

AN ORDINANCE REGULATING THE MAKING OF OPENINGS AND EXCAVATIONS IN STREETS, ALLEYS, SIDEWALKS, OTHER PUBLIC PLACES AND IN THE PUBLIC RIGHT-OF-WAY OF THE VILLAGE OF OTISVILLE: THE ISSUANCE OF PERMITS THEREFOR, AND THE RESTORATION OF THE SURFACE OR PAVEMENT WHEN SUCH OPENING OR EXCAVATIONS ARE MADE.

The Village of Otisville ordains:

Section 1. Permit Required.

It shall be unlawful for any person, firm or corporation, other than a duly authorized village official or employee in the course of his employment, to make or cause or permit to be made, any excavation or opening in or under the surface or pavement of any street, alley, sidewalk, other public place, or public right-of-way, within the limits of the Village of Otisville, until a permit therefor shall have been obtained from the Superintendent of the Department of Public Works of the Village of Otisville. Provided, in case of an emergency arising out of office hours, at night, on Sundays, or legal holidays, when an immediate excavation may be necessary for the protection of public or private property, the same shall be reported to the police department, which shall grant permission to make the necessary excavation upon the express condition that an application for a permit be made in the manner herein provided on or before noon of the next following business day.

Section 2. Application for Permit.

Any person, firm or corporation except as hereinafter provided, desiring to procure a specific permit, shall submit an application in writing to the Superintendent of the Department of Public Works of the Village of Otisville at least twenty-four (24) hours before the time proposed to begin such work. Said application shall be upon forms furnished by the Village and shall state:

- (a) The name and address of applicant.
- (b) The name of the street, alley, sidewalk, other public place, or public right-of-way in or under which it is desired to make the excavation or opening.
- (c) The kind of pavement, sidewalk or surface thereon.
- (d) The purpose, size, and location, as near as can be determined, of the proposed excavation or opening.
- (e) The time during which it is desired such opening is to be permitted.

When required by the Superintendent of the Department of Public Works, the application shall be accompanied by a plat or pencil tracing or sketch showing the location, character, or dimensions of the proposed excavation or opening for the installation of new work, or the location and character of the alterations involving the location of pipes, conduits, or other conductors. Provided, that any public utility, operating in the State of Michigan under the jurisdiction and control of the Michigan Public Service Commission, upon written application on a form provided by the Village, and upon the filing of an annual bond, shall be granted a permit under the provisions hereof for the installation, maintenance or repair of any public utility installations in the public street, alley, sidewalk, other public places, or in the

public right-of-way good for a period of one year from the date thereof. Every such corporation performing any construction work hereunder whenever required by the Superintendent of the Department of Public Works, on a form provided by the Village, shall file a written report showing all construction work performed by it within the Village of Otisville, under the provision of such permit. Such annual permit shall not authorize any opening in any street, alley, sidewalk, other public place or in the public right-of-way, without the special permission of the Superintendent of the Department of Public Works in each case.

### Section 3. Bond and Liability Insurance Requirement.

The application shall be accompanied by a surety bond to the Village of Otisville approved as to form by the Village Attorney in the penal sum of Five Thousand (\$5,000.00) Dollars, conditioned by the faithful performance of such work in accordance with the rules, regulations and Ordinances of the Village, within the time fixed by the Superintendent of the Department of Public Works in the permit, and, for the restoration of any street, alley, sidewalk, other public place, or public right-of-way in which the excavation or opening shall be made by such person, firm or corporation to the original condition and to the satisfaction of the Superintendent of the Department of Public Works and, for the maintenance of such condition for a reasonable length of time as shall be required by the Superintendent of the Department of Public Works, and, that such person, firm or corporation will indemnify and save harmless the Village against and from any and all damages or claims for damages, loss, costs, charges or expenses that may be brought against it by any person for or on account of injury to persons or property resulting from or occasioned by reason of the negligence of any such person, firm or corporation making such excavation or opening. Any and all permittees hereunder shall provide protection to the Village by carrying liability insurance in the sum of at least One Hundred Thousand (\$100,000.00) Dollars each person and Five Hundred Thousand (\$500,000.00) Dollars each occurrence. The permittee shall, upon request, deliver to the Village a certificate of such insurance coverage. Provided, however, that any public utility applying for an annual or special permit under the provisions hereof, shall file a continuing surety company bond in the penal sum of Twenty Thousand (\$20,000.00) Dollars, conditioned upon the faithful performance by it of the provisions of this Ordinance, and so long as such bond shall be in effect, no other bond shall be required from said utility.

