

AN ORDINANCE REPEALING AND RECREATING SECTION 6.04 OF THE VILLAGE CODE OF THE VILLAGE OF GLENBEULAH REGARDING STREET AND SIDEWALK EXCAVATIONS AND OPENINGS

WHEREAS, pursuant to Wis. Stat. § 61.34 the Village Board of the Village of Glenbeulah has management and control of village property, highways, streets and public services and has the power to act for the good order, public health, safety and welfare of its citizens; and

WHEREAS, the Village Board has determined that it is in the best interest to update regulations related to excavation of Village streets and sidewalks; and

NOW, THEREFORE, the Village Board of the Village of Glenbeulah does hereby ordain as follows:

Section 1. Repealing and Recreating Code. Section 6.04 of the Village of Glenbeulah Code of General Ordinances is hereby recreated to read as follows:

“6.04 STREET AND SIDEWALK EXCAVATIONS AND OPENINGS:

(1) **Permit Required:** No person shall make or cause to be made any excavation or opening in any street, alley, highway, sidewalk, or other public way within the Village without first obtaining a permit from the Village clerk.

(2) **Application for Street Opening Permit:** The application for a street opening permit shall be in writing and signed by the applicant or applicant's agent. The applicant shall submit to the designated Village official at the time the permit is applied for 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 designated Village official shall determine if sufficient information is submitted.

(3) **Exception:** The provisions of this section shall not apply to Village excavation work done under the direction of the designated Village official.

(4) **Validity of Street Opening Permit:** Street opening permits shall be valid for a period of 30 days from the date of approval, except as provided for under section (10)(g) for pavement replacement.

(5) **Renewal of Permit:** If operations have begun under an approved street opening permit and will continue beyond the 30-day validation period, the permittee shall apply for a 30-day street opening permit renewal by written request to the designated Village official. Permit renewals shall be issued at the discretion of the designated Village official.

(6) **Village Standards; Fees:**

(a) **Village Standards.** All street work shall be performed in accordance with

the current standard specifications for street openings found in this section. Any damaged curb and gutter, sidewalk or grass-covered area shall be restored to the same or better condition that existed prior to damage.

(b) **Fee.** The fee for a street opening permit shall be as set forth in the Fee Scheduled maintained by the Clerk's office, plus actual Village expenses. Permit fees shall be paid to the designated Village official, who shall issue a receipt.

(7) **Insurance Required:** A street opening permit shall be issued only upon condition that the applicant submit to the designated Village official satisfactory written evidence that applicant has in force and will maintain during the time the permit is in effect public liability insurance of not less than \$1,000,000 per one person, \$1,000,000 for one accident and property damage coverage of not less than \$1,000,000. The policy shall name the Village of Glenbeulah as the third-party insured.

(8) **Bond; Guarantee of Work:**

(a) **Performance Bond Requirement:** Before a street opening permit for excavating or opening any public street, sidewalk, ditch, alley or public right-of-way may be issued, the applicant must execute and deposit with the Village of Glenbeulah a performance bond approved by the Village Board in the sum equal to the estimated cost to repair or replace any Village improvements, including utilities, located in the Village right-of-way and further conditioned that the applicant will indemnify and save harmless the Village of Glenbeulah and its officers from all liability for accidents and damage caused by any of the work covered by the excavations and openings made in the street and will 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 keep and maintain the same in such condition, normal wear and tear excepted, to the satisfaction of the designated Village official for a period of two (2) years, and that the applicant will pay all fines or forfeitures imposed for any violation of any rule, regulation or ordinance governing street openings adopted by the Village Board and will repair any damage done to existing improvements during the progress of the excavation in accordance with the ordinances, rules and regulations of the Village of Glenbeulah. Such statement shall also guarantee that, if the Village of Glenbeulah shall elect to make the street repair, the person opening the street will pay all costs of making such repair and of maintaining the same for two (2) years. Performance bond means a bond, letter of credit, or cash deposit posted to ensure the availability of sufficient funds to assure that right-of-way excavation repair and restoration work is completed in both a timely and quality manner, per Village specifications.

(b) **Faulty Work; Correction of Deficiencies:** 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 of Glenbeulah shall repair the deficiencies and bill the permittee for all labor, materials and equipment used.

