

PART III GENERAL LEGISLATION

Chapter 41

STREETS AND SIDEWALKS

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41.01 Uniform numbering system for houses and buildings established

There is hereby establishing a uniform system of numbering houses and buildings fronting on all streets, avenues and public ways in the Village of Lake Delton, and all houses and buildings shall be numbered in accordance with the provisions of this section 41.01–41.09.

41.02 Numbering system base lines

Spring Brook and Lake Delton shall constitute the base line for numbering along all streets running north and south, and Whitlock Street shall constitute the base line for numbering along all streets running east and west.

41.03 Numbering method per street

A. The numbering for each street shall begin at the base line. The numbers within the first block shall be from one (1) to ninety-nine (99) and the numbers in each succeeding block shall increase from the base line in units of one hundred (100), namely, the first block shall be one (1) to ninety-nine (99), the second block shall be one hundred (100) to one hundred ninety-nine (199), the third (3rd) block shall be two hundred (200) to two hundred ninety-nine (299), etc. There shall be assigned one hundred (100) numbers to each block, square or space that would be one block or square, if streets each way were so extended as to intersect each other, and one number shall be assigned to each fifteen (15) feet of frontage. In blocks or equivalent space longer than seven hundred fifty (750) feet that is not intersected by a street, if extended the total length of space divided by fifty (50) shall be used to determine the feet of frontage assigned to each number.

B. Where blocks of different lengths occur on opposite sides of a street, the numbers on both sides shall be assigned on the basis of the shorter blocks, unless the village clerk otherwise determines.

C. All lots and houses on the north and west side of all streets shall be numbered with odd numbers, each commencing with the hundred assigned to that block, and shall increase from the base line, one (1) number for each fifteen (15) feet of frontage or fraction thereof, except as provided in (A) and (B) above.

41.04 Buildings with more than one door serving separate occupants

Where any building has more than one (1) door serving separate occupants, a separate number shall be assigned to each door serving a separate occupant, providing the building is fifteen (15) feet or more in width. If the building is not fifteen (15) feet or more in width and the entrances are not that far apart, the next consecutive number shall be marked fractional. Buildings fronting on two (2) or more streets shall have a number assigned only to the main entrance, unless other entrances serve different occupants.

41.05 Streets not extending through to base line

All streets not extending through to the base line shall be assigned the same relative numbers as if the said street had extended to the said base line.

41.06 Place numbers on each house or building

A. The village board shall cause the necessary survey to be made and there shall be assigned to each house and building located on any street, avenue, alley or highway in said village its respective number under the uniform system provided for in this section 41.01–41.09. When the

said survey shall have been completed and each house and building has been assigned its respective number or numbers, the owner, occupant or agent shall place or cause to be placed upon each house or building controlled by him the number or numbers assigned under the uniform system provided for in this section 41.01–41.09.

B. Such number or numbers shall be placed within twenty (20) days after the assigning of the proper number. The cost of the number or numbers shall be paid for by the property owner and shall be procured from the village clerk at the unit price for the same, such price to be the cost of such units to the village. The owner shall procure and pay for replacement numbers. The numbers used shall not be less than two and one-half (2 1/2) inches in height.

C. The numbers shall be conspicuously placed immediately above, on or at the side of the proper door of each building so the number can be seen plainly from the street. Whenever any building is situated more than fifty (50) feet from the street line, the number of such building shall be conspicuously displayed at the street line, near the walk, driveway or common entrance to such building and upon the gate post, fence, tree, post or other appropriate place so as to be easily discernible from the sidewalk.

41.07 Numbers for upper and lower portions of house or building

Where only one (1) number can be assigned to any house or building, the owner, occupant or agent of such house or building, who shall desire distinctive numbers for the upper and lower portion of any such house or building, or for any part of such house or building, fronting on any street, such owner, occupant or agent shall use the suffix A, B, C, etc., as may be required.

41.08 Procure new numbers from the village clerk

A. It shall be the duty of the village clerk to inform any party applying therefor of the number of numbers belonging or embraced within the limits of said lot or property as provided in this section 41.01–41.08. In case of doubt as to the proper number to be assigned to any lot or building, the clerk shall determine the number of such lot or building.

B. Whenever any house, building or structure shall be erected or located in the Village of Lake Delton after the entire work of establishing a uniform system of house numbering has been completed, in order to preserve the continuity and uniformity of numbers of the houses, buildings and structures, it shall be the owner's duty to procure the correct number or numbers as designated from the village clerk for the said property and to immediately fasten the said number or numbers so assigned upon said building as provided by this section 41.01–41.09. No building permit shall be issued for any house, building or structure until the owner has procured from the clerk the official number of the premises.

41.09 Violating numbering system provisions

If the owner or occupant of any building required to be numbered by this sections 41.01–41.08 shall neglect for the period of twenty (20) days to duly attach and maintain the proper number on such building, the street superintendent shall serve upon him a notice requiring such owner or occupant to properly number the same, and if he neglects to do so for ten (10) days after the service of such notice, he shall be deemed to have violated this section 41.01–41.09.

41.10 Renaming parts of Dells Parkway to Lake Avenue and parts of Munroe Avenue to Wisconsin Dells Parkway

A. The name of the present Dells Parkway from Highway 12 east to Hiawatha Drive, and the present Dells Parkway from Highway 12 west to Clara Avenue is changed to Lake Avenue.

B. The name of Munroe Avenue from the south village limits to the intersection with Whitlock Street, and Whitlock Street, from Munroe Avenue north to the north village limits is changed to Wisconsin Dells Parkway.

41.11-.13 Reserved

41.14 Deposit snow on public ways

No person shall plow, shovel or otherwise deposit in the street the snow from within the lot lines of the property owned or controlled by him, in such manner or in such quantity as to create an obstruction in the street or otherwise create a traffic hazard.

