the public effectually from accident or damage to persons or property from the beginning to the end of the work. The person obtaining the permit will be held liable for all damages, including costs incurred by the Town of Jackson in defending any action brought against it for damages and costs of any appeal that may result from his neglect in opening the public highway or street and in performing the work incidental thereto, including any claim for damages that may result to the Town by reason of the failure to keep the public street or highway in repair for a period of one (1) year from the date that the opening is closed.

8. BOND.

Before a permit is granted, the applicant therefore shall execute to the Town of Jackson and deliver to the Town Clerk at the time the application for such permit is filed, a undertaking in the sum of \$10,000.00 or such other amount as determined by the Town Engineer to ensure proper restoration of the disturbed right of way, said undertaking to be a cash bond or letter of credit, or such other sum as the Town Board may determine, conditioned that he will perform faithfully all work with due care and skill, and in accordance with the terms and conditions of this Section, and that they will faithfully perform and abide by all the terms and conditions of this Section, and will save the Town of Jackson harmless from all liability for all damages, costs and expenses and claims of any nature or kind arising out of the unskillfulness or negligence in connection with causing the opening to be made in any such public highway or street in the Town in accordance with the permit granted by the Town Board. Such bond of undertaking shall remain in force and shall be executed for a period of one (1) year, except that on such expiration it shall remain in force as to all penalties, claims or demands that may have accrued thereunder prior to such expiration. The Town Board may reduce the amount of the bond required herein in those situations where the need for \$10,000.00 is not deemed necessary by said Superintendent. In the case that the Town Board deems that a lesser amount will fully protect the interest of the Town and compensate the Town fully in the event of non-compliance, the Town Board may prescribe in writing to the applicant the sum deemed necessary and said amount shall constitute the bond required herein.

9. RESTORATION SPECIFICATIONS.

All restoration under this Ordinance shall be in accordance with the road specifications or utility specifications then in effect. In the event removed materials do not qualify for restoration the applicant shall comply with the Town specification with materials that do comply. At all times-restoration shall be performed using "like-kind" materials (sod for sod, black dirt for black dirt, asphalt for asphalt, etc.) and proper compaction

methods shall be utilized to prevent settling.

10. PENALTIES.

In addition to the payment of all costs necessary to restore the project to the condition required by this Ordinance, any person who shall attempt to commence any construction covered herein without a permit, or who shall violate any other provisions of this Ordinance, shall be subject to a penalty of not less than \$250.00 nor more than \$1,000.00 for each day of each violation of this Ordinance. Each day that a violation occurs shall be considered a separate and distinct offense under the terms of this Ordinance. Failure to pay any penalty imposed by a court of law under this Ordinance shall subject the defendant to commitment in the County Jail or other remedy as provided under Wisconsin law.

SECTION 2: SEVERABILITY.

The several sections of this ordinance are declared to be severable. If any section or portion thereof shall be declared by a court of competent jurisdiction to be invalid, unlawful or unenforceable, such decision shall apply only to the specific section or portion thereof directly specified in the decision and shall not affect the validity of any other provisions, sections or portions thereof of the ordinance. The remainder of the ordinance shall remain in full force and effect. Any other ordinances whose terms conflict with the provisions of this ordinance are hereby repealed as to those terms that conflict.

SECTION 3: EFFECTIVE DATE.

This ordinance shall take effect immediately upon passage and posting or publication as provided by law.

Dated this 13 day of MARCH, 2025.

TOWN OF JACKSON

By: Robert H. Hartwig
Robert H Hartwig, Chairman

Attest:

Robert M Eichner
Robert M Eichner, Town Clerk

