

**TOWN OF TEXAS, MARATHON COUNTY, WISCONSIN**  
**AN ORDINANCE CREATING**  
**ORDINANCE NO. 58.121 ENTITLED**  
***TOWN UTILITY ORDINANCE***

The Town of Texas Town Board, Marathon County, Wisconsin, do ordain as follows:

SECTION 1: Ordinance No. 58-121 of the General Code of Ordinances entitled *Town Utility Ordinance* is hereby created to provide as follows:

1. **INTRODUCTION.**

- a. **OVERVIEW OF UTILITY ACCOMMODATION.** The Town constructs, operates and maintains the Town Highways System. Utility companies provide service to major centers of population as well as to individual users. Both the Town and utility companies typically provide facilities that consider future as well as present needs. Cooperation between these two (2) entities is essential if the public is to be served at the lowest costs consistent with the respective public service needs, obligations and interests. A utility for purpose of this Ordinance is considered any corporation, group, individual or governmental unit other than the Town of Texas that installs a wire, cable, conduit, pipe or other vessel or facility used to transmit, transfer or collect gas, gasoline, oil, electricity, communications, data, water, wastewater or any other commodity.
  - b. **PRIMARY PURPOSE OF THE TOWN HIGHWAY SYSTEM.** The primary purpose of the Town Highway System is to provide a safe and convenient means for the vehicular transportation of people and goods. Any permitted use and occupancy of highway right-of-way for non-highway purposes is subordinate to the primary interest of the traveling public.
  - c. **PURPOSE OF THE UTILITY ACCOMMODATION POLICY.** The purpose of this ordinance is to prescribe the policies and procedure that shall be met by any utility whose facility currently occupies, or will occupy in the future any Town highway, highway right-of-way or bridge over which the Town has maintenance jurisdiction.
2. **PERMITS.** It is the policy of the Town to permit utility facilities on Town highways when:
- a. Such use and occupancy do not adversely affect the primary functions of highways or materially impair their safety, operational or visual qualities;

- b. There would be no conflict with the provisions of federal, state or local laws or regulations or the accommodation provisions stated herein; and
  - c. The occupancies would not significantly increase the difficulty or future cost of highway construction or maintenance.
3. **ADDITIONS.** Nothing in this policy shall be construed as limiting the rights of the Town to impose restrictions or additions to and/or deviations from those stated herein in any permit where the Town deems it advisable to do so. An appropriate explanation for such action should be provided to the utility.
4. **ALTERATIONS.** The permitted facilities shall, if necessary, be altered by the utility to facilitate alteration, improvement safety control, or maintenance of the highway as may be ordered after permit approval. All costs for construction, maintaining, altering and relocating the permitted facilities shall be the obligation of the utility, unless a specific Town agreement otherwise provides.
5. **HARDSHIP.** If the utility encounters a hardship during installation that prevents installation in accordance with the permit, the utility may (at the risk of having to move the installation) make changes to the permitted installation. The Town, in its sole discretion, has final determination of the validity of the hardship. If the Town determined that the changes were made due to the installer's preference, and not due to hardship, the utility will take action within 10 working days to correct such alterations. For clarification purposes; hardships are solid rock, uncrossable swamps, cemeteries or similar circumstances that make construction physically or economically unfeasible.
6. **NEED FOR A PERMIT.** A utility shall obtain a permit from the Town before any construction, use or occupancy of Town highways and/or rights-of-way are allowed.
7. **PERMIT AUTHORIZATION TO USE AND/OR OCCUPY RIGHT-OF-WAY, AND/OR BORE OR TUNNEL UNDER TOWN HIGHWAYS.**
  - a. By issuance of a permit, the Town formally indicates that, subject to all applicable permit conditions, a specified use and/or occupancy of right-of-way is not adverse to the highway interests at the time of the permit approval.