41.15 Tree height in utility easements regulated.

A. The village board of the Village of Lake Delton finds tree growth under electric wire is unsafe. In order to protect the public safety it has become necessary to enact an ordinance regulating tree growth underneath electric wires.

B. It is prohibited to plant trees that reach a maximum, mature height of greater than eighteen (18) feet underneath any overhead electric wires. The public works director shall maintain a list of appropriate trees that are permitted for planting underneath overhead electric wires.

41.16 Events in Streets

A. Purpose. The village streets are primarily for the use of the public in the ordinary way. However, under proper circumstances the village board may grant a permit for street use or for a parade, bicycle or foot race, or other event, subject to reasonable municipal regulation and control. The purpose of this article is to regulate and control the use of streets to maintain the health, safety and general welfare of the public and to protect the good order of the Village.

B. Application. A written application for a street use permit shall be made to the village board, on a form provided by the village clerk, for consideration by the board in the ordinary course of business. An application for a street use permit shall be filed at least ninety (90) days prior to the event date, unless waived by the village board. The application shall set forth the following information regarding the proposed street use and such other information as the board may require:

1. A description of the event or purpose of the street use permit.
2. The name, address and telephone number of the applicant.
3. If the applicant is an organization, the type of organization shall be included.
4. The name, address and telephone number of the person who will be responsible for conducting the proposed use of the street.
5. The date and duration of time for the requested use of the street.
6. An accurate description of that portion of the street or streets proposed to be used.
7. The number of persons for who use of the proposed street area is requested.
8. The proposed use, described in detail, for which the street use permit is requested.
9. The number of security personnel provided by the applicant.

10. The number of village personnel including public works, police, fire department and EMS necessary for the event.
11. Proof of insurance.
12. The application for the permit shall be accompanied by the payment of the required filing fee.

C. Application review.

1. Upon receipt of a street use permit application, the village clerk shall immediately forward copies of the application to the Director of Public Works, the Chief of Police, the Director of Emergency Management and the Director of the Dells Delton Emergency Medical Service, each of whom shall consider the application and make recommendation thereon to the village board. Each department shall file a recommendation with the village clerk within ten (10) days of receiving notice of the application, unless additional time is warranted.

2. The person or representative of the group making application for a street use permit shall be present when the village board gives consideration to the granting of such street use permit to provide any additional information which the village board finds reasonably necessary to make a fair determination as to whether a permit should be granted.

3. The application for a permit shall be brought to the village board for consideration within 30 days of its filing. The village board may approve, deny or conditionally approve the application. In approving an application the village board may require a deposit be made for the expected cost of overtime, if any, for police, fire, EMS and public works arising from their time required in supporting the event. For applicants who have previously demonstrated good faith in repaying costs imposed by the Village, or when it finds that the applicant is suitably creditworthy, the village board may waive the requirement for a deposit. The village board may waive any fee or overtime expense if the applicant is a non-profit organization.

4. A nonrefundable application fee for permit shall be one hundred dollars (\$100) which shall be paid upon filing of the application. The permit fee shall be two hundred fifty dollars (\$250), plus a security deposit of five hundred dollars (\$500) securing the compliance with the requirements of the permit

5. The village board review of the street use permit application may take into consideration the following factors:

- a. The application is complete with all required information and documents.
- b. The date and time of the event.
- c. Applicable traffic laws and village ordinances affecting the proposed activity.
- d. The impact on businesses and residences along the proposed effected street.
- e. The impact on available public services.##
- f. The applicant's ability to comply with the terms and conditions of the permit.
- g. The risk to the public if the applicant is unable to maintain order.
- h. The applicant's background and experience in conducting similar events.
- i. The outcome of previous events held in the village or elsewhere.
- j. The benefit and risks to the public arising from the event.

D. Issuance of Permit.

Upon the village board's approval of the application for a permit to use a public street, and payment of the permit fee, the village clerk shall issue a permit authorizing the use of the street and specifying any conditions or requirements imposed by the village board. A copy of the permit will be forwarded to all village departments and the Dells Delton EMS.

E. Insurance.

No permit shall be issued unless the applicant files proof of liability insurance covering the applicant and the event and issued by an insurance company approved by the state of Wisconsin's commissioner of insurance office with minimum coverage of not less than One Million dollars (\$1,000,000) per claim, Two Million dollars (\$2,000,000) in the aggregate for personal injury and property damage, or such other amount as may be reasonably required by the village board. The policy shall be in force and effect at the time such usage is to take place. The evidence of insurance shall include a certificate of insurance naming the village as an additional insured.

F. Enforcement. This section shall be enforced by the Chief of Police, or his designee, with the authority to suspend the permit for failure to comply with the requirements of the permit or in the interest of public safety or for the protection of property.

41.17- .19 Reserved

41.20 Penalties

A. Any person agent firm or corporation violating s 41.01-41.09, 41.14, or 41.15 shall, upon conviction thereof, forfeit not less than fifty dollars (\$50.00) and not more than one hundred (\$100.00) dollars with a deposit required of fifty dollars (\$50.00), A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

B. Any person, agent, firm or corporation violating s. 41.16, or 41.30-41.46 shall, upon conviction thereof, forfeit not less than five hundred dollars (\$500.00) nor more than one thousand dollars (\$1,000) with a deposit required of five hundred dollars (\$500.00 A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

C In addition to the general penalties set forth above, any person who shall cause physical damage to or destroy any public property shall be liable for the cost of replacing or repairing such damaged or destroyed property.

41.21- .29 Reserved

41.30 Permit to open or excavation of public street

No person or the agents, employees or contractors of such person shall temporarily close, or make or cause to be made any opening or excavation in any public street, public alley, public way, public ground, public sidewalk or village-owned easement within the village without a permit from the director of public works. All work within State of Wisconsin and/or Sauk County right-of-ways shall also require the necessary permits from these respective agencies.

41.31 Application for permit

The application for a permit shall be in writing and signed by the applicant or the applicant's agent. The applicant shall submit to the director of public works an application to close a portion of a public street for excavation or other reasons. At the time the application for the permit is made, sufficient information relating to the work to be done, including the general location and nature of the work and the method the applicant proposes to use in doing the work. The director of public works shall determine if sufficient information is submitted. In addition to the

application for a permit, the applicant must pay the permit fee. The permit fee shall be established by resolution of the village board.

41.32 Issuance of Permit

The director of public works shall in his discretion issue a permit for closing or excavation in a public street. The permit shall be for a specified date and time. If the work requires closure for more than one (1) day, a permit for each day of closure of a street or portion thereof is required. If operations have begun under an approved permit(s) issued and the operations will continue beyond the date(s) permitted, the permittee shall apply for an extension by written request to the director of public works and payment of a renewal permit fee(s). Permit renewals shall be issued at the discretion of the director of public works.

41.33 Exception

This chapter does not apply to temporary closures or excavation work done by the village, Sauk County or the Wisconsin Department of Transportation.

41.34 Standards

All excavations or street work shall be performed in accordance with the standards defined in this chapter and the State of Wisconsin Standard Specifications for Highway and Structure Construction (current edition). Any damaged curb and gutter, sidewalk or grass-covered area shall be restored to the condition prior to damage.

41.35 Statement of guarantee; bond; defective work

A. Before a permit for temporary closures, or excavation of any street or public way may be issued, the applicant must sign a statement that the applicant will:

1. Indemnify and save harmless the village and its officers from all liability for accidents and damage caused by any of the work covered by the applicant's permit;
2. Fill up and place in good and safe condition all excavations and openings made in the street;
3. Replace and restore the pavement over any opening the applicant may make as near as can be to the state and condition in which the applicant found it, and shall keep and maintain the pavement in such condition, normal wear and tear excepted, to the satisfaction of the director of public works for a period of one (1) year;
4. Pay all forfeitures imposed upon the applicant for any violation of any rule, regulation or ordinance governing street openings or drain laying adopted by the village board; and
5. Repair any damage done to existing improvements during the progress of the excavation in accordance with the ordinances, rules and regulations of the village.
6. Such statement shall also guarantee that, if the village shall elect to make the street repair, the person opening the street will pay all costs of making such repair and of maintaining the street for one year.

B. Faulty work or materials shall be immediately replaced by the permittee upon notice by the village. Failure to correct deficiencies shall result in a one- (1) year revocation of the right to obtain a street opening permit. The village shall repair the deficiencies and bill the permittee for all labor, materials and equipment used plus twenty percent (20%) for administration.

C. The person who does such restoration shall be responsible therefore for one (1) year from the date of the completion of the work and shall file a written guarantee or surety bond to that effect with the village in an amount determined by the director of public works.

D. Whenever the director of public works shall find that any such work has become defective within one (1) year of the date of completion, the director of public works shall give written notice thereof to the contractor or to the contractor's surety stating the defect, the work to be done, the cost thereof and the period of time deemed by the director of public works to be reasonably necessary to complete the work. After receipt of such notice, the contractor or the surety must, within the time specified, repair the defect or indemnify the village for the cost of doing the work as set forth in the notice.

E. A performance bond is required covering all excavation work for a period of one (1) year. The bond shall be conditioned upon performance by the permittee as specified in this section and in the amount determined by the village board as necessary to adequately protect the public and the village.

41.36 Dates of performing work

No temporary closure or excavation of a public street or right of way shall be permitted between July 3 and September 15, except where it is determined by the director of public works to be an emergency excavation or will not unreasonably interfere with traffic or public safety.

41.37 Protection of public

A. Every opening and excavation shall be enclosed with sufficient barriers, signing, and such other traffic control devices as may be required by the director of public works, and in accordance with section VI of the Manual of Uniform Traffic Control Devices. Sufficient warning lights shall be kept on from dusk to dawn. No open flame warning devices shall be used. Except by special permission from the director of public works, no trench shall be excavated more than two hundred fifty (250) feet in advance of pipe or conduit laying or left unfilled more than five hundred (500) feet from where pipe or conduit has been laid. The following requirements shall also be complied with:

1. The Permittee shall give one- (1) week advance notification to the Village of Lake Delton Public Works and Police Department, Sauk County Sheriff Department, and local emergency services prior to starting any work.

2. The Contractor shall give timely notice to the above-referenced agencies for all major changes to the traffic control configuration of the project, including but not limited to roadway or lane closures and completion of the work.

3 All traffic control devices shall be inspected by the Contractor daily and shall be inspected for reflectorization, placement and legibility at least once weekly during hours of darkness. The Contractor shall maintain a log of all inspections.

4. When traffic control devices are not in use, they shall be covered and/or removed for a minimum distance of five (5) feet from the traveled edge of pavement. Lighting devices shall be covered or rendered inoperative when not in use.

5. The Engineer, the Village of Lake Delton and Sauk County Sheriff Department shall be furnished with the Contractor's telephone number where a person can be reached at all times for notification to repair, restore or replace damaged or disturbed traffic control devices. Contractor shall be available within one (1) hour to perform any necessary repairs, replacement or maintenance to the traffic control devices.

6. All traffic control devices shall be provided and installed in accordance with Sections 643, 646, and 649 of the State of Wisconsin, Department of Transportation, Standard Specifications for Highway and Structure Construction, 1996 Edition, the WisDOT Supplemental Specifications, 2000 Edition and these Special Conditions.

7. Contractor shall install temporary traffic control signage at the same time existing signage is removed for construction purposes.

8. All streets shall be accessible at all times for emergency vehicle traffic.

B. All necessary precautions shall be taken to guard the public effectively from accidents or damage to persons or property through the period of the work. Each person making such opening shall be held liable for all damages, including costs incurred by the village in defending an action brought against it for damages, as well as cost of any appeal, that may result from the neglect by such person or such person's employees of any necessary precaution against injury or damage to persons, vehicles or property of any kind.

C. Unless otherwise approved, a minimum of one (1) lane of traffic in each direction shall be provided. Every effort shall be made on the part of the permittee to provide reasonable access to all properties adjacent to the permittee's project. If traffic is limited to less than one (1) lane in each direction, flagmen or temporary traffic control signal shall be provided to safely cycle traffic in each direction past the work area.

D. The permittee shall perform the work in such a manner so as not to disrupt the flow of traffic in the area or endanger the safety of workers or passersby. It shall be the responsibility of the permittee to prevent traffic backup during construction operations. The permittee shall notify the police department twenty four (24) hours prior to commencement of excavation of the location and extent of the excavation, unless the excavation is an emergency excavation.

E. When the operations will result in the loss of any utility service to private properties, the private properties shall be notified in writing or by personal contact at least twelve (12) hours prior to the loss of service, unless the operations are part of an emergency excavation.

41.38 Pavement removal

A. Under this article, removal of existing pavement shall be to neat, straight lines. The permittee shall make a final saw cut in the existing pavement after backfilling. Excavations shall be kept to the minimum possible and acceptable for the convenience and safe performance of the work and in accordance with all applicable codes and regulations.

B. If the pavement is damaged during excavation beyond the original saw cut lines, it shall be saw cut again along neat, straight lines. The finished saw cut shall leave a regular rectangular section for pavement replacement. If the street opening occurs near an adjacent patch or close to an existing patch or if it requires more than one opening within a short distance, the permittee shall identify and locate the existing patches or additional openings on the permit application form. The director of public works shall, on the basis of an on-site inspection, approximate the boundaries of the pavement replacement area.

C. Pavement replacement areas with the long dimension in the direction of travel shall have the long dimension parallel with the curb-line or the direction of travel. Pavement replacement areas in concrete pavements shall be parallel with or at right angles to the direction of travel.

D. The director of public works may order the permittee to remove and replace up to one (1) full lane width of pavement along the patched or excavated area. Special care shall be taken with concrete pavement to produce a vertical face on the existing concrete at the point of the saw cut to ensure a full depth of concrete at the joint.

41.39 Excavated material

- A. All excavated material shall be piled in a manner such that pedestrian and motor traffic is not unnecessarily disrupted. Gutters shall be kept clear or other satisfactory provisions shall be made for street drainage, and natural watercourses shall not be obstructed.
- B. Excavated material to be used for backfilling of the trench must be so handled and placed as to be of as little inconvenience as practical to public travel and adjoining tenants.

41.40 Backfilling.

- A. All backfill material for an excavation shall be free from cinders; ashes; refuse; vegetable or organic matter; boulders, rocks or stones greater than eight (8) inches in their greatest dimension; frozen lumps; or other material which, in the opinion of the director of public works, is unsuitable.
- B. In backfilling the excavation, if there is not sufficient material excavated suitable for backfill, the deficiency shall be made up with imported granular material, approved prior to use by the director of public works.
- C. Wherever an excavation crosses an existing utility, pipe or other structure, backfill shall be carefully compacted in stages from the bottom of the excavation. Any sanitary sewer, storm sewer, water service, telephone service, natural gas service or other service shall not be interrupted by the permittee. It shall be the permittee's responsibility to have the various utilities locate and mark their facilities prior to excavation.
- D. Mechanical compaction shall be used on all materials used for trench backfill. Each layer (twelve- (12) inch maximum) shall be uniformly compacted to a dry density of at least ninety-five percent (95%) of the maximum dry density as determined by the modified proctor test (ASTM-1557). Compaction or consolidation by flooding shall not be permitted.
- E. All excavations shall be subject to testing by the village. Backfilled material not achieving the compaction requirements of subsection (D) of this section shall be removed and re-compacted by the permittee. The cost of any retesting shall be paid by the permittee.

41.41 Notice of commencement of work

Under this article, it shall be the duty of the permittee to notify the director of public works and all public and private individuals, firms and corporations affected by the work to be done at least five (5) business days before such work is to commence. The director of public works shall also be notified at least four (4) hours prior to backfilling or restoring the surface.

41.42 Pavement replacement

- A. Under this article, backfill material shall be left below the original surface to allow for base course and pavement. Base course shall be placed to the full depth of the existing base material or twelve (12) inches, whichever is greater. The twelve- (12) inch base shall consist of eight (8) inches of three- (3) inch breaker run and four (4) inches of three-quarter- ($\frac{3}{4}$) inch crushed stone. If paving will not occur as part of the initial street restoration operation, the balance of the opening to the original surface elevation shall be backfilled with compacted three-quarter- ($\frac{3}{4}$) inch crushed stone.
- B. Bituminous pavement shall be placed the full depth of the existing pavement or four (4) inches, whichever is greater. Bituminous pavement shall be Superpave Type E-3, Performance Grade (PG) 64-22, placed in a maximum of a two- (2) inch base layer and a one- (1) inch top

layer, with each layer compacted to maximum density. The finished surface shall be smooth and free of surface irregularities and shall match the existing pavement and any castings or street appurtenances. Contractor shall be responsible for the adjustment of all utility castings or road boxes. Allowable deviations shall be no more than one-quarter- (1/4) inch as measured with a ten- (10) foot straight edge.

