

TOWN OF BROOKLYN, GREEN COUNTY, WI
ORDINANCE # 1.2

**Title: Regulation of activities within Town of Brooklyn Road
Rights-of-way**

Adopted: 07/08/2019

Ordinance #1.2 Section 4.1.17 and 4.5.15(e)(3)ii amended October 1st, 2022

This ordinance consolidates key components of the below listed existing ordinances and includes newly amended language. New provisions have also been incorporated. Upon the effective date of this ordinance the below-listed ordinances are hereby repealed in their entirety.

01.2 Regulation of activities within Town of Brooklyn road rights-of-way

Contents (Sections)

- 1. Authority and responsibility
- 2. Purpose and scope
- 3. General provisions
- 4. Specific provisions
- 5. Standard provisions
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Section 1: Authority and responsibility The Town Board has specific statutory authority powers and duties pursuant to WI Statutes 86.04, 86.07 and 86.022 and other highway-related statutes as well as 60.22(3) - duly adopted village powers (1992) all of which grant the Town Board powers to regulate, control, license, prevent, or permit certain uses and activities for the good order of the Town and for the health, safety, and welfare of the public.

Section 2: Purpose and scope The purpose of this ordinance is to provide the Town a legal framework within which to regulate and manage the public rights-of-way, and to provide for the recovery of costs incurred by the Town in doing so. An unobstructed, properly built and maintained space adjacent to the traveled portion of the road provides a clear zone for vehicle run offs, facilitates mowing for visibility and noxious weed control and helps assure adequate surface water drainage and unimpeded snowplowing. The

taxpayers of the Town bear the financial burden for the upkeep, maintenance and reconstruction of the rights-of-way, and a primary cause for the early and excessive deterioration of the public rights-of-way is the frequent excavation by persons who place facilities therein. The Town finds that there has been an increase in the use of the public rights-of-way and, as a result, increased costs to the taxpayers of the Town and that these costs are likely to continue into the foreseeable future.

Section 3: General provisions This ordinance was adopted on a roll call vote by a majority of the Town Board with a quorum present and voting and proper notice having been given.

Section 4: Specific provisions

4.1 Definitions

4.1.1 - Applicant - Any person requesting permission to excavate, obstruct and/or occupy a Right-of-Way.

4.1.2 - Clear zone - A space adjacent to the traveled portion of the road devoid of substantial man-made obstructions or naturally occurring hazardous conditions.

4.1.3 - Emergency - A condition that (1) poses a clear and immediate danger to life or health, or of a significant loss of property; or (2) requires immediate repair or replacement in order to restore service to a customer.

4.1.4 - Excavate - To dig into or in any way remove or physically disturb or penetrate any part of a Right-of-Way.

4.1.5 - Local Representative - A local person or persons, or designee of such person or persons, authorized by Applicant or Registrant to accept service and to make decisions for that Applicant or Registrant regarding all matters within the scope of this section.

4.1.6 - Obstruct - To place any object in a Right-of-Way so as to hinder free and open passage in that or any part of the Right-of-Way.

4.1.7 - Occupy - To locate facilities in the public Right-of-Way.

4.1.8 - Person - means municipality, corporation, company, including a "Company" as defined in Wis. Stat. 182.017(1) association, firm, partnership, limited liability company, limited liability partnership, and individuals and their lessors, transferees and receivers.

4.1.9 - Pole or Tower - Usual meaning, except that it does not include poles used for governmental operations such as traffic signals or traffic control devices, street lights, and emergency alert signals, or high-voltage transmission lines.

4.1.10 - Public Utility - The meaning provided in Wis. Stat. 5196.01 (5).

4.1.11 - Registrant - Applicant who has gone through permitting application process and now holds active excavation permit.

4.1.12 - Repair - To perform construction work necessary to make the Right-of-Way useable for travel, according to Town specifications, or to return facilities to an operable condition.

4.1.13 - Restore or Restoration - The process by which an excavated Right-of-Way and surrounding area, including pavement and foundation is reconstructed, per Town specifications.

