

ORDINANCE NO. 22525

AN ORDINANCE REGULATING CONSTRUCTION WITHIN THE
RIGHT-OF-WAY OF THE VILLAGE OF HARTSBURG

WHEREAS, the proper preservation and maintenance of public roads and rights-of-way requires the careful monitoring of construction and improvement projects done directly to or which indirectly affect public roads; and

WHEREAS, this Ordinance is adopted pursuant to the provisions of (i) the Illinois Municipal Code, 65 ILCS 5/1-1-1, *et seq.*, including, without limitation, Sections 11-20-5, 11-20-10, 11-42-11, 11-42-11.2, 11-80-1, 11-80-3, 11-80-6, 11-80-7, 11-80-8, 11-80-10, and 11-80-13; (ii) Section 4 of the Telephone Company Act, 220 ILCS 65/4; (iii) the Illinois Highway Code, including, without limitation, Articles 7 and 9 thereof, 605 ILCS 5/1-101 *et seq.*; (iv) the Simplified Municipal Telecommunications Tax Act, 35 ILCS 636/1 *et seq.* and (v) the Cable and Video Competition Law of 2007, 220 ILCS 5/21-100 *et seq.*; and

NOW, THEREFORE, be it ordained by the Corporate Authorities of the Village of Hartsburg, Logan County Illinois as follows:

SECTION 1: The Corporate Authorities hereby find that all of the recitals herein before stated as contained in the preambles to this Ordinance are full, true and correct and hereby, by reference, incorporate and make them part of this Ordinance.

SECTION 2: Title _____ of the Hartsburg Municipal Code is hereby amended by inserting a new Chapter _____ which shall be as follows:

CHAPTER _____: RIGHT OF WAY CONSTRUCTION STANDARDS

GENERAL

§ __.01 Permit and Surety Required.

- A. **Permit Required.** No person, firm, entity, association, or corporation shall dig on, construct on, alter, remove, add to, diminish, or demolish any part or portion of any Village road or right-of-way or commence to traverse overweight vehicles, dig, construct, alter, remove, add to, diminish, or demolish any part or portion of any Village road or right-of-way, without first having obtained a right-of-way opening permit. To obtain a permit, an applicant shall submit a right-of-way construction permit application to the Village, on a form designated from time to time by the Village. Except in the case of emergency, no work shall begin until the Village of Hartsburg approves the permit application. Permit approval shall be evidenced by a signature of the Mayor or her designee. In the case of an emergency (i.e. water main break, gas main break, etc.), the

work can begin immediately but the application shall be emailed to the application contact information within 24 hours.

- B. **Security Required.** No right-of-way construction permit shall be issued unless and until the applicant has deposited financial security with the Village as required by the provisions of this paragraph to assure the restoration and/or repair of the rights-of-way and any other public property. The financial surety shall be in the form of a cashier's check, unless the Village at its sole and exclusive discretion agrees to accept financial security in the form of a performance bond or an irrevocable letter of credit. The amount of the financial security shall be determined by the Village per right-of-way opening application based on the anticipated scope of work. The financial security shall be deposited by the Village until the Village deems the project complete. The Village shall notify the Applicant if the Village intends to utilize the financial security for restoration and/or repair of the rights-of-way or any other public property. The Applicant shall have 5 days after notification by the Village to restore and/or repair those areas noted by the Village at the Applicant's own expense. After the 5 day period has elapsed, the Village shall utilize the financial security for restoration and/or repair of the rights-of-way or any other public property. Upon completion of construction and site restoration, any portion of the financial security which has not been utilized by the Village to pay for restoration costs shall be refunded to the Applicant.
- C. **Permit Fees.** For all applicants except a telecommunications utility subject to the Simplified Municipal Telecommunications Tax Act, a non-refundable permit fee shall be due and owing the Village. The permit fee shall be paid concurrently with the filing of the permit application. The amount of the permit fee shall be assessed on a "per hole" basis. The permit fee shall be determined from time to time by the Village of Hartsburg. In addition to the per hole permit fee, as an additional component of the permit fee the Applicant shall pay any and all legal fees and engineering fees incurred by the Village by reason of the permitted work, including any disputes arising therefrom. Supporting invoices may be submitted to the applicant as they are received or at the completion of the project. Payment shall be made to the Village or withdrawn from their financial surety within 30 days of receipt of invoices. The permit fee shall be in addition to the financial security required.

§___.02 Application Requirements.

- A. **Application Form.** The application for right-of-way opening shall briefly describe the proposed project, and shall contain such information, drawings, plans, and specifications as may be reasonably required by the Village to assess such proposed project. The application shall be made by the owner or lessee or agent of either, including the architect, engineer, or contractor employed in connection with the proposed project, and shall contain the full names and addresses of the Applicant and of the owner or lessee or agent of either, and if the Applicant is a corporate body, of its responsible officers. The Applicant shall utilize the application form required by the Village of Hartsburg or such other form approved in writing by Village.

- B. **Review and Approval of Application.** All applications for a right-of-way construction permit must be accompanied by the required fee; those submitted without such fee shall receive no response from the Village. For any fully completed application with the requisite fee, the Village shall issue the permit unless the proposed construction conflicts with the standards set forth herein. In evaluating an application involving excavation for installing any structure or utility line, the Village shall determine whether the work will interfere with the operation, maintenance, or extension of any Village service line or with any structure or utility line already installed in the public right-of-way, and whether the excavation, installation, operation, or maintenance of the proposed work will substantially interfere with the intended use of the public right-of-way or increase the risk of injury to persons or property. If the proposed location for utility lines is found likely to cause congestion or other issues within the right-of-way, the Village may require the applicant to install the lines in an alternative location and may refuse a permit if the work would conflict with planned municipal construction or right-of-way utilization. Provided that the proposed work is determined to have no adverse impact and that the applicant complies with all other requirements imposed under this Chapter or any applicable franchise agreement, the Village shall issue a permit authorizing the work.
- C. **Road Use Agreement Required.** If the Village, in its sole discretion, determines that the anticipated construction traffic likely required to perform the work proposed in the permit application will significantly affect the right-of-way, it may require the applicant to enter into a Road Use Agreement. This Agreement shall include provisions for a preconstruction inspection of the right-of-way, a post-construction inspection, cost shifting for repairs reasonably caused by construction traffic, and financial security to ensure payment of such repairs. The Agreement's terms and conditions shall be in addition to those established in this Ordinance and the issued permit

§ __.03 **Construction Standards.**

- A. **Engineer Requirements.** The right-of-way construction standards appended to this ordinance are hereby incorporated by reference and must be followed by the Applicant.
- B. **Location of Utilities.** Prior to any construction activities, the Applicant shall be required to obtain a locate of all public utilities through J.U.L.I.E. The applicant shall also locate any drainage pipes which are reasonably apparent within the area of the proposed construction. Drainage pipes shall be reasonably apparent if identifiable from the surface by tracing openings and open structure piping.
- C. **Unloading Equipment.** No equipment shall be unloaded on any public road without the implementation of approved protective measures. Unloading without such protection is a violation of this ordinance and will subject the applicant to a penalty. For the purposes of this ordinance, "protection" means measures intended to prevent damage to the public right-of-way. This includes, but is not limited to, the use of temporary barriers, plywood sheeting, ramps, mats, or other approved devices that distribute the weight of the

equipment and prevent surface damage, rutting, or deterioration. These requirements conform to commonly accepted standards for safeguarding municipal roadways during construction activities.

- D. **Removal of Debris.** All debris deposited on public roads shall be removed as soon as practical, and not later than four (4) hours after such debris is deposited, or at the end of each work day, whichever occurs first.
- E. **Drainage.** The Applicant shall be required to correct any drainage issues occurring as a result of the permitted activities. Applicant is encouraged to document the condition of the construction area prior to the commencement of construction activities to determine the nature and extent of any pre-existing drainage issues. Any drainage issue proximate to the location of permitted work shall be presumed to be caused by the construction activities of the Applicant, unless the Applicant can prove otherwise. No discharges shall be permitted into ditches on the public right-of-way, including but not limited to septic and sump pump discharges.

§ __.04 Restoration of Right-of-Way.