(c) **Restoration Work Guarantee:** The permittee shall be responsible therefor for two (2) years from the date of the completion of the work and shall file a written guarantee or surety bond to the effect with the Village of Glenbeulah in an

amount determined by the Village Board.

(d) Notice of Defective Work: Whenever the Village Board shall find that any such work has become defective within one (1) year of the date of completion, the Village Board shall give written notice thereof to the contractor or to his/her surety stating the defect, the work to be done, the cost thereof and the period of time deemed by the Village Board to be reasonably necessary to completed said work. After receipt of such notice, the contract or surety must, within the time specified, repair the defect or indemnify the Village of Glenbeulah for the cost of doing the work as set forth in the notice.

(9) Public Utilities: All public utilities as defined in Wis. Stat. §§ 66.0801 and 196.01, are hereby required to be bound by the terms and conditions of this section and any and all subsections hereunder.

(10) Regulations Governing Excavations and Openings:

(a) Video Recording of Construction Area: Contractor shall video record the entire construction area prior to commencing excavation work, and the open street area upon excavation, including any sanitary sewer mains and storm sewer mains.

Contractor shall also video record the entire construction area after construction is complete but prior to covering or concealing the street opening, including any sanitary sewer mains and storm sewer mains. Video recording should also include the construction area after street closing.

Any damage to property, including but not limited to sanitary sewer systems, storm sewer systems, any cracked or broken concrete, or any disturbed areas whatsoever shall be prima facie evidence that the contractor is at fault and the damage shall be replaced, at contractor's cost, unless the video recording indicates that the condition existed before construction began.

(b) Frozen Ground: No openings in the streets, alleys, sidewalks or public ways shall be permitted between November 15 and May 1, except where it is determined by the Village Board to be an emergency excavation.

(c) Protection of Public:

(i) Every opening and excavation shall be enclosed with sufficient barriers, signing, and such other traffic control devices as may be required by the Village Board and in accordance with Section VI of the Manual on Uniform Traffic Control Devices. Sufficient warning lights shall be kept on from sunset to sunrise. No open-flame warning devices shall be used. Except by special permission from the Village Board, no trench shall be excavated more than 250 feet in advance of pipe or conduit laying nor left unfilled more than 500 feet from where pipe or conduit has been laid.

(ii) 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 any action brought against it for damages, as well as cost of any appeal, that may result from the neglect by such person or his/her employees of any necessary precaution against injury or damage to persons, vehicles or property of any kind.

(iii) 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 his/her project. In the event traffic is limited to less than one (1) lane in each direction, a flagman or temporary traffic control signal shall be provided so as to safely cycle traffic in each direction past the work area.

(iv) 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 operation. The permittee shall notify the Sheboygan County Sheriff's Department 24 hours prior to commencement of excavation of the location and extent of the excavation, unless the excavation is an emergency excavation as defined in Subsection (10)(h).

(v) 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 12 hours prior to the loss of service, unless the operations are part of an emergency excavation as defined in Subsection (10)(h).

(d) Pavement Removal:

(i) 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 his/her work and in accordance with all applicable codes and regulations.

(ii) 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. Should the street opening occur within, adjacent or close to an existing patch or require more than one (1) opening within a short distance, the permittee shall identify and locate the existing patches or additional openings on the permit application form. The Village Board shall, on the basis of an on-site inspection, approximate the boundaries of the pavement replacement area.

(iii) Pavement replacement areas with the long dimension in the direction of travel shall have the long dimension parallel with the curbline or the direction of travel. Pavement replacement areas in concrete pavements shall be parallel with or at right angles to the direction of

travel.

(iv) The Village Board 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.

(e) Excavation:

(i) All excavated material shall be piled in a manner such that pedestrian or motor traffic is not unnecessarily disrupted. Gutters shall be kept clear or other satisfactory provisions made for street drainage, and natural watercourses shall not be obstructed.

(ii) 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 travel and adjoining tenants.

(f) Backfilling:

(i) All backfill material 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 Village Board, is unsuitable.

(ii) In refilling the excavation, if there is not sufficient material excavated suitable for refilling, the deficiency shall be made up with material, approved prior to use by the Village Board, hauled in.

(iii) Whenever 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, telephone, natural gas 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.