- b. The Town does not warrant that the 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.
  - c. The permit does not transfer any land, nor give, grant or convey any land right, right in land or easement.
  - d. Written authorization from the Town does not relieve the utility from compliance with any and all applicable federal and state laws and codes, and local laws and ordinances, including, but not limited to, those which affect the design, construction, materials or performance of the work. The Town's authorization shall not be construed as superseding any other government agency's more restrictive requirements.
  - e. The utility should retain a copy of the permit in their files during the entire time the facility is located on, over or under Town highway right-of-way.
8. **REQUIRED INFORMATION.** A utilities request to use and occupy the right-of-way cannot be considered until adequate information is provided. The amount of detail will vary with the complexity of the installation and highway involved, but must include the appropriate permit form, drawings or sketches and installation information so that the effect on the highway operation, traffic safety and visual qualities can be evaluated.
- a. **Permit Application Forms.** Utilities shall use only the application form obtained from the Town Clerk. Alteration of the permit form by the applicant is prohibited and shall be cause for application rejection or permit revocation. One (1) original with two (2) attached copies of the permit form shall be submitted per application to the Town Clerk via regular mail, courier service or delivered in person. The telephone number of the applicant shall be included on each permit form. The permit form is on file with the Town Clerk.
  - b. **Permit Drawings.** Each permit application shall contain adequate drawings showing the existing and/or proposed location of all utility facilities within the right-of-way with respect to the existing highway or any planned highway improvement. The details shall include dimensions from the proposed utility installation to the commonly accepted right-of-way line and to the edge of the traveled way. For highway crossings, a cross-section detail showing depth of bury or overhead clearance is required along with the location of any bore pits (if needed). A distance reference from the crossing to the nearest public roadway intersection is also required. Land test

(e.g., approximate distance from the proposed facility to side road intersection, county line, etc.) shall be submitted with all permit drawings.

c. **Installation Information.** The utility shall provide installation information including but not limited to, a general description of the location, size, type, nature and extent of the utility facilities to be installed or to be adjusted, and the impact on the utilities existing facilities to remain in place within the right-of-way.

(1) The Town may require the utility to provide a description of proposed construction procedures, special traffic control and protection, proposed access points, coordination of activities with the highway contractor and/or vegetation to be removed.

(2) When an attachment to a Town-owned structure is proposed, additional information is required. This information may include bridge number, weight of lines, hanger spacing, hanger details and expansion/contraction details.

d. **Fee.**

The following permit fee includes:

Permit application inspection and/or review fee, open cuts across paved highways, and boring under highways (gravel or paved):

\$100.00

e. **Inspection.** Each site or installation may be inspected by the Town Road Superintendent, Town Chairman or Town Supervisors. The Town Chairman along with the Town Road Superintendent will be responsible for allowing changes to the permit. Any changes must be described and attached to the permit with a signature.

9. **LOCATION REQUIREMENT.**

a. **General Location.** Utility facilities shall be located in such a manner as to minimize the need for later adjustment to:

(1) Accommodate proposed highway improvements;

(2) Accommodate highway maintenance, including, but not limited to, ditching;

- (3) Permit servicing or expanding such lines without obstruction or interference to the free flow of highway traffic;
- (4) Provide adequate vertical and horizontal clearance between an underground utility facility and a structure or other highway facility to allow maintenance of all facilities; and
- (5) Be outside of the 45-degree cone of support for the footing of all highway structures.

b. **Crossing Location.** Utility facilities shall cross the highway on a line as nearly perpendicular to the highway alignment as possible. Conditions which are generally unsuitable or undesirable for underground crossings should be avoided. Crossing locations to be avoided include, but not limited to:

- (1) Deep cuts;
- (2) Near footings of bridges and retaining walls;
- (3) Across highway intersections at grade or ramp terminals;
- (4) At cross drains where the flow of water may be obstructed;
- (5) Within basins of an underpass drained by a pump; and
- (6) In wet or rocky terrain where it will be difficult to attain minimum bury.

c. **Underground Longitudinal Location.** The longitudinal location of underground utility facilities within the right-of-way shall provide as much clearance from the traveled way as conditions will allow. Such lines shall be on uniform alignment and be located at or near as practical to the right-of-way line.

To maintain a reasonable uniform utility alignment, location variances may be allowed when irregular shaped portions of the right-of-way extend beyond the normal right-of-way limits. No utility lines are allowed in a ditch bottom or on an inslope.

d. **Above-Ground Longitudinal Location.** The longitudinal location of above-ground utility facilities shall be outside of the "clear zone" as defined by the AASHTO Roadside Design Guide. Such lines shall be on a uniform alignment and be located at or near as practical to the right-of-way line. Exceptions may be granted when no other

location is feasible or when the clear zone extends to the right-of-way.

If any above ground utility facility is within the clear zone or is determined to be in a location that has a higher than average accident potential, the Town may require:

- (1) The utility facility to be approved yielding or breakaway construction; or
- (2) The utility to be protected by a Town-approved barrier such as a beam guard, crash cushion, etc. To maintain a reasonably uniform utility alignment, location variances may be allowed when irregular shaped portions of the right-of-way extends beyond the normal right-of-way limits.

e. **Existing Utilities.** Existing utility facilities within the right-of-way of an existing or proposed highway may remain, provided it does not adversely affect the highway and/or right-of-way based on sound engineering judgment and economic considerations. The existing facility shall be relocated if:

- (1) It conflicts with any construction, reconstruction or maintenance activities;
- (2) It is located longitudinally under the pavement or shoulder for a reconditioning or reconstructed project; or
- (3) It is found to not be within accepted standards of depth of bury or overhead clearance or in location otherwise not acceptable to the Town.