4.1.14 - Right-of-Way - The surface and space above and below the entire width of an improved or unimproved public roadway, highway, street, bicycle lane, terrace, shoulders, side slopes, and public sidewalk in which the Town has an interest, including any other dedicated rights-of-way for travel purposes. The area including the traveled portion of the road plus adjacent land generally measuring 33 feet on each side of the center of the traveled portion of road with a total width of 66 feet (4 rods).

4.1.15 - Service or Utility Service - Services such as municipal sewer and water services and services provided by a Public Utility or a Company subject to Wis. Stat. S 182.017 and other similar services.

4.1.16 - Town - The Town of Brooklyn, Wisconsin.

4.1.17 - Town Representative - A representative of the Town of Brooklyn authorized to approve permits and complete inspections.

4.2 Permanent encroachments on Right-of-Way prohibited

4.2.1 Permanent man-made encroachments of any type are prohibited within a Right-of-Way except as provided in this Section 4.2.2. Examples of prohibited, permanent encroachments include but are not limited to fences, signs, retaining walls, substantial culvert abutments, extension of field cultivation into the Right-of-Way, and planted trees.

4.2.2 Mailboxes and supporting structures are allowed within a Right-of-Way when they are erected and maintained in compliance with all U.S. Postal Service regulations and the entire mailbox and supporting structure are situated at least eighteen (18) inches off the edge of the traveled portion of the Right-of-Way.

(a) Any mailbox or supporting structure erected or replaced within a Right-of-Way after the effective date of this ordinance shall be designed and built to minimize injury or damage in the event of a collision. Wood posts greater than 4" x 4" or 5" diameter must have relief holes. Steel posts greater than 2" diameter or 2" x 2" must have a breakaway mechanism for the mailbox.

Rock, masonry, or substantial ornamental iron or wood support structures are prohibited as are mailboxes encased in concrete or an outer heavy steel or wood covering.

4.3 Temporary encroachments on Right-of-Way prohibited.

4.3.1 Temporary encroachments of any type are prohibited except as noted in Section 4.3.2. Examples of prohibited, temporary encroachments include but are not limited to parking or placement of motor vehicles & trailers, farm machinery & equipment, boats, other personal property of any type or size or farm products.

4.3.2 Temporary encroachments are permitted within a Right-of-Way:

- a. in cases of emergency or a vehicle being involuntarily disabled and then only for such reasonable time as it takes to remedy the situation;
- b. while servicing the Right-of-Way itself or servicing private land adjacent to the Right-of-Way if said land is not otherwise readily accessible and then only for such reasonable time as it takes to complete the work.
- c. while parked for a limited time attending an event or social gathering on adjacent land.

4.4 Other encroachments on Right-of-Way prohibited

4.4.1 Abandonment, disposal or discarding on Right-of-Way of rocks, brush, trash, garbage, recyclables, electronics, appliances, yard or animal waste, tires/wheels, water heaters, hazardous waste in any form, vehicles of any type and any other personal property is prohibited regardless of ownership of adjacent property.

4.4.2 Alteration or obstruction of drainage or water ways within the right —of-way is prohibited without prior written authorization of the Town Board or its designee. This includes placement, replacement or alteration of driveway and field accesses including related culverts, if any, all of which is regulated specifically elsewhere in Town of Brooklyn Ordinances 1.3.

4.4.3 Accumulation and burning of any type of material within the Right-of-Way is prohibited except grass and other foliage growing in the Right-of-Way

4.4.4 Encroachment of soil, vegetation and/or manure onto the Right-of-Way caused by unchecked runoff from farm fields, construction sites and livestock confinement facilities is prohibited.

4.5 Road excavations and utility installations in Right-of-Way

4.5.1 Permit required.

(a) No person, corporation, governmental body, or public utility shall excavate on any Town Right-of-Way for the purpose of installing any sewer line, manure line, water pipe, gas pipe, electric distribution or transmission line, telephone or telegraph transmission line, buried conductors, television

cables, cellular data & transmitters, utility poles or any excavation without first obtaining a permit for such excavation from the Town Clerk, except as provided in 4.5.1.(b). Contractors doing work for the Town of Brooklyn on Town roads or roadways are exempt from required fees.

(b) Town of Brooklyn residents who have complied with all other Town ordinances and paid all applicable fees thereunder in the course of construction a new driveway shall be exempt from fees otherwise required under this Ordinance as a result of the construction of the new driveway.

