

**Town of Saukville Ordinance No. 2022-02**

**AN ORDINANCE REGULATING WORK WITHIN THE TOWN RIGHT-OF-WAY**

**WHEREAS**, it is deemed to be in the best interest of the Town of Saukville that the Town be protected from any costs associated with the repair and/or reconstruction of Town right-of-way areas resulting from any construction located within the Town right-of-way.

**WHEREAS**, pursuant to the general police powers granted to the Town as set forth in Wis. STAT. Chs. 60, 66, and 82, and as authorized by Chs. 60 and 66 of the Wisconsin Statutes, the Town Board of Supervisors of the Town of Saukville agrees that an ordinance regulating work within the Town right of way be adopted; and

**WHEREAS**, a Notice of Public Hearing before the Town Board of Supervisors was duly published in the *Ozaukee Press* on March 31, 2022, and April 7, 2022; and

**WHEREAS**, a Public Hearing was held before the Town Board on April 19, 2022, regarding the proposed Ordinance; and

**WHEREAS**, based on the above, it is deemed to be in the best interest of the Town of Saukville that its Ordinances be further modified and amended in the manner hereinafter more particularly set forth below.

**NOW, THEREFORE**, the Town Board of the Town of Saukville does hereby ordain as follows:

**I. Purpose**

The purpose of this Ordinance is to protect the Town of Saukville from any costs associated with the repair and/or reconstruction of Town right-of-way areas resulting from any utility or underground construction located within the Town right-of-way. The applicant, contractor and/or his or her agents shall be jointly and severally responsible for any damage incurred during construction to:

- (A) Existing roadside drainage ditches;
- (B) Any existing underground utilities (electric, gas, telephone, cable); and
- (C) Existing vegetation – trees greater than 6” in diameter shall be replaced.

**II. Fees**

The Town of Saukville requires a nonrefundable permit fee in the amount established by the Town Board in a fee schedule which may, from time to time, be modified by Town Board resolution. Fees shall be related to costs involved in handling permit applications, conducting site inspections, and administering the requirements of this Ordinance.

**III. Authority**

This Ordinance is adopted pursuant to the general police powers granted to the Town as set forth under Wis. STAT. § 60.22, and as authorized under Ch. 60 and Ch. 66 of the Wisconsin Statutes.

**IV. Interpretation**

In its interpretation and application, the provisions of this Ordinance shall be held to be the minimum requirements and shall not be deemed a limitation or repeal of any other power granted to the Town of Saukville by the Wisconsin Statutes or any other rule, regulation, ordinance or permit previously adopted or issued pursuant to law. Where any terms or requirements of this Ordinance may be inconsistent or conflicting with any other chapter, statute, regulation, rule or permit, the more restrictive requirements or interpretation shall apply.

**V. Policies and Indemnification**

A. The entire cost of constructing and maintaining the utility shall be the obligation of the applicant.

B. The location of the utility within the road/highway right-of-way shall be as represented in the application submitted as a basis of this consent and permit. It shall be the responsibility of the applicant to determine the location of, and suitably protect from damage, any underground facilities already in place in the area influenced by the permitted work.

C. All poles used in the construction of overhead transmission lines shall be placed in a manner and location so as not to interfere with use of the road/highway by the public or use of adjoining land by the owners thereof.

D. No trees or shrubs shall be cut, trimmed or branches thereof cut or broken in the construction of maintenance of the utility without the consent of the owner of the tree.

E. Any brush, trash, waste, or rubbish resulting from the construction or maintenance shall be removed from the road/highway. Construction and maintenance operations shall be performed without closing any road/highway to traffic except as may be specifically authorized by the Town. All driveways shall remain open to vehicular traffic. Unless otherwise authorized, two-way traffic shall be maintained at all times. Proper barricades, signs, flags, lights and flagmen shall be provided and maintained at all locations where construction and maintenance work interferes with normal use of the road/highway.

F. Any excavations shall be backfilled with suitable granular material, placed in layers compacted mechanically to the density of the adjacent ground. Any subsequent settlement or heaving shall be repaired to the satisfaction of the Town.

G. Temporary sheeting and shoring shall be used as necessary to prevent soil caving in trenches and tunnels. Roadway surfaces, pavements, structures, vegetation or other highway facilities damaged shall be repaired or restored within thirty (30) days from the date that construction or maintenance work is begun in an area unless specific approval is granted by the Town for additional time to complete restoration.

H. Whenever any digging is done in the ditch, it must be restored to its original state; i.e., topsoil, reseeded and mulched, gravel shoulders, asphalt and/or erosion control fabric (if applicable) within 30 days.

I. The Applicant shall save and hold the Town, its supervisors, employees, agents, and all private and governmental contractors and subcontractors with the Town, harmless from and against all liability, damage, loss, expense, claims, demands and actions of any nature whatsoever (including any by Applicant itself) which arise out of or are connected with, or are claimed to arise out of or be connected with any of the work done by Applicant, or the construction or maintenance of facilities by the Applicant, pursuant to this permit or any other permit issued by the Town for locations of property, lines or facilities on highway right-of-way, (1) while the Applicant is performing its work, or (2) while any of the Applicant's property, equipment, or personnel, are in or about such place or the vicinity thereof, or (3) while any property constructed, placed or operated by or on behalf of Applicant remains on the Town property or right-of-way pursuant to this permit or any other permit issued by the Town for location of property, lines, facilities on highway right-of-way; including without limiting the generality of the foregoing, all liability, damages, loss, expense, claims, demands and actions on

account of personal injury, death or property loss to the Town, its officers, employees, agents, contractors, subcontractors or frequenters; to the Applicant, its employees, agents, contractors, subcontractors or frequenters; or to any persons, and whether based upon, or claimed to be based upon, statutory (including, without limiting the generality of the foregoing, worker's compensation), contractual, tort, or other liability of the Town, the Applicant, or any other persons, and whether or not caused or claimed to have been caused by active or inactive negligence or other breach of duty by the Town, its officers, employees, agents, contractors, subcontractors or frequenters; or any other person. Without limiting the generality of the foregoing, the liability, damage, loss, expense claims, demands and actions indemnified against shall include all liability, damage, loss, expense, claims, demands and actions for damage to any property, lines or facilities placed by or on behalf of the Applicant pursuant to this permit or any other permit issued by the Town for location of property, lines or facilities on highway right-of-way in the past or present, or that are located on any highway or Town property of right-of-way with or without a permit issued by the Town, for any loss of data, information, or materials; for trade-mark, copyright or patent infringement; for unfair competition or infringement of any other so-called "intangible" property right; for defamation, false arrest, malicious prosecution or any other infringement of personal or property rights of any kind whatever. The Applicant shall, at its own expense, investigate all such claims and demands, attend to their settlement or other dispositions, defend all actions based thereon and pay all charges of attorneys and all other costs and expenses of any kind arising from any such liability, damage, loss, claims, demands and actions.

J. Upon completion of the work, written notice thereof shall be filed with the Town Clerk.


K. The Town reserves the right to stop any or all work if conditions are not compatible.

## VI. Applicability

The requirements of this Ordinance shall apply to all persons within the Town of Saukville.

Adopted by the Town Board of the Town of Saukville, Ozaukee County, Wisconsin, at its regularly scheduled meeting on this 19 day of April, 2022.

  
\_\_\_\_\_  
Kevin Kimmes, Town Chairman

  
\_\_\_\_\_  
Raquel L. Engelke, Town Clerk

Publication Date: April 28, 2022

Posting Date: April 20, 2022