Exceptions may be granted for (1) and (2) above based on sound engineering judgment and economic consideration.

f. **Subsurface Utility Engineering.** The use of subsurface utility engineering (SUE) to locate buried facilities is approved by the Town. Any utility installation using SUE shall be noted on the permit form.

## 10. MAINTENANCE ACTIVITIES.

a. **Annual Maintenance.** Selected maintenance and other types of activities are considered minor in nature. These selected maintenance activities shall be allowed to be performed without an

additional permit, provided such maintenance activities were noted and approved as part of the original permit application.

b. **No Additional Permit Required.** No additional permit shall be required for the following activities:

- (1) Repair of overhead service wire;
- (2) Repair of overhead cable and terminal hardware, two (2) spans or less;
- (3) Replace pole, same location, maximum of ten (10) poles per five (5)-mile section;

Note: Once a new pole is installed, all attached facilities (electric, telephone, CATV, etc.) shall be transferred to the new pole in a timely manner. The old pole shall then be completely removed in accordance with the Cleanup and Restoration section of this Ordinance.

- (4) Locate buried cable;
- (5) Stake route for proposed buried cable;
- (6) Connect and test wiring at buried cable pedestal locations;
- (7) Cross-arm, bracket and hardware repair/replacement;
- (8) Add anchor, guy or brace between pole and right-of-way line, provided the anchor, guy or brace is no closer to the traveled way than the pole;
- (9) Trench a pole to maintain or increase roadside clearance;
- (10) Repair or replacement of overhead conductor, two (2) spans or less;
- (11) Line patrolling;
- (12) Inspection of manholes, including water removal, cable tagging and minor modifications, etc.;
- (13) Electrolysis surveys;
- (14) Test for location of underground lines;

- (15) Paint poles, towers or cross-arms;
- (16) Straighten pole, cross arm or brace;
- (17) Test or treat existing pole;
- (18) Remove debris from overhead line;
- (19) Repair or add grounds;
- (20) Resag, reattach or rearrange conductor;
- (21) Repair cable bonding;
- (22) Survey lines;
- (23) Replace pole tags and signs;
- (24) Reinforce existing pole;
- (25) Mark location of proposed pole, proposed cable;
- (26) Grass cutting or snowplowing;
- (27) Minor repair of lines (installation of buries, splices, etc.);
- (28) Sign and marker installation/replacement; and
- (29) Replace/remove line in existing duct.

11. **CONSTRUCTION, CLEANUP AND RESTORATION.**

- a. **Traffic Control.** The utility shall provide and maintain proper barricades, signs and flagmen at all locations where construction and maintenance work interfere with normal pedestrian or vehicular traffic use of the road or walkways, etc. All markings and signage provided for traffic control and safety purposes shall conform to the standards and specifications of the current issue of the Wisconsin Manual or Traffic Control Devices, as may be applicable. The permittee or contractor must submit a basic traffic control plan for approval by the Town Board.

- b. **Worksite Cleanup.** All debris, refuse and waste resulting from utilities activities shall be removed from the site and motorist's view unless otherwise provided by the permit. Burning of cuttings, brush or other debris shall not be permitted within the limits of the right-of-way.
- (1) All replaced poles shall be completely removed from the highway. No replaced pole shall be allowed to remain in whole or in part and it shall not be sawed off. The holes shall be properly backfilled and compacted. All anchor rods shall be removed or cut off one (1) foot below ground level.
- c. **Restoration of Highway.** The Town expressly reserves the right to require the utility to perform a road inspection with the Town Chairman or Town Road Superintendent before the utility begins any work for the purpose of documenting the then existing condition of the Town highway. The utility shall take all necessary precautions to minimize or eliminate any damage to the Town highway and shall be responsible for prompt repair and restoration of the same.
- (1) Any curb, gutter, pavement, sidewalk, driveway, gravel base, ballast, shouldering material or other element of the highway disturbed by the permitted work shall be restored in kind to the quality, grades, compaction and conditions at least equal to those prevailing prior to the permitted work operations and in a manner satisfactory to the Town. Open cuts shall be backfilled with dry native materials similar to the adjacent undisturbed soils to ninety percent (90%) of modified proctor density or ninety-five percent (95%) of standard proctor density.
  - (2) Failure of the utility to make prompt and satisfactory restorations of the highway may be cause for the Town to arrange for restoration by others at the utilities expense.
  - (3) Any subsequent heaving, settling or other faulting attributable to the permitted works shall be repaired in a manner satisfactory to the Town at the utilities expense.
  - (4) Any turf area of the highway disturbed by the permitted works and operations shall be restored with topsoil having a depth of not less than four (4) inches and seeded to perennial grass or sodded to the satisfaction of the Town.