(iv) Flooding/jetting or mechanical compaction shall be used on all materials used for trench backfill. Each layer (twelve [12] inches maximum) shall be uniformly compacted to a dry density of at least 95% of the maximum dry density as determined by the Modified Proctor Test (ASTM-1557). Compaction or consolidation by flooding shall not be permitted.

(v) All excavations shall be subject to testing by the Village of Glenbeulah. Backfilled material not achieving the above compaction requirements shall be removed and recompacted by the permittee. The cost of any retesting shall be paid by the permittee.

(vi) When the sides of the trench will not stand perpendicular, sheathing and braces shall be used to prevent caving. No timber,

bracing, lagging, sheathing or other lumber shall be left in any trench. At no time shall any street pavements be permitted to overhang the excavation.

(g) Notice: It shall be the duty of the permittee to notify the Village Board and all public and private individuals, firms and corporations affected by the work to be done at least one (1) business day before such work is to commence. The Village Board shall also be notified at least four (4) hours prior to backfilling and/or restoring the surface.

(h) Pavement Replacement:

(i) Backfill material shall be left below the original surface to allow for five (5) inches of one-and-one-half-inch (1 1/2") crushed stone and four (4) inches of three-fourths-inch (3/4") crushed stone, plus the thickness of the required pavement structure. 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-fourths-inch (3/4") crushed stone.

(ii) Bituminous pavement shall be placed the full depth of the existing pavement or three (3) inches, whichever is greater. Bituminous pavement shall be placed in a maximum of one-and-one-half-inch (1 1/2") layers, which each layer compacted to maximum density, and shall consist of Wisconsin Department of Transportation Gradation No. 1 for the binder course and Wisconsin Department of Transportation Gradation No. 3 for the surface course. The finished surface shall be smooth and free of surface irregularities and shall match the existing pavement and any castings or street appurtenances. Allowable deviations shall be no more than one-fourth-inch (1/4") as measured with a ten- (10-) foot straight edge.

(iii) Concrete pavement shall be placed to the full depth of the existing pavement or six (6) inches, whichever is greater. 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 Village Board. All such construction shall be subject to Wisconsin Department of Transportation standards when applicable.

(iv) 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-and-one-half-inches (3 1/2") 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 above by not later than the following June 1, except as provided above. Permanent pavements shall be replaced within 60 days of the date of permit.

(i) Emergency Excavation: In the event of an emergency, any person, firm or corporation 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 his/her agents and employees may take immediate proper emergency measures to remedy dangerous conditions for the protection of property, life, health or safety without obtaining an excavation permit, provided that such person, firm or corporation shall apply for an excavation permit not later than the next business day and shall notify the Sheboygan County Sheriff's Department immediately.

(j) Excavation in New Streets Limited: Whenever the Village Board determines to provide for the permanent improvement or repaving of any street, such determination shall be made not less than 30 days before the work of improvement or repaving shall begin. Immediately after such determination by the Village Board, the Village Board shall notify in writing each person, utility or other agency owning or controlling any sewer, water main, conduit or other utility in or under said street or any real property abutting said street that all such excavation work in such street must be completed within 30 days. After such permanent improvement or repaving, no permit shall be issued to open or excavate said street for a period of five (5) years after the date of improvement or repaving unless, in the opinion of the Village Board, conditions exist which make it absolutely essential that the permit be issued. Every effort shall be made to place gas, electric, telephone and television cable lines in street terraces."

Section 2. Severability. Should any portion of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected.

Section 3. Effective Date. This Ordinance shall take effect upon passage and publication as required by law.

Enacted this 8 day of June, 2022

VILLAGE OF GLENBEULAH

By: 
DOUGLAS DAUN, President

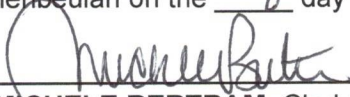
Date Approved: 6/8/22

Introduced by:


Board Member

CERTIFICATE OF ENACTMENT

I hereby certify that the foregoing Ordinance was duly enacted by the Village Board and approved by the President of the Village of Glenbeulah on the 8 day of June, 2022.



MICHELE BERTRAM, Clerk/Treasurer

R:\CLIENT\08327\00001\00186496.DOCX