C. Concrete pavement shall be placed to the full depth of the existing pavement or seven (7) inches, whichever is greater. Concrete shall be Read-Mixed concrete, air entrained, with a twenty eight- (28) compressive strength of four thousand (4000) psi, minimum. Concrete materials and placement shall be in conformance with the State of Wisconsin Standard Specifications for Highway and Structure Construction. Concrete used shall not contain calcium chloride. The surface shall be given a light broom finish. The edges shall be tooled to prevent spalling at the saw cut edge. The surface shall be evenly and completely sealed with a white pigmented curing compound. The surface shall be protected from traffic for a minimum of three (3) days. Tie bars shall be installed as directed by the director of public works.

D. In emergency excavations during winter months when it is not possible to replace the removed pavement with a like material, the excavation shall be temporarily resurfaced with a minimum of three (3) inches of cold mix bituminous material. This temporary wearing surface shall be compacted and rolled smooth. These temporary wearing surfaces shall be removed and replaced with material as specified in this section by not later than the following May 15, except as provided in this section. Permanent pavements shall be replaced within sixty (60) days of the date of the permit.

41.43 Emergency excavations

A. In an emergency, any person owning or controlling any sewer, gas main, water main, conduit or other utility in or under any public street, alley, easement, way or ground and any person's agents and employees may take immediate proper emergency measures to remedy dangerous conditions or the protection of property, life, health or safety without obtaining an excavation permit, provided that such person shall apply for an excavation permit not later than next business day and shall notify the police department immediately.

B. In emergency excavations during winter months when it is not possible to replace the removed pavement with a like material, the excavation shall be temporarily resurfaced with a minimum of three (3) inches of cold mix bituminous material. This temporary wearing surface shall be compacted and rolled smooth. These temporary wearing surfaces shall be removed and replaced with material as specified in this section by not later than the following May 1, except as provided in this section. Permanent pavements shall be replaced within _____ days of the date of the permit.

41.44. Insurance required

A permit required under this article shall be issued only upon condition that the applicant submit to the village administrator satisfactory written evidence that the applicant has in force and will maintain during the time the permit is in effect public liability insurance of not less than one million dollars (\$1,000,000.00) per one (1) person, one million dollars (\$1,000,000.00) per one (1) accident and property damage coverage of not less than one million dollars (\$1,000,000.00). The policy shall name the village as the third- (3rd) party insured.

41.45 Opening platted streets

Village board acceptance of any plat or certified survey map dedicating any street, road or right of way to the village does not constitute an opening of said street, road or right of way. Streets, roads and/or rights of way can only be opened upon a resolution of the village board declaring the streets, roads and or rights of way opened to the public.

41.46 Private Easements in platted streets

The village board may, in its discretion, authorize private easements for driveways or private drives within a public right of way that are not declared opened as provided in s. 41.45. In considering whether or not to grant an easement under this section, the village board should consider the necessity for said easement, whether or not the easement would create a traffic hazard, the impact of the easement on other property owners and the interests of the public. Any easement given under this section shall be non-perpetual, non-exclusive, for the convenience of the grantee(s) and subject to revocation by action of the village board. The easement shall provide that the village retains the right to excavate, construct or reconstruct any portion of the right of way and that the easement holder shall not be entitled to compensation for removal of any portion of the driveway or drive, or the revocation of the easement. The village board may, in its discretion, include any other terms and conditions in its grant of easement as it deems necessary. The private easements shall provide that the grantee(s) shall be responsible for all costs of construction, reconstruction and maintenance of the private driveway or drive.

41.47- .49 Reserved

41.50 Regulation of use of the public right of way

A. Purpose. The purpose of this section is to regulate and manage the public rights-of-way, and to provide for recovery of the costs incurred in doing so. This section provides for the health, safety and welfare of the residents of the Village as they use the rights-of-way of the Village, as well as to ensure the structural integrity of the public rights-of-way.

B. Findings. The Village finds increased use of the public rights-of-way by public utilities results in increased costs to the taxpayers of the Village and that these costs are likely to continue into the foreseeable future. The Village finds that occupancy and excavation of its rights-of-way causes costs to be borne by the Village and its taxpayers, including but not limited to:

1. Administrative costs associated with public right-of-way projects, such as registration, permitting, inspection and supervision, supplies and materials.
2. Management costs of enforcing the ordinance.
3. Repair or restoration costs to the roadway associated with the actual excavation into the public right-of-way.
4. Costs arising from the degradation of the roadway due to excavations into the public rights-of-way.

C. In order to recover these costs and protect the local taxpayer, the Village Board has determined it is necessary to establish regulations relating to administration of and permits to excavate, obstruct and/or occupy the public rights-of-way. In accordance with the provisions of § 196.58, Wis. Stats., the Village imposes reasonable regulations on the placement and maintenance of equipment currently within its rights-of-way or to be placed therein at some future time. It is intended that these regulations are to complement the regulatory roles of state and federal agencies.

41.51 Definitions

The following definitions apply in this section. References hereafter to "subsections" are, unless otherwise specified, references to subsections in this section. Defined terms remain defined terms whether or not capitalized.

Applicant means any person requesting permission to excavate, obstruct and/or occupy a right-of-way.

Village shall mean the Village of Lake Delton, Wisconsin, a Wisconsin municipal corporation.

Degradation means the decrease in the useful life of the paved portion of the right-of-way, excluding the sidewalk right-of-way, caused by an excavation of the right-of-way, resulting in the need to reconstruct such right-of-way earlier than would be required if the excavation did not occur.

Department means the Village of Lake Delton Department of Public Works.

Director means the Director of Public Works.

Emergency means 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.

Excavate means to dig into or in any way remove or physically disturb or penetrate any part of a right-of-way.

Facilities means all equipment owned, operated, leased or subleased in connection with the operation of a service or utility service, and shall include but is not limited to poles, wires, pipes, cables, underground conduits, ducts, manholes, vaults, fiber optic cables, lines and other structures and appurtenances.