(5) If, in the opinion of the Town, the permitted works or facilities are found to obstruct highway drainage, unduly increase the difficulty of highway maintenance or in any other manner adversely affect a highway interest, the utility shall, upon notice, cure the fault as directed and restore the highway facility to the satisfaction of the Town.

12. **INDEMNIFICATION.** The utility shall execute a hold harmless and indemnification agreement indemnifying the Town, its officers, agents and employees from any and all liability (including death), damages and costs that result by reason of or in connection with the negligence of the applicant, his/her or its subcontractors, independent contractors, officers, servants, employees or agents, in the installation of the utility and/or any related work.

**SECTION 2:** If any provision of this Ordinance is invalid or unconstitutional, or if the application of this Ordinance to any person or circumstances is found invalid or unconstitutional by a Court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the provisions or application of this Ordinance which can be given effect without the invalid or unconstitutional provision or application.

**SECTION 3:** All Ordinances and parts of ordinances in conflict herewith are hereby repealed.

**SECTION 4:** This Ordinance shall take effect and be in full force and effect from and after its passage and publication or posting as required by law.

TOWN BOARD, TOWN OF TEXAS

By: Delmar Winter  
Delmar Winter, Town Chairman

ATTEST:

Lorraine Beyersdorff  
Lorraine Beyersdorff, Town Clerk

ADOPTED: 2-21-23

POSTED: 2-22-23

**TOWN OF TEXAS**  
**MARATHON COUNTY, WI**  
 158644 River Hills Road, Wausau, Wisconsin 54403 Phone: (715) 675-7476

**PERMIT APPLICATION**  
 Construct/Operate/Maintain Utilities Within Town Right-of-Way

APPLICANT/COMPANY INFORMATION		
Applicant/Company Name:		
Current Address:		
City:	State:	Zip Code:
Phone:	Fax:	
Plans Prepared By:		Phone:
LOCATION INFORMATION		
Name of Town Road(s):		
Closest Intersection:		
ADDITIONAL INFORMATION		
Annual Service Connection Permit?	Yes / No	Utility Work Order #:
Fee Required?	Yes / No	Amount Due: \$
Certificate of Insurance?	Yes / No	<input type="checkbox"/> Security Deposit    Check No.
DESCRIPTION OF PROPOSED WORK		
Utility Type: <input type="checkbox"/> Electric <input type="checkbox"/> Gas/Petroleum <input type="checkbox"/> Communications <input type="checkbox"/> Water <input type="checkbox"/> Sanitary Sewer <input type="checkbox"/> Private Line <input type="checkbox"/> Transmission <input type="checkbox"/> Distributions <input type="checkbox"/> Service    Facility Size/Capacity: _____		
Orientation: <input type="checkbox"/> Overhead <input type="checkbox"/> Underground <input type="checkbox"/> Parallel to Road Centerline <input type="checkbox"/> Town Road <input type="checkbox"/> Tunnel <input type="checkbox"/> Bridge Attachment		
Work Type: <input type="checkbox"/> New Construction <input type="checkbox"/> Improve/Repair Existing <input type="checkbox"/> Maintenance <input type="checkbox"/> Removal <input type="checkbox"/> Abandon in Place		
Construction Methods: <input type="checkbox"/> Plow <input type="checkbox"/> Trench <input type="checkbox"/> Bore <input type="checkbox"/> Cased <input type="checkbox"/> Suspend on Poles/Towers <input type="checkbox"/> Open Cut Road <input type="checkbox"/> Tree Cutting/Removal <input type="checkbox"/> Chemical Treatment of Trees/Brush <input type="checkbox"/> Erosion Control Measures Taken    Yes / No		
ALL OTHER INFORMATION		
Any/All Other Information:		
Name of Utility Representative Responsible for Construction:		Phone:
Estimated Starting Date:		Estimated Completion/Restoration Date:
SIGNATURES		
The applicant understands and agrees that the permitted work shall comply with all permit provisions and conditions of the Utility Ordinance of the Town of Texas in effect at the time of this application, and with any special provisions listed below or attached hereto, and any all plans, details, or notes attached hereto and made a part thereof.		
Signature of applicant:		Date: