

Township of Little Black, Taylor County, Wisconsin
Chapter 20: Roads

Section 23.03 EXCAVATIONS OF ROADS, PUBLIC RIGHT-OF-WAY AND GROUNDS

- I. This Ordinance rescinds prior Town of Little Black Board Section 23.02 EXCAVATIONS OF ROADS, PUBLIC RIGHT-OF-WAY AND GROUNDS
- II. AUTHORITY AND PURPOSE This Section is adopted under the Town's general authority granted pursuant to §60.10(2)(c), §60.22(1), 60.24(3)(p), § 66.0425, §82.03(19), 82.35, and 86.07 of the Wisconsin Statutes; to promote the public safety, health and general welfare of the community, to further the safety of roads and public property or rights-of-way within the Town, to minimize the Town's financial liability for roadway damage caused by others, and to ensure the Town has notice of soil-disturbing activities in Town easements and roadways and on Town property.
- III. PERMITS
- A. Permit Requirements:
1. No person, partnership or corporation, or its agents, employees or contractors including all utilities, private or member owned, shall make or cause to be made any opening, boring, plowing, tunneling or excavation in any public road, public ditch, public ground or town easement, or install a culvert, within the town without an excavation permit issued from the Town Board, except
 1. if the proposed opening or excavation is for a driveway (with or without culvert), culvert permit under section 24.01 of the Town of Little Black ordinances must be obtained,
 2. Sections III or IV below are applicable, or
 3. the total amount of soil, excavated is less than 5 cubic feet.
 2. Contractors performing excavation work while under a town contract or under the direction of the Town Board are exempt from the requirement.
 3. The applicant shall complete an EXCAVATIONS OF ROADS, PUBLIC RIGHT-OF-WAY AND GROUNDS Permit. The Town Clerk will forward the permit application to the Town Board for consideration at its next regularly-scheduled meeting that is at least seven (7) days from the date of receipt of the permit application. Upon approval, the permit application shall be kept on file and available for public inspection at the office of the Town Clerk.
 4. The party responsible for the excavation shall obtain the permit. A separate permit shall be obtained for each separate excavation based on the scope of any given project. All permits shall expire 89 days from the date the permit application is approved. The applicant must notify the Town Clerk, The Town Chairman or Town Board within 5 days of completing the work.
- B. Emergency excavation.
1. In the event of an emergency excavation for the protection of property, life, health or safety, the applicant will have two regular business days from the date of the excavation to file a permit application and requisite fee with the Town Clerk.
 2. All excavations shall comply with barricades and traffic control from the U.S. Department of Transportation manual on Uniform Traffic Control Devices.
- C. General requirements. All excavations and soil disturbing activities under this section shall be conducted in a manner which prevents runoff of soil, sediment, gravel, or other materials from the site, directs flow away from roadways and surface waters, does not interfere with any utility, and satisfies other criteria as dictated by the Board based on environmental conditions of the site.
- D. Backfill requirements.

1. The trench backfill shall be mechanically compacted to prevent settlement of the road in the location where such digging or excavation is done.
2. The backfill materials shall be approved by the Town Board.
3. The road surface shall be restored to as good a condition as it was before such cutting digging, tunneling, plowing and excavating. Restoration shall be with like thickness and kinds of construction materials as originally existed or as determined by the Town Board.
4. Should the road settle or become defective because of such cutting, digging, tunneling, plowing and excavating with a period of two years, the Town Board may order repairs of the street at permittee expense

IV. PRIVILEGES

A. Prohibition.

1. No person shall place an obstruction or excavation beyond a lot line, town right of way or within a road in the Town of Little Black without obtaining a privilege as that term is used in Wis. Stat. § 66.0425 from the Town Clerk.
2. This provision applies to projects that have not received a permit as set forth in Section II and that are in place for 90 or more days.
3. Contractors performing excavation work while under a town contract or under the direction of the Town Board are exempt from the requirement unless specifically required by the Town Board.

B. Privilege Requirements.

1. The applicant shall complete a REQUEST FOR RESOLUTION GRANTING PRIVILEGES. The Town Clerk will forward the application to the Town Board for consideration at its next regularly-scheduled meeting that is at least seven (7) days from the date of receipt of the request. Upon approval, the Resolution request shall be kept on file and available for public inspection at the office of the Town Clerk.
2. The party responsible for the excavation shall request the Resolution. A separate Resolution shall be obtained for each separate excavation based on the scope of any given project. All Resolutions shall expire by the date set forth in the Resolution as approved.
3. Privileges may only be granted if the applicant assumes primary liability for damages to person or property by reason of the granting of the Privilege, agrees to remove an obstruction or excavation upon 10 days' notice by the state or the municipality, and waives the right to contest in any manner the validity of this section or the amount of compensation charged. The applicant shall additionally file a bond that is not less than \$10,000 or proof of insurance; that runs to the town and to 3rd parties that may be injured; and that secures the performance of the conditions specified in this section.
4. If there is no established lot line and the application is accompanied by a blue print, the Town Board may impose any conditions on the Privilege that it considers advisable.
5. Granting the requested Privileges does not relieve the applicant of obtaining any other necessary local, state, or federal permits or approvals.

C. PENALTIES AND FEES

Any person who violates this subsection may be fined \$50 per day of violation or imprisoned for not less than 10 days nor more than 6 months or both.

V. TUNNELING and BORING

- A. Definition. For purposes of this Section, "tunneling" shall include boring under, creating a continuous or closed opening, installing piping, or otherwise creating a disturbance of soil or materials under a town highway.
- B. Prohibitions. Except for public utilities or as necessary for electric, telecommunication, or gas services, and subject to Section (20.5.C), no person shall cause a tunnel to be constructed under a town highway.
- C. Notice

1. The owner of land on both sides of a town highway that is not owned in fee by the town may construct a tunnel or bore under the highway pursuant to Wis. Stat. § 82.37 and the requirements of this section. A permit shall be required for this work.
 2. The owner shall apply to the Town Board thirty (30) days prior to starting construction of the tunnel or boring. The application shall include proof of ownership if the property on both sides of the road and the road bed (subject to the Town's easement), shall include drawings or sketches of the tunnel or boring plans, and shall include the name of the contractor performing the tunneling or boring work.
 3. The tunnel or boring shall not interfere with or endanger travel on the highway, as determined by the Town.
 4. The owner shall maintain the tunnel or boring and shall be liable for all damages that occur as a result of the failure to keep the tunnel or boring in repair.
 5. The owner may be required to install fencing for use of the tunnel or boring or to ensure public safety.
 6. No tunnels or boring may be constructed that are less than 25 feet in length.
- D. Except as otherwise provided, any person who violates this paragraph shall be punished by a fine \$50 per day of violation or by imprisonment not exceeding 6 months, or both.

VI. Penalty

- A. Any person, partnership, corporation, or other legal entity that fails to comply with the provisions of this Section shall, upon conviction, pay a forfeiture of \$50, or by imprisonment not exceeding 6 months, or both, plus the applicable surcharges, assessments, and costs for each violation. Each day a violation exists or continues constitutes a separate offense under this ordinance. In addition, the town board may seek injunctive relief from a court of record to enjoin further violations.

VII. SEVERABILITY CLAUSE

If any provision of this ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable.

VIII. EFFECTIVE DATE

This ordinance is effective on publication or posting and rescinds prior Ordinance 23.02.

The town clerk shall properly post or publish this ordinance as required under s. 60.80, Wis. stats.

Adopted this 13th day of Feb, 2017 by the Town Board of Supervisors of
The Town of Little Black, Taylor County

Town Chairman

Daniel Hoffman

Town Supervisor

Byron J. Hansen

Town Supervisor

Patricia A. R...

Filed this 12th day of February, 2017

Attest:

JoAnn Smith

Town Clerk