

Chapter 388

STREETS AND SIDEWALKS

§ 388-6. Excavations of streets and other public ways and grounds.

A. Permit required.

- (1) Permit to be obtained. No person, partnership or corporation, or his or its agents or employees or contractors, shall make or cause to be made any opening or excavation in any public street, public alley, public way, public ditch, public ground, public sidewalk or Village-owned easement within the Village of Athens without a permit therefor from the Clerk or Director of Public Works.
- (2) Fee. The fee shall be prescribed in the Village Fee Schedule plus any actual expenses. Applications may be made for multiple street openings on one application form; however, each opening must be listed at the time the application is submitted to Clerk for approval. If the street opening is made prior to the receipt of an approved street opening permit from the
- (3) Late Permit Fee. If the street opening is made prior to the receipt of an approved street opening permit from the Director of Public Works or Clerk, the fee shall be as prescribed in the Village Fee Schedule plus any actual expenses. In the event of emergency excavation for the protection of property, life, health, or safety and as authorized in § 388-7H, there will not be a late permit fee imposed provided that the application for the street opening permit is filed with the Clerk within two regular business days of the excavation in accordance with § 388-7H. If the permit application for the emergency excavation is not filed within two regular business days, the fee shall be as prescribed in the Village Fee Schedule plus any actual Village expenses.
- (4) Surcharge. In addition to any permit fees or Village expenses, a surcharge shall be levied for any street opening which is in, or disturbs, the paved portion (final surface) of any public street, public alley, public way, public ground, public sidewalk or Village-owned easement within the Village of Athens. The surcharge shall be determined as follows:¹

Age of the Final Paving Surcharge

New pavement to 1 year	5 times the late permit fee
1 year to 2 years	4 times the late permit fee
2 years to 3 years	3 times the late permit fee
3 years to 4 years	2 times the late permit fee
4 years to 5 years	1 times the late permit fee
More than 5 years	No surcharge

- B. Application for permit. The application for a permit shall be in writing and signed by the applicant or his/her agent. The applicant shall submit to the Clerk, at the time the permit is applied for,

1. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

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 Clerk or Director of Public Works shall determine if sufficient information is submitted.

- C. Exception. The provisions of this section shall not apply to Village excavation work done under the direction of the Village Board or Director of Public Works.
- D. Validity of permit. Permits shall be valid until November 15th in the year that the permit is issued, except as provided for under § 388-7G for pavement replacement. The scheduled start and end dates must be listed on application.
- E. Renewal of permit. Permittee will need to apply for a new permit at the expiration of permit.
- F. Village standards. All street work shall be performed in accordance with the current standard specifications for street openings found in this section and § 388-7. Any damaged curb and gutter, sidewalk or grass-covered area shall be restored to the condition prior to damage.
- G. Insurance. Insurance required. A permit shall be issued only upon condition that the applicant submit to the Clerk 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 \$1,000,000 per occurrence. The Village reserves the right to require evidence of higher limits of insurance if circumstances warrant. The policy shall name the Village of Athens as additional insured, unless otherwise approved by the Village Board.
- H. Bond. Before a permit for excavating or opening any street or public way may be issued, the applicant must sign a statement that he will indemnify and save harmless the Village of Athens and its officers from all liability for accidents and damage caused by any of the work covered by his permit and that he will fill up and place in good and safe condition all excavations and openings made in the street and will replace and restore the pavement over any opening he may make as near as can be to the state and condition in which he found it and keep and maintain the same in such condition, normal wear and tear excepted, to the satisfaction of the Village Board for a period of two years and that he will pay all fines and forfeitures imposed upon him for any violation of any rule, regulation or ordinance governing street openings or drain laying adopted by the Village Board and will repair any damage done to existing improvements during the process of the excavation in accordance with the ordinances, rules and regulations of the Village. 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 same for two years.
- I. Public utilities. All public utilities as defined in §§ 66.0801 and 196.01, Wis. Stats., are hereby required to be bound by the terms and conditions of this section and § 388-7, and any and all subsections thereunder, except that a Village public utility as defined within this section shall not be required to post the indemnity bond.

§ 388-7. Regulations governing excavations and openings.

- A. Frozen ground. No openings in the streets, alleys, sidewalks or public ways shall be permitted between November 15 and March 15 except where it is determined by the Village Board or its designee to be an emergency excavation.
- B. Protection of public.
 - (1) 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 or its designee 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 Director of Public Works, 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.²

- (2) 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.
- (3) Unless otherwise approved, a minimum of one 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 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.
- (4) 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 workmen or passersby. It shall be the responsibility of the permittee to prevent traffic backup during construction operation. The permittee shall notify the Director of Public Works 24 hours prior to commencement of excavation of the location and extent of the excavation, unless the excavation is an emergency excavation as identified in Subsection H.
- (5) 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 H.
- (6) Trenches adjacent to the roadway left open during non-working hours shall be protected with snow fence along the entire trench edge and shall be marked with flashing barricades at each end.
- (7) No equipment or construction materials may be stored during non-working hours within Village roadway right-of-way.
- (8) No steel track construction equipment may be driven on or over paved Village roadways.
- (9) Prior to beginning any work on Village roadways, the Village Clerk's office and Director of Public Works shall be given the names and telephone numbers of at least two contractor employees who may be contacted during non-working hours.
- (10) Construction materials spilled or tracked on pavement shall be immediately swept off by power broom equipment.
- (11) No excavated materials may be stored temporarily or permanently within Village roadway right-of-way.
- (12) The Village may elect to have the Village or an outside contractor make the pavement repair for any street or sidewalk opening, in which case the cost of making such repair and of

2. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

maintaining it for one year shall be charged to the person making the street opening.

C. Pavement removal.

- (1) 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.
- (2) Precautions shall be taken to prevent damage to road pavements. Sheathing and bracing or the use of a portable trench box should be used to prevent undermining of material below the existing pavement. If damage is done to the pavement, it shall be restored.
- (3) 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 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.
- (4) 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.
- (5) The Director of Public Works may order the permittee to remove and replace up to one 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.

D. Excavation.

- (1) 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 made for street drainage, and natural watercourses shall not be obstructed.
- (2) 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.

E. Backfilling.

- (1) All backfill material shall be free from cinders, ashes, refuse, vegetable or organic matter, boulders, rocks or stones greater than eight inches in their greatest dimension, frozen lumps or other material which, in the opinion of the Director of Public Works, is unsuitable.
- (2) 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 Director of Public Works, hauled in.
- (3) 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, 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.
- (4) Backfill of excavated area shall be done per specifications approved by the Village. Slurry

backfill shall first be placed as noted above, then 12 inches (after compaction) of crushed aggregate of Gradation No. 3 shall be placed, and then five inches of bituminous concrete pavement (hot mix, surface course) shall be laid in two compacted lifts.³

- (5) When allowed by the Village, mechanical compaction may be used on all materials used for trench backfill. Each layer (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).
 - (6) All excavations shall be subject to testing by the Village. Backfilled material not achieving the above compaction requirements shall be removed and recompactd by the permittee. The cost of any retesting shall be paid by the permittee.
 - (7) 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.
- F. Notice. It shall be the duty of the permittee to notify the Clerk or Director of Public Works and all public and private individuals, firms and corporations affected by the work to be done at least one business day before such work is to commence. The Clerk or Director of Public Works shall also be notified at least four hours prior to backfilling and/or restoring the surface.
- G. Pavement replacement.
- (1) Backfill material shall be left below the original surface to allow for four inches of three-inch crushed stone and four inches of three-fourths-inch 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 crushed stone.
 - (2) Bituminous pavement shall be placed the full depth of the existing pavement or five inches, whichever is greater. Bituminous pavement shall be placed in a maximum base layer of 1 1/2 inches and a top layer of 1 1/2 inches, with 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 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 1/4 inch as measured with a ten-foot straight edge. If hot mix is temporarily not available, the hot mix shall be temporarily replaced with cold mix. The cold mix shall be removed and replaced with hot mix upon availability.
 - (3) Concrete pavement shall be placed to the full depth of the existing pavement or seven 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 days. Tie bars shall be installed as directed by Village officials.
 - (4) All permanent restoration of street, curb and gutter shall be of the same type and thickness as the curb and gutter which abuts. The grade of the restored curb and gutter shall conform to the grade of the existing adjacent curb and gutter. Existing grass and terrace areas shall be covered with a minimum of four inches of topsoil. Topsoil shall be seeded with perennial

3. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).

grass seed at a rate of two pounds per 1,000 square feet.

- (5) All permanent restoration of driveways and sidewalks shall conform to the manner of construction as originally placed and to the lines and grades as given by the Village Engineer. No patching of concrete driveway areas will be allowed between joints or dummy joints.
 - (6) 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 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 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 the permit.
 - (7) When a street is reconstructed, utility laterals shall also be installed, including sump pump laterals, even if not immediately needed.
- H. 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 within two regular business days and shall notify the Village office immediately.⁴
- I. 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 Clerk shall notify 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 years after the date of improvement or repaving unless, in the opinion of the Village Board or its designee, 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.
- J. Repair by Village. The Village may elect to make the pavement repair for any street or sidewalk opening, in which case the cost of making such repair and of maintaining it for one year shall be charged to the person making the street opening. In the event such charges are not paid within 90 days of actual notice of the same having been furnished the applicant and owner of the premises for which said permit was issued, they shall become a lien against said premises and thereafter be assessed and collected as a special tax.

4. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II).