(c) An Applicant or Registrant shall comply with all applicable local, state and federal laws, rules and regulations, shall pay all fees due thereunder, and shall perform all work in conformance therewith. An Applicant or Registrant shall be responsible for all work performed in the Right-of-Way pursuant to its permit, regardless of who performs the work.

(d) If work is not commenced within the time period specified in the permit, the permit shall automatically expire and a new permit with all related fees shall be required before work may commence. The Town Board may extend the deadline for commencing work under a permit for good cause, upon written application from the Registrant, which must be received by the Town Clerk no less than five (5) business days prior to the permit's original deadline.

(e) All excavations shall comply with the Digger's Hotline requirements set forth in Wis. Stat. 182.0175, if applicable.

4.5.2 Insurance required.

(a) A permit shall be issued only if the Applicant submits to the Town Clerk a certificate of insurance showing that the Applicant has secured general liability insurance policy that includes the Town as an additional named insured, in the following minimum amounts:

- (1) Personal injury: \$1,000,000;
- (2) Property damage: \$1 and
- (3) One person, one accident: \$500,000.

(b) A Registrant must keep said insurance in full effect through completion of the project. The Town must be notified if coverage is cancelled or expires while a project is in progress. Failure to maintain insurance coverage as described in the original certificate of insurance for the duration of the project will result in Registrant's forfeiture of its permit and all related fees and deposits.

4.5.3 Application and accompanying information.

(a) The Applicant shall submit an application for a permit using an application form provided by the Town Clerk. An application for a permit under this Ordinance shall contain or include the following information and materials:

- (1) Applicant's name.

(2) Diggers Hotline registration certificate number, if any, and the address, e-mail address, telephone number, and facsimile numbers of the certificate holder.

(3) The name, address, e-mail address, and telephone and facsimile numbers of a Local Representative who shall be available at all times during a project, and current information regarding how to contact the local representative in an emergency.

(4) A certificate of insurance as required in Section 4.5.2.

(5) If the person is a corporation or other limited liability entity, a Certificate of Good Standing issued by the State of Wisconsin Department of Financial Institutions no more than 30 days before the application.

(6) A copy of the Applicant's certificate of authority from the Public Service Commission of Wisconsin or other applicable state or federal agency, where the Applicant is lawfully required to have such certificate from said commission or other state or federal agency.

(7) Payment, including:

- i. The applicable permit fees and deposit amount as set forth in Sections 4.5.4 and 4.5.5.
- ii. Any unpaid fees or costs due for prior excavations; and,
- iii. Any loss, damage, or expense suffered by the Town because of

Applicant's prior excavations of the rights-of-way or any emergency actions taken by the Town.

(b) The Town Representative shall determine and verify the completeness of any application and may request additional information from the Applicant to ensure a complete application, prior to submitting the same for Town Board consideration.

(c) The Registrant shall keep all information included in its Application current at all times by providing to the Town any changes to said information within five (5) business days of the date on which the Registrant has knowledge of any change.

4.5.4 Deposit.

(a) The Applicant shall submit to the Town Clerk with its application a cash deposit to guarantee restoration of the surface of such Right-of-Way as may be disturbed by the proposed excavation, unless the required deposit has been waived by the Town Board. The applicant shall be responsible for the surface restoration or the cost of such restoration.

(b) Deposit amount. The amount of the required deposit shall be \$1,500 minimum. Additional deposits include:

- (1) \$100 for each utility pole proposed to be erected.
- (2) \$1,000 for each transmission tower proposed to be erected.

(c) Use of deposits. The Town may apply an Applicant's deposit to pay the cost of any work the Town performs to restore or maintain the Right-of-Way as herein provided. If the Applicant fails to perform such work, the amount refunded to the Applicant shall be reduced by the amount expended by

the Town plus 25% of such cost for general overhead and administrative expenses. Should the initial deposit not cover the restoration costs, the Town Clerk will issue a bill for such excess costs to the Applicant to be paid within 30 days of issuance.

(d)Release of cash deposit. All restoration work shall be guaranteed for a period of one year after completion of the same. Upon completion of the work in a satisfactory manner, but not sooner than 12 months thereafter, any remaining portion of the deposit shall be refunded to the Registrant, unless sooner released with the approval of the Town Board.

(e)Public utility companies. Where excavations are made by public utility companies covered under 66.0425(6), Wis. Stats., a permit may be granted without such deposit. It is further provided, however, that the Town may, in the future, require such deposit from any such utility if a bill rendered pursuant to this Section 4.5.4 remains unpaid 30 days after date of billing.

4.5.5 Fees.

(a) For the purpose of administering the provisions of this chapter, each applicant shall pay to the Town Clerk the following permit fees:

- (1) Permit fee: per Town of Brooklyn Fee Schedule.
- (2) Utility poles: per Town of Brooklyn Fee Schedule.
- (3) If the applicant for a permit starts work on an excavation in the public Right-of-Way before a permit is issued for the same, the above permit fees shall be doubled. This shall not apply to emergency work under performed pursuant to Section 4.5.11.
- (4) Any public utility adopting a program for replacement of aboveground facilities with underground facilities shall comply with all provisions of this and other applicable Town ordinances.
- (5) Nothing herein waives the Town's right to require utilities to be relocated at the Applicant's expense when public rights-of-way are required to be relocated.
- (6) Excavation permit fees, once paid, are not refundable, even if the permit application is denied or an issued permit is revoked.

4.5.6 Notice required. The Registrant shall notify the Town Clerk at least three working days prior to the commencement of work and again at least 24 hours prior to backfilling or restoring the surface.

4.5.7 Installation of poles or towers in the right of way. If the proposed project involves the installation of a pole or tower in the Right-of-Way, the applicant:

- (a)Must submit scaled drawings of the proposed pole or tower and all proposed attachments, and the location of the pole or tower in reference to the nearest occupied building.

(b) Shall identify in detail the location of the proposed project and any affected Right-of-Way, public utility easements, and the location of all existing and proposed facilities within the project area in addition to installation details, traffic control plans and other details requested by the Town.

(c) Submit evidence sufficient to demonstrate that the applicant is prohibited from using an existing pole or tower (either owned by the applicant or a third party) because such use is technically infeasible, economically prohibitive, or prohibited by law.

4.5.8 Inspection during work.

(a) The Applicant shall make the work site available for inspection by the Town and all others authorized by law to conduct such inspections, at all reasonable times during and upon completion of the project.

(b) At the time of inspection, the Town may order the immediate cessation of any work that poses a threat to the life, health, safety, or well-being of the public. The Town may issue a stop-work order to the Registrant as a result of any work that does not conform to any applicable standard, code, rule or regulation. The stop-work order shall state that failure to correct the violation shall result in revocation of the permit. Within ten (10) days after issuance of the stop-work order, the Registrant shall present proof to the Town that the violation has been corrected. If such proof has not been presented within the required time, the Town shall revoke the permit.

4.5.9 Inspection of completed work. Registrant shall notify Town Clerk upon completion of the project. A Town representative will complete an inspection within 5 (five) business days thereafter, ensuring repair and restoration of Right-of-Way as required in Section 4.5.16. Should work be satisfactory, conforming to all guidelines laid out in Section 4.5.16 the Town Board will vote in their next monthly meeting to issue a Project Completion Form. Town will retain deposit on books for up to one (1) year to guarantee restoration. After the stated year, should work remain satisfactory, the full deposit will be returned to Applicant minus the non-refundable Permit Fee.

4.5.10 Repair and Restoration of Right-of-Way. The following conditions shall be met before the Town may release the initial Deposit, but in no case prior to completion of the one-year cure period:

(a) Timing of Work and Repair/Restoration. The work to be done under the excavation permit, and the repair or restoration of the Right-of-Way as required herein, must be completed within the dates specified in the permit, increased by as many days as work could not be done because of circumstances beyond the control of the Registrant.

(b) Repair or Restoration Required. The Registrant shall restore the Right-of-Way. In addition to repairing its own work, the Registrant must repair the general area of the work, including the paving and its foundations, to Town specifications.

(c) Standards. The Registrant shall perform restoration according to Town plans and specifications, and in accordance with the conditions specified in the permit. The Town shall have the authority to prescribe the manner and extent of the repair or restoration and may do so in written procedures of general application or on a case-by-case basis.

(d)Acceptance of Work. Upon completion of the restoration, the Town Representative shall inspect the area of the restoration work and approve said work only after determining that restoration has been accomplished in accordance with this Ordinance.

(e)Guarantees. The Registrant guarantees its restoration work and shall maintain it for twelve (12) months following its completion. During those twelve months, the Registrant shall, upon notification from the Town, correct all repair and restoration work to the extent necessary, using the method required by the Town. Said work shall be completed within ten (10) calendar days of the receipt of the notice from the Town, not including days during which work cannot be done on days when work is prohibited as unseasonable or unreasonable.

(f)Failure to Repair/Restore. If the Applicant fails to repair or restore the Right-of-Way in the manner and to the condition required by the Town, or fails to satisfactorily and timely complete all work required by the Town, the Town, at its option, may do such work. In that event, the Applicant shall pay to the Town, within thirty (30) days of billing, the cost of repairing and/or restoring the Right-of-Way.

(g)Penalty. Except as otherwise provided in this section, any person who violates this section or fails to comply with the provisions of this section shall be subject to a forfeiture of not less than two hundred and fifty dollars (\$250) nor more than one thousand dollars (\$1000). Each week such violation or failure to comply continues shall be considered a separate offense.

4.5.11 Emergency work. When an immediate excavation is necessary for the protection of public or private property, health, or safety and Town officers are not available, the Applicant shall report to the Sheriff's Department, which shall grant permission to make the necessary excavation upon the condition that an application be made in the manner herein provided within two working days. The permit applicant shall notify Digger's Hotline as required by law, and shall make all reasonable efforts to contract any utilities anticipated to be present in the area prior to the commencement of work. Within two business days after the occurrence of the emergency, the Registrant shall apply for the necessary permits, pay the fees associated therewith, and otherwise fully comply with the requirements of this ordinance.

4.5.12 Non-Emergency Situations. Except in an emergency, anyone who, without first having obtained the necessary permit, excavates a Right-of-Way must subsequently register and apply for an excavation permit, and shall in addition to any penalties prescribed by ordinance, pay double the normal fee for said permit, pay double all the other fees required by this section, deposit with the Town the fees necessary to correct any damage to the Right-of-Way and comply with all of the requirements of this section. If no application is made, this subsequent permit application is denied or is not approved, the Registrant, or person causing the work to be done, shall discontinue and abandon the facilities and pay actual restoration costs plus 25% for general overhead and administrative expenses.

4.5.13 Removal of new pavement. Whenever it is necessary to remove road pavement for installation of new facilities within five years of the construction of the pavement, the applicant shall pay and forfeit as damages to the Town the following charges based upon the unit prices as established by the

Town Board for the year in which the opening is made, such charges to be in addition to the restoration costs incurred by the applicant:

- (a) First year: 50% of the unit price.
- (b) Second year: 40% of the unit price.
- (c) Third year: 30% of the unit price.
- (d) Fourth year: 20% of the unit price. (e) Fifth year: 10% of the unit price.

4.5.14 Time limit for completion of work. No trench excavation shall remain open (without trench backfilled and asphalt repaired) in excess of five calendar days, unless permission is obtained from the Town Board or its designee prior to the fifth day. For each day or fraction thereof, the excavation remains open in excess of five days, the applicant shall pay the Town \$1,000.

4.5.15 Method of doing work; restoration. The following procedures shall be observed in all road excavations:

(a) Personnel allowed to perform work. Asphalt patching must be performed by a bona fide paving company that is identified within a permit application and approved by the Town at the time a permit is issued. The paving company may be a third party identified by the Applicant and need not be the Applicant itself.

(b) Safety. Any contractor excavating a trench or performing any utility or other work must provide flag persons and other traffic controls to ensure public safety.

(c) Excavating. The trench shall be saw cut and shall be excavated to width and depth sufficient to permit the repair or installation of the utility, using special care to avoid damage to existing cables, conduits or pipes. All work shall conform to all applicable federal, state, and local safety standards. All refuse and excess excavated material shall be removed from the Right-of-Way as the work progresses and shall not be deposited on the site.

(d) Erosion control. Applicable state and Town regulations shall apply. Any material tracked or deposited on any public roadway must be removed immediately. Additional erosion control may be required, at the discretion of the Town Representative at any time during the construction process.

(e) Maintenance of hard surface opening.

(1) General. The applicant shall backfill the openings with 12 inches of compacted crushed stone immediately upon completion of the underground work. After 24 hours, crushed stone will be removed to the depth of the existing asphalt, and the opening will be topped with not less than three inches of bituminous concrete, in accordance with Town road standards. Open gravel trenches are not permitted for more than five days, unless specifically authorized by the Town Board.

(2) Asphalt placement procedures. The Registrant will replace the asphalt surface in accordance with the following procedures. The contractor will:

- i. Contact the Town Clerk in writing a no less than 48 hours prior to backfilling and asphalt patching for on-site inspection to guarantee conformance with Town requirements.
- ii. Perform a full-depth saw cut outside the cut made to construct the original trench, as determined by the Town Representative.
- iii. Remove slurry and other materials to at least the depth of the original asphalt and compact the base material prior to placing asphalt.
- iv. Place the binder layer of asphalt at the depth of the original binder layer, or to a greater depth if required by the Town Representative. (The binder layer is to provide additional support for the surface layer.)
- v. Place the surface layer of asphalt at the depth of the original surface layer, or a minimum of 1 1/2 inches, whichever is deeper. The contractor may use surface material for the binder layer with the approval of the Town Representative. Asphalt surfaces adjacent to manholes and valve boxes must be 1/2 inch higher than the rim to prevent subsequent damage from snowplows.
- vi. Use hot mix for asphalt patches when it is available. Winter mix will only be permitted for temporary patches when asphalt plants are seasonally closed. Winter mix must be removed and replaced with hot mix within 30 calendar days of the time when hot mix becomes available.
- vii. Compact the individual layers of asphalt with a vibratory compactor to attain density level specified by the Town. Plate compactors may be used to compact individual layers around valves, manholes, etc. The Town may require the contractor to take density readings on the asphalt patch. If the results do not meet Town standards, the Town was not notified to inspect the installation, or there are questions and concerns regarding construction, the Town may require the contractor to core the patch to ensure compliance or replace the patch, all at the contractor's expense.

(3) Final restoration. Final restoration of an excavated Right-of-Way shall consist of the following steps in restoring the pavement and impacted area to equal or better than original condition:

- i. Restoration of openings in other than hard-surface areas. All surfaces or sub surfaces of areas other than hard-surface areas as may be disturbed in any road Right-of-Way excavation shall be replaced in substantially the same condition as it was prior to such disturbance. All work, including restoration, must be completed within 30 calendar days of the date of issuance of the permit unless extended in writing by the Town. Black dirt sodding or seeding shall be completed within 30 days in growing season, or as soon as practical the next spring.
- ii. Backfilling. Backfilling shall be done with due care in a workmanlike manner according to approved methods to prevent the settling of the facility. In all roads, alleys, sidewalks, or other public ways, whether improved or unimproved, all excavated material shall be removed and the trench shall be completely backfilled with granular material (native or imported). The material shall be free from sod, stumps, logs, and other perishable or deleterious matter. All granular fill material shall

be laid in 12 inches lifts or less. Fill materials in trenches shall be consolidated as follows: within three feet of the surface, 95% of maximum dry density; below three feet from the surface, 90% of maximum dry density. Backfill material beneath nonpaved areas in any roadway shall be consolidated to a compaction density of a minimum of 90% maximum dry density as determined by the Modified Proctor Test (ASTM D1557). Any backfill found to be deficient in meeting the mechanical compaction specification shall be excavated and reconsolidated at the contractor's expense. Costs for retesting backfill consolidation found to be deficient shall be assessed to the contractor. Native backfill (if granular) may be reused only if approved by the Town Representative. Native backfill used in roadway trenches must be compacted as described above. The top 12 inches of roadway trench is to consist of 3/4 inch of compacted crushed stone. The top three inches of compacted crushed stone shall be removed and replaced with asphalt as described in Subsection ii, Asphalt placement procedures, within three working days.

4.5.16 Traffic control. The Registrant shall provide and maintain proper barricades, signs, and flagmen at all locations where construction and maintenance work interferes with normal pedestrian or vehicular traffic use of the road or walkways, etc. All markings and signing provided for traffic control and safety purposes shall conform to the standards and specifications of the current issue of the Wisconsin Manual of Traffic Control Devices, as may be applicable. The Registrant or contractor must submit a basic traffic control plan for approval by the Town Board with its permit application.

4.5.17 Town's right to restore surface. If the Registrant should fail to restore the surface of the road or any area within the Right-of-Way or construction area to its specified condition within seven calendar days of being notified to do so, without written approval for extension, the Town, if it deems it advisable, shall have the right to do all the work and items necessary to restore the construction site. The Registrant shall be liable for the actual cost thereof plus 25% of such cost for general overhead and administrative expenses. The cost of said work shall be deducted from the cash deposit, where applicable, or billed directly to the utility company involved. Should the cost of repairs exceed the cash limits held, the additional amount shall be billed to the applicant. No additional permits of any kind shall be issued to the applicant until such invoices are paid in full. Invoices will be due thirty (30) days after issuance.

4.5.18 Maintenance. It shall be the duty of the Registrant to guarantee and maintain the site of the excavation for one year after restoring it to its original condition and official acceptance of the project.

4.5.19 Abandonment of facilities. Should a Registrant wish to discontinue operations in the town, the following will apply:

(a) Discontinued Operations. A Registrant who has discontinued or who plans to discontinue its operations in the Town, either in full or in part, must do one of the following:

(1) Provide information satisfactory to the Town that the Registrant's obligations for its facilities under this Subdivision have been lawfully assumed by another Registrant.

(2) Submit to the Town a proposal and instruments for dedication of its facilities under this Subdivision to the Town. If a Registrant proceeds under this clause, the Town may, at its option:

i. Accept the dedication for all or a portion of the facilities;

ii. Require the Registrant, at its own expense, to remove the facilities in the Right-of-Way at ground or above ground level;

iii. Require the Registrant to post a bond or provide payment sufficient to reimburse the Town for reasonably anticipated costs to be incurred in removing the facilities.

(3) Remove its facilities under this Subdivision within two years, unless the Town waives this requirement or provides a later deadline.

(b) Abandoned Facilities. Facilities of a Registrant who fails to comply with section 4.5.19.1 or facilities that are not claimed by any registered person and which remain either unclaimed by a registered person or unused for one (1) year, shall be deemed to be abandoned. Abandoned facilities are declared to be a nuisance. In addition to any remedies or rights it has at law or in equity, the Town may, at its option, do any of the following:

(1) Abate the nuisance;

(2) Take possession of the facilities; or,

(3) Require removal of the facilities by the Registrant, or the Registrant's successor in interest, or other person responsible for the facilities.

(c) Public Utilities. This Subsection shall not apply to a Public Utility that is required to follow the provisions of Wis. Stat. 196.81.

Section 5: Standard provisions

5.1 Severability Provisions of this ordinance shall be deemed severable and it is expressly declared that the Town Board would have passed the other provisions of this ordinance irrespective of whether or not one or more provisions may be declared invalid. If any provision of this ordinance or the applicability thereof to any person or circumstance is held invalid, the remainder of the ordinance and the application of such provisions to other persons or circumstances shall not be affected thereby.

5.2 Headings and Titles Headings, labels, and formatting in this ordinance are for the convenience of the reader only and do not provide independent meaning or substance to this ordinance.

Section 6: Miscellaneous provisions

6.1 Pursuant to WI Statute 60.80 the clerk shall post this ordinance as required.

6.2 This ordinance is effective upon being published/posted.

Adopted by a vote of 3 for and 0 against on this 1st day of October, 2022 by the Town Board of Brooklyn.

Kathy Pennington
Kathy Pennington, Chairperson

Jeffrey McNeely
Jeffrey McNeely, Supervisor 1

Abbigail E. Krebs
Abbigail Krebs, Supervisor 2

Attestation:

Chris Gallagher
Chris Gallagher, Town Clerk

Published/Posted: 10/5/2022