- A. **General Restoration Obligation.** All Applicants shall remove all excess material and restore all rights-of-way, turf and terrain and other property within the right-of-way within five (5) business days after any portion of the rights-of-way is disturbed, damaged or destroyed. Restoration shall return the right-of-way to a condition substantially equivalent to that which existed prior to the commencement of the project. The Village shall have sole authority to determine if the restoration work is satisfactory. Restoration work may include, but is not limited to, repairing entrances and side streets, backfilling, regrading, reseeding, and resodding. Restoration of roads and rights-of-way surfaces shall be made using materials and methods approved by the Village.
- B. **Restoration of Streets.** Restoration of streets shall be as follows:
 - 1. The Applicant shall construct a permanent patch consisting of a minimum of eight inches of portland cement concrete for concrete streets and four inches of bituminous concrete for bituminous surfaced streets on all excavation openings. The surface shall have a minimum 2% transverse slope. The surface shall be of positive drainage and no standing water shall exist. Any patch over 50 feet long shall be completed with a paving machine. See attached standard for specific details.
 - 2. If surface repairs constitute more than 50 percent of a 50-foot segment of a street as measured from the beginning of any repair to the end of any other repair, the Applicant, at its expense, shall resurface that section of the street. If two pavement repairs are made in any 50-foot section of a street or 3 or more pavement repairs are made in any 100-foot section of a street, the Applicant, at its expense, shall resurface that section of the street. One 50 ft long patch shall be considered as two pavement repairs.

3. The Village shall determine the section of the street which shall be resurfaced based on the disturbance. At the minimum, the section which shall be resurfaced shall be the full width of the traffic lane or to the seam of the original overlay...at the maximum it shall mean the entire width of the road. Resurface shall mean a minimum of 1.5" mill and 1.5" hot mix asphalt resurface. Resurfacing shall be completed with a paving machine. The surface shall have a minimum 2% transverse slope. The surface shall be of positive drainage and no standing water shall exist.
- C. **Restoration of Sidewalks.** Restoration of sidewalks shall consist of a minimum of a four-inch aggregate base course under a minimum of four inches of PCC. All sidewalks shall comply with current standards utilized in public rights-of-way.
- D. **Payment in Lieu of Restoration.** The Village has the option to require the Applicant to make a payment to the Village, rather than performing the restoration. The amount of such payment shall be the amount of the cost estimate obtained from a contractor of the Village choice, plus engineering costs equal to ten percent of the cost estimate.
- E. **Televised Inspection of Village Infrastructure.** The Village may require Applicants to televise pre and post publicly owned infrastructure. The Applicant shall provide the electronic files to the Village in the format desired.
- F. **Notification to Village.** The Applicant shall provide notice to the Village and its designees once all construction and restoration is completed. After receiving notice, the Village shall conduct an inspection to determine whether the Applicant has complied with all requirements of this ordinance.

§___.05 **Authority to Inspect**

- A. **Authority to Inspect.** The Village shall have authority to inspect any work performed on or to any Village road or right-of-way or any portion thereof at any time before, during, or after a project. The Applicant may be charged thru the financial surety for any inspection services.
- B. **Rejection of Non-Conforming Work.** If the Village finds, after inspection, or at any time before or upon final inspection, that the work performed does not meet the construction standards applicable to Village roads or rights-of-way, that the plans or specifications under which the application was submitted are not being followed, that appropriate safety standards are not being utilized, or that any laws, rules, or regulations are being violated, the Village may order the work stopped and/or re-performed in accordance with standards, plans, specifications, laws, rules or regulations.
- C. **Minimum Standards.** All work shall be performed in compliance with the applicable laws, regulations, and ordinances of any governmental body, including, but not limited to, Manual on Uniform Traffic Control Devices and Illinois Department of Transportation requirements.

§ __.06 **Penalty.** Any person, firm, entity, association, or corporation violating any provision of this Chapter shall be subject to a fine of five hundred dollars (\$500.00) per offense. Each day or fraction thereof that a violation continues shall be deemed a separate offense. These penalties are cumulative and in addition to any other legal remedies available under applicable law.

SECTION 3: If any section or part of this Ordinance is held invalid, it shall not affect the validity of the remainder of this Ordinance.

SECTION 4: This Ordinance shall take effect immediately ten (10) days from and after its passage and approval.

PASSED in due form on a roll call vote by the Board of Trustees of the Village of Hartsburg at a duly held meeting on the 24th day of February, 2025.

APPROVED:

Norma J. Battle
Mayor

ATTEST:

Doris C. Last
Village Clerk

AYES:

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NAYS:

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ABSENT:

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