

ORDINANCE NO. 02 -002_____

AN ORDINANCE TO REPEAL AND RECREATE
OPENINGS IN STREETS AND HIGHWAYS
IN THE TOWN OF JACKSON

The Town Board for the Town of Jackson, Washington County, Wisconsin, DOES ORDAIN AS FOLLOWS:

SECTION 1: The ordinance for opening streets and highways in the Town of Jackson is hereby repealed and recreated to read as follows:

OPENINGS IN STREETS AND HIGHWAYS.

1. **REGULATION.**

Street and highways as used herein shall include the entire public right-of-way from property line to property line.

2. **PERMIT.**

No person shall open any public street or highway within the Town of Jackson, or cause the same to be done without first obtaining a permit therefore from the Town Board. All applications for such permits shall be in writing and be filed with the Town Clerk. Every such application for a permit shall describe the street or highway upon which the proposed opening is to be made and shall locate the proposed opening on such street or highway. The application shall further show the length, width and depth of the proposed opening in the public street or highway and shall state the purpose for which such opening is made. A fee in an amount as established, from time to time, by the Town Board shall be charged for such permit and shall be deposited by the applicant with the Town Clerk at the time the application for such permit is made.

a. Excavations In Macadam Or Unpaved Streets, Etc.

When excavations are made in macadam streets or unpaved streets and alleys surfaced with gravel, they shall be made and filled in the following manner:

- (1) The backfilling below the surface shall be done with gravel, sand or crushed stone, firmly tamped, or flushed with water, and all earth, stone

or other material excavated shall be hauled away by the person authorized to make the excavation, unless otherwise specified by the Town of Jackson which shall be the final authority on acceptance of the excavation material for the use of backfill. In case of dispute the decision of the Town Board shall be final and binding upon the parties affected. All such excavations shall be given a temporary blacktop surfacing two (2) inches thick immediately following the completion of the refilling or backfilling.

b. Excavations In Paved Streets.

Unless expressly waived by the Town Board no excavations shall be permitted in any paved streets. All excavation in paved streets shall be done by boring under the street surface in such a manner so as the surface of the street shall not be affected by the tunnel. Any settling of the street surface caused by said boring shall be immediately repaired by the permittee. In the event the Town Board shall permit the excavator to enter the surface of the paved street then said excavation shall be done as follows:

Excavations in paved streets shall be made and filled in the following manner:

- (1) The opening in the pavement shall be sawed unless otherwise permitted by the Town Board, and foundation must be at least sixteen (16) inches larger in all directions than the size of the trench to be excavated so that there may be a shoulder of solid earth eight (8) inches wide on all sides of the opening to support the new pavement.
- (2) Should the sides of the trench cave during the progress of the work, additional pavement must be broken so that eight (8) inches of the shoulder may be retained. The backfill below the pavement shall be done with gravel, sand or crushed stone, firmly tamped, and all stone, earth and other material excavated shall be hauled away by the person authorized to make excavation. All materials used shall comply with Town regulations and specification, which may require a "slurry" mixture.
- (3) No street which has been surfaced with bituminous or concrete material at least one and one-half (1-1/2") inches in thickness within the previous 36 months shall be cut or excavated unless in an emergency. Any such emergency cut shall be back filled with a "slurry" mixture and the surface repaved to Town standards.

c. Excavations Outside Of Pavement In Right-Of-Way

No person shall dig, excavate or disturb soils outside of the street or highway payment in the Town of Jackson right-of-way or cause the same to be done without first obtaining a permit therefore from the Town Board. All applications for such permits shall be in writing and be filed with the Town Clerk. Every such application for a permit shall describe the digging in the Town right-of-way and shall locate the proposed digging on such own right-of-way. The application shall further show the length, width and depth of the proposed digging in the Town right-of-way and shall state the purpose for which such opening is made. A fee in an amount as established, from time to time, by the Town Board shall be charged for such permit and shall be deposited by the applicant with the Town Clerk at the time the application for such permit is made.

