

**TOWN OF WARREN  
ST. CROIX COUNTY, WISCONSIN**

**ORDINANCE NO. 2023-05-15-2**

**AN ORDINANCE TO REQUIRE A CONSTRUCTION PERMIT FOR UTILITIES FOR  
THE TOWN OF WARREN, ST. CROIX COUNTY, WISCONSIN**

The Town Board of the Town of Warren, St. Croix County, Wisconsin, hereby ordains as follows:

- I. **Authority.** This Ordinance is adopted under the authority granted by Wis. Stat. § 60.627.
- II. **Purpose.** It is the purpose of this Ordinance to maintain safe and healthful conditions; prevent and control water pollution; prevent and control soil erosion and sediment discharge; protect spawning grounds, fish, and aquatic life; control placement of utilities to minimize the impact on future improvements; preserve ground cover and scenic beauty; and promote sound economic growth by minimizing the amount of sediment and other pollutants carried by runoff or discharged from land disturbing construction activity to waters of the state in the Town of Warren.
- III. **Applicability.** This ordinance applies to any land disturbing construction activity by a utility in the Town of Warren, regardless of the size of the construction site. For purposes of this Ordinance, “land disturbing construction activity” shall mean any man-made alteration of the land surface resulting in a change in the topography or existing vegetative or non-vegetative soil cover.
- IV. **State Requirements.** The requirements of this Ordinance do not preempt more stringent erosion and sediment control requirements that may be imposed by the Wisconsin Department of Natural Resources.
- V. **Permit Required.** No utility may commence a land disturbing construction activity subject to this Ordinance without receiving a permit from the Town. A permit must be applied for on each Town roadway where the utility will engage in land disturbing construction activity. At intersections of two (2) town roads, where utility work on the intersection roadway is no greater than 500 feet from the adjoining roadway, only one (1) permit application will be required. For purposes of this Ordinance, utility means any corporation, company, individual, or association, including their lessees, trustees, or receivers, or any sanitary district, cooperative association, town, village, or city that owns, operates, manages, or controls any plant or fixed equipment within this state for the conveyance of communications, electric power, light, heat, fuel, gas, oil, petroleum products, water, steam, fluids, sewerage, drainage, irrigation, or similar facilities, as well as the owners or operators of cable television systems, cellular phone and paging (wireless) systems, publicly owned fire or police signal systems, traffic and street lighting facilities, or privately owned facilities which perform any of the utility functions above.
- VI. **Application and Fees.** A utility seeking to undertake a land disturbing construction activity subject to this Ordinance shall submit an application for a permit to the Town Clerk along with the application fee in the amount specified by the Town Board in the

Town's fee schedule, which may be amended from time to time. The application must include (i) a legible map indicating the specific location of the utility project; (ii) adequate construction drawings and cross-sections showing the proposed location of the utility facility within the right-of-way with respect to the existing roadway or any proposed roadway improvement and all existing utility facilities; and (3) a proposed erosion and sediment control plan that meets the requirements of Town Code Section 14-3-4 and St. Croix County Code Section 13.7E.1.a (collectively, the application, fee, and other required documents set forth in this Section VI shall be referred to as the "Complete Application"). The Complete Application shall include dimensions from the proposed utility installation to the center line of the road and to the commonly accepted right of way line and the edge of the traveled way. By submitting an application, the applicant is authorizing the Town's officials, employees, and agents to enter the site to obtain information required for the review of the Complete Application.

**VII. Application Review and Approval.** The Town Engineer shall review any Complete Application that is submitted, and such Complete Application must be approved by the Town Board. The following approval procedure shall be used:

- a. Within 10 business days of receipt of a Complete Application from the applicant, the Town Clerk shall notify the applicant that the application is complete and shall forward the Complete Application to the Town Engineer and Town Board for review.
- b. Within 30 business days of the receipt of a Complete Application, the Town Board, based on recommendations from the Town Engineer, shall approve or deny the permit based on the requirements of this Ordinance and state law and regulations.
- c. If the permit application is approved by the Town Board, the Town Clerk shall issue the permit.
- d. If the permit application is denied by the Town Board, the Town Clerk shall notify the applicant and state in writing the reasons for the denial.
- e. Failure by the Town to inform the permit applicant of a decision within 30 business days of receipt of a Complete Application shall be deemed to mean approval of the permit application.

**VIII. Surety.** As a condition of approval and issuance of a permit, the Town Board may require the applicant to deposit a surety bond or irrevocable letter of credit to guarantee a good faith execution of the approved plans and any permit conditions.

**IX. Permit Requirements.** All permits shall require the utility to do all of the following:

- a. Notify the Town Engineer of any land disturbing construction activity at least 48 hours prior to commencing any land disturbing construction activity.
- b. Notify the Town Engineer of completion of any BMPs within 14 days after their installation. For purposes of this Ordinance, BMPs means structural or non-structural measures, practices, techniques, or devices employed to avoid or minimize soil, sediment, or pollutants carried in runoff to waters of the state.
- c. Obtain permission in writing from the Town Engineer prior to any modification of the erosion and sediment control plan.
- d. Install all BMPs as identified in the approved erosion and sediment control plan.
- e. Maintain all road drainage systems, storm water drainage systems, BMPs, and other facilities identified in the erosion and sediment control plan.

- f. Repair any siltation or erosion damage to adjoining surfaces and drainage ways resulting from land disturbing construction activities and document repairs in a site erosion control log.
- g. Remove accumulated sediment from downstream culverts, storm sewers, and other drainage facilities.
- h. Inspect the BMPs within 24 hours after each rain of 0.5 inches or more that results in runoff during active construction periods and at least once each week. Make needed repairs and install additional BMPs as necessary and document these activities in an inspection log that also includes the date of inspection, the name of the person conducting the inspection, and a description of the present phase of the construction at the site.
- i. Allow the Town Board or its designated agents to enter the site for the purpose of inspecting compliance with the erosion and sediment control plan and the permit conditions or for performing any work necessary to bring the site into compliance with the erosion and sediment control plan and permit conditions.
- j. Keep a copy of the erosion and sediment control plan and the permit at the construction site.
- k. Obtain any permits from the Wisconsin Department of Natural Resources, St. Croix County, or any other agency that may have an interest in the area impacted by the utility's construction activities. In addition, the owner and/or authorized representative of the utility must have an approved permit from other municipalities if the work crosses municipal boundaries.
- l. Promptly restore the Town's facilities, both above and below ground, including the roadway pavement, shoulders, ditches, culverts, slopes, signs, etc., damaged or disrupted by the utility. Damage to any portion of an asphalt paved lane will require the replacement of the entire travel lane unless a different method of repair is approved by the Town Board.
- m. Unless otherwise authorized by the Town Board, install any utility lines installed across and beneath the traveled way(s) and shoulders of hard surface town roads by boring with no open cut excavation.
- n. Repair, in a manner satisfactory to the Town and at the permittee's expense, any subsequent heaving, settling, or other fault attributable to the permitted work. All excavation within the roadway pavement shall be initiated with saw cuts and restored to original condition and cross-section.
- o. Comply with the strictest requirements of all applicable regulations and codes for operations and safety precautions pertinent to any trenching, tunneling, or excavation activities, including, but not limited to, those of the Wisconsin Department of Safety and Professional Services and OSHA standards.
- p. Ensure no land disturbing construction activity or operations of any kind are taking place between dusk and dawn.
- q. Ensure the construction site is secure against any hazard to the public, both when the site is attended and during off hours, holidays, and in the hours of the night when the site is unattended.
- r. Restore the right-of-way to its previous condition. If restoration is not carried out in a timely manner, the Town may issue a notice setting forth a time frame by which the restoration must be completed. If the permittee fails to satisfactorily complete all restorations within the established time, the Town will arrange directly for all necessary restorations, and all costs associated with such restorations shall be the obligations of the permittee. The permittee agrees to pay any and all such costs within 60 calendar days of the Town billing for such costs.

- s. Ensure the depths of underground facilities within the right-of-way are at least 30 inches, as measured from the finished ground surface to the top of the facility, or as shown on the approved plans.
  - t. Ensure the depths of underground facilities crossing a Town road are at least 48 inches, as measured from the lowest point of the finished pavement surface.
  - u. Ensure no Town signs are removed without prior Town Board approval.
  - v. As applicable, meet all construction site erosion control requirements set forth in Town Code Section 14.3.
- X. **Permit Conditions.** Permits issued under this Ordinance may include conditions established by the Town Board in addition to the requirements set forth in Section IX above when needed to assure the safety, health, and general welfare of the Town and its residents.
- XI. **Permit Duration.** Permits issued under this section shall be valid for a period of 180 days, or the length of the building permit or other construction authorizations, whichever is longer, from the date of issuance. The Town Board may grant one or more extensions not to exceed 180 days cumulatively. The Town Board may require additional BMPs as a condition of an extension if they are necessary to meet the requirements of this Ordinance.
- XII. **Stop-Work Orders.** The Town Board or its designated agents may post a stop-work order if (1) any land disturbing construction activity regulated under this Ordinance is being undertaken without a permit and an approved plan; (2) an approved plan is not being implemented in a good faith manner; or (3) the conditions of the permit are not being met. If the responsible party does not cease activity as required in the stop-work order posted under this Ordinance and/or fails to comply with the approved plans or permit conditions, the Town Board may revoke the permit.
- Ten calendar days after posting a stop-work order, the Town Board may issue a notice of intent to the responsible party of the Town's intent to perform the work necessary to comply with this Ordinance. On the fourteenth calendar day after the date the notice of intent was issued, the Town may go on the land and commence the work. The costs of the work performed by the Town under this subsection shall be paid for by the surety specified in Section VIII, if any, or if no surety or the surety is insufficient to cover all of the costs incurred by the Town, shall be billed to the responsible party. In the event a responsible party fails to pay the amount due, the Town Clerk shall enter the amount due on the tax rolls and collect it as a special assessment against the property pursuant to Wis. Stat. Ch. 66, Subchapter VII.
- XIII. **Indemnification.** The permittee agrees to indemnify and hold harmless the Town and its employees and agents from any cost, claim, suit, liability, or award that might be brought by reason or exercise of a permit issued under this Ordinance.
- XIV. **Assignment.** A permittee may not assign its rights or interests under the permit.
- XV. **Title to Right-of-Way.** The Town does not warrant that public title to the right-of-way is free and clear, does not certify that it has sole ownership, and does not indicate any intention to defend the utility in its peaceful use and occupancy of said lands.

XVI. **Enforcement.** Any person violating any of the provisions of this Ordinance shall be subject to a forfeiture as set forth in the Town's fee schedule, which may be amended from time to time, plus the costs of prosecution for each violation. Each day a violation exists shall constitute a separate offense.

XVII. **Severability.** If a court of competent jurisdiction judges any section, clause, provision, or portion of this Ordinance unconstitutional or invalid, the remainder of this Ordinance shall remain in force and not be affected by such judgment.

The Town Clerk shall properly post or publish this Ordinance as required under Wis. Stat. § 60.80.

Adopted by the Town Board on May 15, 2023.

TOWN OF WARREN

By: 

Gene Hanson, Chairman

Attest: 

Deina Shirmer, Town Clerk

Published: May 25, 2023