### Section 4. Granting of Permit.

The Village of Otisville Superintendent of the Department of Public Works, upon the filing of the application and bond and the payment of a permit fee of Five (\$5.00) Dollars may, in his discretion, issue a permit which shall state the name and address of the applicant, the location, nature, purpose and extent of the excavation or opening, the kind or kinds of pavement or surface to be disturbed, and the dates of granting and expiration of the permit. All permits shall be consecutively numbered and shall be in triplicate, one copy to be given to the applicant, one copy to be delivered to the Village Clerk, and one copy to remain on file in the office of the Superintendent of the Department of Public Works. Such permit shall, at all times, be in the possession of a competent person actually on the work and shall be shown upon

demand to a police officer or duly authorized officer or employee of the Village of Otisville. This section shall not apply to a public utility to which an annual permit shall have been issued under the provisions hereof. The annual permit will be issued to those utilities governed by the Michigan Public Service Commission at no charge.

Section 5. Guarding Excavations and Obstructions.

Any person, firm or corporation making or causing to be made an excavation or opening in any street, alley, sidewalk, other public place, or public right-of-way, or within five (5) feet of the line of any street or public place, shall, between sunset and sunrise on every night that the same remains open or danger exists therefrom, keep such excavation or opening fenced or barricaded and properly lighted so as to warn all persons of such excavation or opening and all obstructions. No unauthorized person shall remove or interfere in any way with any such lantern or other danger signal or any such barriers.

Section 6. Requirements for Work under Permit.

All work under a permit shall be under the supervision of the Superintendent of the Department of Public Works and in conformity with the following requirements:

(a) All work shall be started within forty-eight (48) hours after the receipt of the permit and shall be pursued diligently and continuously until the same is completed. When in consequence of the weather or any process of the law, or any other unexpected obstacle, the work shall be stopped for so long a time that public travel shall be unreasonably obstructed the excavation or opening shall be refilled and repaved as if the work contemplated in a permit were actually completed.

(b) In no case shall a person, firm or corporation open or remove a greater area of surface and at no other location than that specified in the original or supplementary application; provided, however, that at the time of actually doing the work, if it shall be necessary to open or remove a greater area of surface than originally applied for, the applicant shall first notify and procure the consent of the Superintendent of the Department of Public Works to do so upon the express condition that he or it shall and will, before noon of the following business day, file a supplementary application for the making of an additional excavation.

(c) All work shall be performed in such a way as to cause a minimum of inconvenience and restriction to both pedestrian and vehicular traffic. No dirt or other materials shall be placed on sidewalks. No more than one-half of the width of the street shall be opened at one time; the other half shall remain untouched for the accommodation of traffic until the first half is restored for safe use. All work shall be prosecuted so as not to interfere with any access to fire houses, fire hydrants and United States mail boxes. The permittee must remove within twenty-four (24) hours all snow and ice that may fall or form upon the street within five (5) feet upon either side of the opening and keep such space free from snow and ice until the opening is properly filled.

(d) The person, firm or corporation to whom a permit is granted shall give notice in writing thereof to any corporation whose pipes, poles, mains, or conduits are laid in the street about to be disturbed by such excavation, at least twenty-four (24) hours before commencing the same; and shall at his or its

expense, sustain, secure and protect such pipes, poles, mains, or conduits from injury and replace and pack the earth wherever the same shall have been removed, loosened or disturbed under or around them, so that they shall be well and substantially supported. If any person, firm or corporation shall fail to sustain, secure or protect such pipes, poles, mains, or conduits from injury or to replace and pack the earth under or around them, as the provisions of this Section require, then the same may be done by the corporation to whom the same may belong and the cost thereof and all damages sustained by such corporation thereby shall be paid by such person, firm or corporation and in default thereof, such corporation may maintain an action against him or it therefor.

(e) Paving materials and earth or gravel removed must be kept separate and such materials capable of being reused shall be preserved. The width of the excavation or opening shall be no greater than is necessary for doing the work. Sheeting and bracing shall be used when the excavation or opening is five (5) feet or more in depth. At the discretion of the Superintendent of the Department of Public Works, sheeting and bracing may be cut off one foot below the surface pavement and left in place when the opening is refilled. The street, alley, sidewalk, or other public place or public right-of-way, must be opened in a manner which will cause the least inconvenience to the public and admit of the uninterrupted passage of water along the gutter, generally. Excavation shall generally be made by open cut method. However, tunnelling or auguring may be required and shall be authorized at the discretion of the Superintendent of the Department of Public Works. No excavation shall be undercut or have a greater width at the bottom than at the top. In case of slips or slides of the sides of the excavation the same shall be trimmed to solid earth and the top surface cut back to the limit of the same before any back filling is commenced.

(f) All openings shall be refilled and temporarily resurfaced on or before the time fixed in the permit, and written notice shall be given to the Superintendent of the Department of Public Works when the work is completed. Such temporary resurfacing shall be maintained by the person, firm or corporation to whom the permit is issued until the Village or person designated shall permanently resurface such opening. Refilling shall be done in thin layers not exceeding six (6) inches in height, firmly rammed until the excavation is filled or to a proper line of placing the paving thereon. All refilling shall be done with sand, gravel, or if approved by the Superintendent of the Department of Public Works, other materials of equivalent compaction qualities. Puddling or water tamping shall be done by permission of the Superintendent of the Department of Public Works. Whenever rock is excavated not more than one-third of the total excavation shall be refilled with the broken stone, which must be in pieces not exceeding six (6) inches in their largest dimensions, and mingled with clean earth and sand, and restored in such manner as to insure the thorough and compact filling of all spaces. All void space in a tunnel excavation shall be back filled with thoroughly rammed concrete as specified by the Superintendent of the Department of Public Works.

(g) In all unimproved streets the surface of the refilled excavation or opening shall be finished in a workmanlike manner and shall in every respect, be equal in quality, character and materials to the street surface existing previous to making the excavation. In all improved streets the crown of the surface must conform to the adjacent street surface until sufficient time has



elapsed to warrant the restoration permanently of the paved surface. All such restoration of paving surfaces shall be made in accordance with Village specifications and may be done by the Village under contract or by its own forces and the cost thereof charged to the permittee.

(h) In the replacement or restoration of the permanent pavement, the Village shall have the right and authority to remove the old concrete for an area extending at least one foot in all directions beyond the edge of the original cut, and replace it with new reinforced concrete, not less than six (6) inches thick, but, equal in thickness to that of the adjacent pavement made in accordance with the latest Village specifications for a permanent foundation. The new wearing surface shall extend at least six (6) inches beyond the joint in the foundation of the pavement and be laid with the same care and in the same manner as the original pavement.

(i) If any part of the slab of sidewalk is cracked or damaged in any way, the entire slab shall be replaced.

(j) In the event it is necessary to remove any sod it shall be replaced in a workmanlike manner when the excavation is completed so that the lawn surface shall be equal in appearance to the said lawn surface previous to making the excavation.

#### Section 7. Failure to Comply with Regulations.

In case any person, firm, or corporation to whom a permit has been granted shall fail to comply with the terms thereof, such permit shall become null and void, and any and all expense which may be incurred by the Village in refilling the excavation or restoring the street, lawn or sidewalk to its proper condition shall be borne by the permittee. In case the person, firm or corporation to whom a permit is granted shall fail to leave the street, lawn or sidewalk in as good condition as it was previous to any work being done under the permit, any and all expense which may be incurred by the Village in restoring the street, lawn or sidewalk to its proper condition shall be borne by the permittee.

#### Section 8. Damage to Shade Trees, Shrubs, or Lawns.

The person, firm or corporation to whom a permit is granted shall not injure or damage any shade trees or shrubs in making opening and excavations in streets, alleys, sidewalks, public right-of-ways of any streets and in other public places.

#### Section 9. Inspection.

The Superintendent of the Department of Public Works shall be responsible for making all necessary inspections of openings, excavations and capping the opening.

#### Section 10. Permits Not to be Issued under Certain Circumstances.

No permit shall be issued to any person, firm, or corporation who shall be in default on any obligation to the Village or who shall be in default under a contract with the Village.

#### Section 11. Duties of Police.

All police shall be vigilant in the enforcement of this Ordinance, and shall report through proper channels any violation thereof to the Superintendent of the Department of Public Works on

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observing or being informed of the opening of or excavation in any street, alley, sidewalk, other public place or public right-of-way, and shall require the person, firm or corporation making such opening or excavation to exhibit the permit therefor; and, if none has been given, or if the exhibition thereof be refused, the officer shall without delay, enforce the provisions of the Ordinance.

Section 12. Penalties.

Any person, firm or corporation who, himself or itself or by his or its agent or employee, shall make or cause or permit to be made, any excavation or opening in or under the surface or pavement of any street, alley, sidewalk, other public place or public right-of-way, without a permit as required by this Ordinance, or shall violate any of the provisions of this Ordinance or rules or regulations made in pursuance thereof, or who, having his permit declared null and void shall continue such work shall, upon conviction thereof, be subject to a fine of not in excess of Five Hundred (\$500.00) Dollars or imprisonment in the County Jail for not more than ninety (90) days, or by both such fine and imprisonment, in the discretion of the Court; each day on which said violation continues shall constitute a separate offense.

Section 13. Severability.

This Ordinance is deemed to be severable and if any part shall be declared invalid by any Court, such judgment or decree shall affect only that part directly involved in the controversy.

Section 14. Posting of Ordinance.

This Ordinance shall be posted in three (3) public places in the Village of Otisville on the \_\_\_\_\_ day of May, A.D. 1978.

Section 15. Effective Date of Ordinance.

This Ordinance shall take effect and be in full force and effect on the 1st day of June, A.D. 1978, which shall be subject to its passage by the Village Council.

Section 16. Approval and Publication of Ordinance.

This Ordinance was approved by unanimous vote of the Village Council, a quorum being present on \_\_\_\_\_, 1978, and ordered published in three public places in the Village of Otisville within ten (10) days after its adoption.

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ROBERT PRICE, Village President

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JUDY SATKOWIAK, Village Clerk

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