3. **DIGGING TRENCHES.**

When opening any street surface or other public highway, it must be straight cut or sawed, all material for paving and ballasting must be removed with the least possible loss of surface material, and such material, together with that excavated from the trenches, or otherwise, must be placed where it will cause the least inconvenience to the public. All such materials must be so placed as to permit the free passage of water along the gutters or ditches. Any street or public highway upon which such opening is made must not be obstructed so as to interfere with the traffic thereon. No more than the necessary amount of the trench may be dug until the slant or junction piece to the sewer or water main is found. The backfilling must be compacted and paving and ballast must be replaced in as nearly the original condition as possible and to the satisfaction of the Town Board. When the sides of the trench will not stand perpendicular, sheeting and braces must be used to prevent caving. When caving occurs, all of the street or highway surface thus disturbed must be restored in the same careful manner as though it were originally excavated or trenched.

4. **BACKFILL MATERIAL.**

When any excavation is made in the Town right-of-way of the highway or street, and the shoulder thereof, from property line to property line, the clay excavated must be removed and the excavation entirely backfilled with crushed road gravel thoroughly compacted in one foot lifts with a wacker. Any tunnels dug in pavements shall be backfilled and compacted with crushed gravel subject to the approval of the Town Board.

5. **MAINTENANCE OF STREET AFTER COMPLETION.**

Any person obtaining a permit as herein provided shall be responsible and shall be required to maintain and repair that portion of any public right-of-way in the Town whereon such opening is made for a period of one (1) year from the date that completion is approved pursuant to (3) above, and shall keep and maintain the right-of-way whereon the opening is made in the same condition as the remainder of the highway or public street whereon such opening was made. In the event that such repairs are not made as herein provided, the Town Board shall order the same made by the person obtaining a permit as herein provided upon five (5) days written notice. In the event such repairs are not made as herein provided, the Town Board shall cause the repairs to be made and charge the expense thereof to the person obtaining the permit and the bond deposited.

6. **PROTECTION OF THE PUBLIC.**

Every person opening any public street or highway within the Town must enclose each such opening with surface barriers. Flashers must be kept burning from sunset to sunrise, each light to be placed at intervals of ten (10) feet. All necessary precautions shall be taken to protect the public effectually from accident or damage to persons or property from the beginning to the end of the work. The person obtaining the permit will be held liable for all damages, including costs incurred by the Town of Jackson in defending any action brought against it for damages and costs of any appeal that may result from his neglect in opening the public highway or street and in performing the work incidental thereto, including any claim for damages that may result to the Town by reason of the failure to keep the public street or highway in repair for a period of one (1) year from the date that the opening is closed.

7. **BOND.**

Before a permit is granted, the applicant therefore shall execute to the Town of Jackson and deliver to the Town Clerk at the time the application for such permit is filed, a undertaking in the sum of \$10,000.00, said undertaking to be a cash bond or letter of credit, or such other sum as the Town Board may determine, conditioned that he will perform faithfully all work with due care and skill, and in accordance with the terms and conditions of this Section, and that they will faithfully perform and abide by all the terms and conditions of this Section, and will save the Town of Jackson harmless from all liability for all damages, costs and expenses and claims of any nature or kind arising out of the unskillfulness or negligence in connection with causing the opening to be made in any such public highway or street in the Town in accordance with the permit granted by the Town Board. Such bond of undertaking shall remain in force and shall be

executed for a period of one (1) year, except that on such expiration it shall remain in force as to all penalties, claims or demands that may have accrued thereunder prior to such expiration. The Town Board may reduce the amount of the bond required herein in those situations where the need for \$10,000.00 is not deemed necessary by said Superintendent. In the case that the Town Board deems that a lesser amount will fully protect the interest of the Town and compensate the Town fully in the event of non-compliance, the Town Board may prescribe in writing to the applicant the sum deemed necessary and said amount shall constitute the bond required herein.