In, when used in conjunction with "right-of-way", means over, above, within, on or under a right-of-way.

Local representative means a local person or persons, or designee of such person or persons, authorized by a registrant to accept service and to make decisions for that registrant regarding all matters within the scope of this chapter.

Obstruct means to place any object in a right-of-way so as to hinder free and open passage over that or any part of the right-of-way.

Performance bond means a bond, or cash deposit posted to ensure the availability of sufficient funds to assure that right-of-way excavation repair work or right-of-way excavation restoration work is completed in both a timely and quality manner, per department specifications.

Permittee shall mean any person to whom a permit to occupy, excavate or obstruct a right-of-way has been granted by the Village under this chapter.

Person shall mean corporation, company, association, firm, partnership, limited liability company, limited liability partnership and individuals and their lessors, transferees and receivers.

Public utility has the meaning provided in § 196.01(5), Wis. Stats.

Registrant means any person who has registered with the Village to have its facilities located in any right-of-way.

Repair means to perform construction work necessary to make the right-of-way useable for travel according to department specifications, or to restore equipment to an operable condition.

Restore or restoration means the process by which an excavated right-of-way and surrounding area, including pavement and foundation is reconstructed, per department specifications.

Right-of-way means the surface and space above and below an improved or unimproved public roadway, highway, street, bicycle lane and public sidewalk in which the Village has an interest, including other dedicated rights-of-way for travel purposes.

41.52 Administration

The Director of Public Works is responsible for the administration of the rights-of-way, and the permits and ordinances related thereto.

41.53 Registration for right-of-way occupancy

Each person who has, or seeks to have, facilities located in any right-of-way shall register with the department and pay the fee set forth in section 41.26. Registration will consist of providing application information and paying a registration fee. This section shall not apply to those persons who have facilities in the right-of-way pursuant to a franchise or other agreement. No person may construct, install, maintain, repair, remove, relocate or perform any other work on, or use any equipment or any part thereof in any right-of-way unless that person is registered with the Department. Nothing herein shall be construed to repeal or amend the provisions of a Village ordinance requiring persons to plant or maintain the tree lawn in the area of the right-of-way between their property and the street curb or pavement, construct sidewalks or driveways or other similar activities. Persons performing such activities shall not be required to obtain any permits under this Chapter.

41.54 Registration information

The information provided to the Department at the time of registration shall include, but not be limited to:

- a. Each registrant's name, Diggers Hotline registration certificate number, address and e-mail address, if applicable, and telephone and facsimile numbers.
- b. The name, address and e-mail address, if applicable, and telephone and facsimile numbers of a local representative. The local representative or designee shall be available at all times. Current information regarding how to contact the local representative in an emergency shall be provided at the time of registration.
- c. A certificate of insurance on a form acceptable by the Department.
- d. If the registrant is a corporation, an LLC or LLP, a copy of any certificate required to be filed under Wisconsin Statutes as recorded and certified by the Secretary of State.
- e. A copy of the registrant's certificate of authority from the Wisconsin Public Service Commission or other applicable State or Federal agency, where the person is lawfully required to have such certificate from said commission or other State or Federal agency.
- f. Execution of an indemnification agreement in a form prescribed by the department.
- g. The registrant shall keep all of the information listed above current at all times by providing to the Department information as to changes within fifteen (15) working days following the date on which the registrant has knowledge of any change.

41.55 Regulation of structures in the right-of-way

Poles and utility structures to be located in a public right-of-way are subject to the following requirements:

- A. Placement should not unduly obstruct a driver's ability to view pedestrians or other vehicles on the right-of-way.
- B. Placement of structures should not interfere with first responders access to property.
- C. Structures cannot be located in areas where in the event of failure the structure would pose a risk of damage to persons or private property.
- D. All structures must comply with applicable state and local building codes.
- E. All structures must be certified to support the weight of supported equipment.
- F. The applicability of Village ordinances, or other regulations of the right-of-way, including, but not limited to, §§ 86.16, Wis. Stats., (prohibiting interference with use of highway by the public) and 182.17 (prohibiting poles in front of residence or occupied business), that affect the location, type, height, size and/or use of facilities in the right-of-way.
- G. No structure shall exceed height restrictions of Chapter 66 Village Municipal Code unless a special exception permit is issued pursuant to Section 66.214. 41.55 G. Modify and Amended Ordinance 17-001 Passed 2/13/2017 Published 2/18/2017

41.56 Reporting obligations

It is in the best interests of all affected parties to attempt to coordinate construction in the public right-of-way whenever it is reasonably possible. Therefore, periodic reporting by the registrant of known construction plans will be useful to achieve this objective.

- A. Every registrant shall, at the time of registration and no later than January 1 of each year, file a construction and major maintenance plan with the Department. The plan shall include, but shall not be limited to, the following information:
 - 1. The locations and the estimated beginning and ending dates of all projects planned to be commenced during the next calendar year; and
 - 2. The tentative locations and estimated beginning and ending dates for all projects contemplated for the two (2) years following the next calendar year.

41.57 Permit to excavate in right-of-way

- A. Except as otherwise provided in this Chapter or other Chapters of the Lake Delton Municipal Code, no person shall excavate any right-of-way without first having obtained an excavation permit from the Department. A copy of any permit issued under this Chapter shall be made available at all times by the permittee at the indicated work site and shall be available for inspection by the Department upon request.
- B. Application for a permit shall be made to the Department. Permit applications shall contain and will be considered complete only upon compliance with the requirements of the following provisions:
 - 1. Registration with the Department if required by this Chapter.
 - 2. Submission of a completed permit application form, including all required attachments, and scaled drawings showing the location and area of the proposed project and the location of all existing and proposed facilities that are part of applicant's proposed project.
 - 3. Payment of applicable fees.
- C. Excavation permit fee. This fee shall recover administrative and inspection costs, as well as degradation costs should the permittee choose to repair rather than restore the right-of-way.

Payment of said fees shall be collected prior to issuance of the permit. However, the Director may, with the advice and consent of the Village Clerk-Treasurer-Coordinator, establish a fee collection process from governmental agencies and private utilities in order to expedite the permitting system and recognize that certain excavations are deemed emergencies.

41.58 Fees

A. For those permit applications which provide for a substantial undertaking of excavation within the public right-of-way attended by disruption of the general public and traffic, the Director is authorized to assess the actual cost of the Village employee's time engaged in the review and inspection of the anticipated work multiplied by a factor determined by the respective department to represent the Village's cost for statutory expenses, benefits, insurance, sick leave, holidays, vacation and similar benefits, overhead and supervision, said factor not to exceed twice the cost, plus the cost of mileage reimbursed to Village employees which is attributed to the work, plus all consultant fees associated with the work at the invoiced amount plus fifteen (15) percent for administration. The Department may require a cash deposit with the permit application against which these charges may be drawn.

B. A performance bond binding the applicant, as principal, and a corporate surety licensed to do business in this State, as surety, to the Village in a sum equal to the amount of the work to be done, the condition of the bond being that the applicant will perform and fully complete, in a workmanlike manner, all work for which any permit is issued during the term of the bond in accordance with State laws and Village ordinances. The applicant shall reimburse the Village for all damages to Village property resulting from his work regardless of whether such damage is done by himself, his agents, employees or subcontractors.

C. Village exemption. The Village and its contractors shall not pay degradation fees for excavations due to general government functions.

41.59 Right-of-way repair/restoration

A. The permittee shall be required to repair the public right-of-way to Department specifications, subject to inspection and acceptance by the Department. In addition to repairing its own work, the permittee must repair the general area of work, and the surrounding areas, including the paving and its foundations, to the specifications of the Department. The Director or his designee shall inspect the area of the work and accept the work when it determines that proper repair has been made, per Village specifications.

B. The permittee guarantees its work and shall maintain it for thirty-six (36) months following its completion. During this period it shall, upon notification from the Department, correct all work to the extent necessary, using the method required by the Department. Said work shall be completed within ten (10) calendar days of the receipt of the notice from the Department, not including days during which work cannot be done because of circumstances constituting force majeure.

C. If the permittee fails to repair/restore the right-of-way in the manner and to the condition required by the Department, or fails to satisfactorily and timely complete all work required by the Department, the Department at its option may do such work. In said event the permittee shall pay to the Village, within thirty (30) days of billing, the cost of repairing/restoring the right-of-way.

41.60 Inspection

- A. When the work under any permit hereunder is begun and completed, the permittee shall notify the Department.
- B. Permittee shall make the work site available to the Department, designees of the Village, and to all others as authorized by law for inspection at all reasonable times during the execution of and upon completion of the work.
- C. At the time of inspection the Village may order the immediate cessation of any work which poses a threat to the life, health, safety or well-being of the public. The Village may issue a cessation order to the registrant or permittee for any work that does not conform to the applicable Village standards, conditions or codes. The order shall state that failure to correct the violation will be cause for revocation of the permit. Within ten (10) days after issuance of the order, the registrant or permittee shall present proof to the Department that the violation has been corrected. If such proof has not been presented within the required time, the Department may revoke the permit pursuant to section 41.31.
- D. The cost of trimming trees around facilities is an ongoing cost to the Village. The specific cost will be determined and a fee to offset those costs may be assessed in the future.
- E. Obtaining a permit to excavate and/or occupy the right-of-way does not relieve permittee or its duty to obtain all other necessary permits, licenses, and authority and to pay all fees required by any other Village, County, State, or Federal rules, laws or regulations. A permittee shall comply with all requirements of local, state and federal laws. A permittee shall perform all work in conformance with all applicable codes and established rules and regulations, and is responsible for all work done in the right-of-way pursuant-to its permit, regardless of who does the work.

41.61 Denial, suspension or revocation of permits

The Department may refuse to issue a permit or may revoke, suspend, or refuse to extend an existing permit if it finds any of the following grounds:

1. The applicant or permittee is required to be registered and has not done so;
2. Issuance of a permit for the requested date would unduly interfere with traffic;
3. Misrepresentation of any fact by the applicant or permittee;
4. Failure of the applicant or permittee to maintain required bonds and/or insurance;
5. Failure of the applicant or permittee to complete work in a timely manner;
6. The proposed activity is contrary to the public health, safety or welfare;
7. The extent to which right-of-way space where the permit is sought is available;
8. The competing demands for the particular space in the right-of-way;
9. The availability of other locations in the right-of-way or in other rights-of-way for the facilities of the permittee or applicant;
10. The applicability of ordinances or other regulations of the right-of-way that affect location of facilities in the right-of-way.

41.62 Discretionary issuance

The Department may issue a permit where issuance is necessary to:

1. Prevent substantial economic hardship to a customer of the permittee or applicant;
or
2. Allow such customer to materially improve its utility service; or
3. Allow the permittee or applicant to comply with state or federal law or Village ordinance or an order of a court or administrative agency.

41.63 Appeals

Any person aggrieved by a decision of the Department revoking, suspending, refusing to issue or refusing to extend a permit may file a request for review with the Village Board. A request for review shall be filed within ten (10) days of the decision being appealed. Following a hearing, the Village Board may affirm, reverse or modify the decision of the Department.

41.64 Work done without a permit

A. Emergency situations. Each registrant shall immediately notify the Village by verbal notice on an emergency phone number provided by the Village of any event regarding its facilities that it considers to be an emergency. The registrant may proceed to take whatever actions are necessary to respond to the emergency. Within two (2) 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 Chapter. If the Village becomes aware of any emergency regarding a registrant's facilities, the Village may attempt to contact the local representative of each registrant affected, or potentially affected, by the emergency. The Village make take whatever action it deems necessary to protect the public safety as a result of the emergency, the cost of which shall be borne by the registrant whose facilities occasioned the emergency.

B. Non-emergency situations. Except in an emergency, any person who, without first having obtained the necessary permit, excavates a right-of-way must subsequently obtain a 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 Chapter or other Chapters of the Village Municipal Code, deposit with the Department the fees necessary to correct any damage to the right-of-way and comply with all of the requirements of this Chapter.

41.65 Location of facilities

A. Undergrounding. Unless in conflict with State or Federal law, except when existing aboveground facilities are used, the installation of new facilities and replacement of old facilities shall be done underground or contained within buildings or other structures in conformity with applicable codes.

B. Limitation of space. The Department may prohibit or limit the placement of new or additional facilities within the right-of-way if there is insufficient space to accommodate all of the requests of persons to occupy and use the right-of-way. In making such decisions, the Department shall strive to the extent possible to accommodate all existing and potential users of the right-of-way, but may prohibit or limit the placement of new or additional facilities when required to protect the public, health, safety or welfare.

C. Attachment to bridges. Whenever an applicant or permittee under this section requests permission to attach pipes, conduits, cables or wires to any Village bridge structure, the applicant shall pay a fee of one thousand dollars (\$1,000.00) upon the granting of such permission to help defray administrative expense in the analysis and inspection of such installation. The owner of such pipes, conduits, cables or wire shall not be entitled to compensation for removal or relocation of the same in the case of repair, removal, or replacement of said bridge structure by the Village.

D. Relocation of facilities. Except as prohibited by state or federal law, a registrant must promptly and at its own expense, with due regard for seasonal working conditions, permanently

remove and relocate its facilities in the right-of-way whenever the Village requests such removal and relocation, and shall restore the right-of-way to the same condition it was in prior to said removal or relocation. The Village may make such request to prevent interference by the company's facilities with:

1. A present or future Village use of the right-of-way;
2. A public improvement undertaken by the Village;
3. An economic development project in which the Village has an interest or investment;
4. When the public health, safety and welfare require it; or
5. When necessary to prevent interference with the safety and convenience of ordinary travel over the right-of-way.

Notwithstanding the foregoing, a person shall not be required to remove or relocate its facilities from any right-of-way which has been vacated in favor of a nongovernmental entity unless and until the reasonable costs thereof are first paid to the person therefore.

E. Interference with other facilities during municipal construction. When the Village performs work in the right-of-way and finds it necessary to maintain, support, shore, or move a registrant's facilities, the Village shall notify the local representative. The registrant shall meet with the Village's representative within twenty-four (24) hours and coordinate the protection, maintenance, supporting and/or shoring of the registrant's facilities. The registrant shall accomplish the needed work within seventy-two (72) hours, unless the Village agrees to a longer period. In the event that the registrant does not proceed to maintain, support, shore or move its facilities within the timeframe set by the Village, the Village may arrange to do the work and bill the registrant, which bill shall be paid within thirty (30) days.

41.66 Abandoned facilities

A. Discontinued operations. A registrant who has determined to discontinue its operations in the Village or if the Village has determined the registrant to have discontinued its operations, must either:

1. Provide information satisfactory to the Department that the registrant's obligations for its facilities under this Chapter have been lawfully assumed by another registrant; or
2. Submit to the Department a proposal and instrument for dedication of its facilities to the Village. If a registrant proceeds under this clause, the Village may, at its option:
 - a. Accept the dedication for all or a portion of their facilities; or
 - b. Require the registrant, at its own expense, to remove their facilities in the right-of-way; or
 - c. Require the registrant to post a bond or provide payment sufficient to reimburse the Village for reasonably anticipated costs to be incurred in removing the facilities.

However, any registrant who has unusable and abandoned facilities in any right-of-way shall remove it from that right-of-way within one (1) year, unless the Department waives this requirement.

B. Abandoned facilities. Facilities of a registrant which fail to comply with the requirements of this Chapter and which remains unused for one (1) year shall be deemed to be abandoned. Abandoned facilities are deemed to be a nuisance. In addition to any remedies or rights it has at law or in equity, the Village may at its option;

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 with the costs and expenses of any action to be assessed against the registrant or its successor.

C. Public utilities. This subsection shall not apply to a public utility, as defined by § 196.01(5), Wis. Stats., that is required to follow the provisions of § 196.81, Wis. Stats.

41.67 Reservation of regulatory and police powers

The Village, by the granting of a permit to excavate, obstruct and/or occupy the right-of-way, or by registering a person under this Chapter does not surrender or to any extent lose, waive, impair, or lessen the lawful powers and rights, which it now has or may hereafter acquire under the Constitution and statutes of the State of Wisconsin to regulate the use of the right-of-way by the permittee; and the permittee by its acceptance of a permit to excavate, obstruct and/or occupy the right-of-way or of registration under this chapter agrees that all lawful powers and rights, regulatory powers, or police power, or otherwise as are or the same may be from time to time vested in or reserved to the Village, shall be in full force and effect and subject to the regulatory and police powers of the Village to adopt and enforce general ordinances necessary to the safety and welfare of the public and is deemed to agree to comply with all applicable general law, and ordinances enacted by the Village pursuant to such powers.

41.68 Severability

If any section, subsection, sentence, clause, phrase, or portion of the Chapter is for any reason held invalid or unconstitutional by any court or administrative agency of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions thereof.

41.69 Penalty

Any person who violates this Chapter, in addition to paying the penalty of double applicable fees, shall be subject to a forfeiture of not less than one hundred dollars (\$100.00) nor more than six hundred dollars (\$600.00). Each day such violation or failure to comply continues shall be considered a separate offense.