8. RESTORATION SPECIFICATIONS.

All restoration under this Ordinance shall be in accordance with the road specifications or utility specifications then in effect. In the event removed materials do not qualify for restoration the applicant shall comply with the Town specification with materials that do comply. At all times-restoration shall be performed using "like-kind" materials (sod for sod, black dirt for black dirt, asphalt for asphalt, etc.) and proper compaction methods shall be utilized to prevent settling.

9. PENALTIES.

In addition to the payment of all costs necessary to restore the project to the condition required by this Ordinance, any person who shall attempt to commence any construction covered herein without a permit, or who shall violate any other provisions of this Ordinance, shall be subject to a penalty of not less than \$250.00 nor more than \$500.00 for the violation of this Ordinance. Each day that a violation occurs shall be considered a separate and distinct offense under the terms of this Ordinance. Failure to pay any penalty imposed by a court of law under this Ordinance shall subject the defendant to commitment in the County Jail or other remedy as provided under Wisconsin law.

SECTION 2: SEVERABILITY.

The several sections of this ordinance are declared to be severable. If any section or portion thereof shall be declared by a court of competent jurisdiction to be invalid, unlawful or unenforceable, such decision shall apply only to the specific section or portion thereof directly specified in the decision, and shall not affect the validity of any other provisions, sections or portions thereof of the ordinance. The remainder of

the ordinance shall remain in full force and effect. Any other ordinances whose terms are in conflict with the provisions of this ordinance are hereby repealed as to those terms that conflict.

SECTION 3: EFFECTIVE DATE.

This ordinance shall take effect immediately upon passage and posting or publication as provided by law.

Dated this 9th day of May, 2002.

TOWN OF JACKSON

Donald O. Klug
Donald O. Klug, Town Chairperson

ATTEST:

Gordon Hoffman
Gordon Hoffman, Town Clerk

Published and Post this 10th day of May, 2002.



Washington County

Planning and Parks Department

Land and Water Conservation Division

To: Washington County Village Clerks, Town Clerks, Public Works Directors,
Municipal Engineers and Surveyors

From: Scott M. Schmidt, PE, RLS, Washington County Engineer and Surveyor *AMS*

Date: April 8, 2014

RE: Perpetuation of Landmarks

This memorandum is intended to serve as a reminder that, under Wisconsin law, the County Surveyor is to be notified in writing whenever it becomes necessary to destroy, remove, or cover any monument which marks a U.S. Public Land Survey corner, or a witness monument to said corner. A copy of the relevant portion of the Wisconsin Statutes pertaining to the perpetuation of a landmark was attached to last years correspondence, should you need another copy please contact me.

The disturbance of monuments frequently occurs when local governments undertake road or utility construction projects. Accordingly, **please** forward copies of this memorandum to those local employees who should be aware of this matter so they may contact me regarding proposed projects (such as pulverizing, resurfacing, chip sealing, culvert placement, **utility pole relocations**, etc.).

Washington County has recently committed a very significant amount of time, effort and money to recover and properly monument all U.S. Public Land Survey corners. These corners provide the foundation for our real property system, as well as for a modern computerized land information system. Accordingly, we need everyone's help to ensure that these landmarks are perpetuated. In the past a map depicting monument locations was sent to all Town Clerks, please contact me should you require a new map.

Thank you for your past cooperation in this matter. Should you have any question about the procedures to be followed when landmarks need to be disturbed, please call me at 262-335-6881.

Cc: Gerald Schulz , Chair, Washington County Land Information Council



Washington County
Planning and Parks Department
Land and Water Conservation Division

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TOWN OF JACKSON

To: Washington County Village Clerks, Town Clerks, Public Works Directors,
Municipal Engineers and Surveyors

From: Scott M. Schmidt, PE, PLS, Washington County Engineer and Surveyor *DMR*

Date: April 21, 2015

RE: Perpetuation of Landmarks

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Cc: Gerald Schulz , Chair, Washington County Land Information Council