

ORDINANCE NO. 08-02-10-03

An ordinance Creating Division 4, Sec. 14-121 through Sec. 14-130, Excavations, of the Municipal Code of the Village of Fontana-on-Geneva Lake.

The Village Board of the Village of Fontana-on-Geneva Lake, Walworth County, Wisconsin, do ordain as follows:

SECTION 1.

Division 4, Sec. 14-121 through Sec. 14-130 of the Municipal Code of the Village of Fontana-on-Geneva Lake are hereby created to read as follows:

Division 4. Excavations

Section 14-121. Permits Required for Public Right-of-Way Repair and Excavations.

- A. No person shall make, or cause to be made, any excavation in a public right-of-way in the Village without first obtaining from the Village a written permit to do so as hereinafter provided, or as required by the Department of Building & Zoning, or by the Department of Public Works. Furthermore, it shall be unlawful for any person to break, excavate, tunnel, undermine or in any manner affect the surface or base of any public right-of way or to place, deposit or leave upon any street any earth of any other excavated material obstructing or tending to interfere with the free use of the public right-of-way. Examples of excavations requiring permits include, but are not limited to, borings, utility openings, trenchless excavations and augering.
- B. In addition to the above, the Department of Building & Zoning or the Department of Public Works may require a written permit for those construction and other projects requiring the use of heavy trucks, excavation equipment, and other large vehicles and equipment, importing or exporting materials along or over public right-of-ways located in the Village, which may potentially cause damage to public right-of-ways, requiring repair in accordance to this Section.

Section 14-122. Application for Permit.

A permit as called for by Sec. 14-121 shall be issued by the Village only upon a written application signed by the applicant and accompanied by a permit fee as set by the Village Board from time to time and shall describe the place where such excavation is proposed to be made with such certainty that the same may be readily located and shall specify the purpose for which said excavation is to be made and the time for beginning said excavation and the duration of said excavation.

Section 14-123. Bond and Insurance.

Before a permit is issued, a cash deposit or a bond in the amount of \$15,000.00 shall be filed by the applicant with the Village in support of the application for permit described herein. If a bond is submitted, said bond shall be executed by a licensed surety company acceptable to the Village as a guarantee that the applicant will comply with all Village ordinances relating to such permit and will maintain and restore the area excavated pursuant to the permit and thereafter maintain the same and provide a guarantee for a period of one year following completion of the excavation. In the event the Village determines that the excavation proposed requires a cash deposit or bond in excess of \$15,000.00, then the bond provided shall be for the amount so determined.

Prior to commencement of excavation work, the permittee shall furnish the Village with satisfactory written evidence that said permittee has in force and shall maintain during the life of the permit and the entire period of the excavation, public liability insurance of not less than \$100,000.00 for injury to one person, \$300,000.00 for one accident, and property insurance of not less than \$50,000.00.

Section 14-124. Record of Permits.

A record of all permits issued under the provisions of this section shall be kept in the office of the Village Zoning Administrator.

Section 14-125. Protection of Public.

Every person shall enclose with sufficient barriers each opening which said person shall make in the street, alley, public right-of-way or sidewalk in the Village. All machinery and equipment utilized for said excavation shall be locked or otherwise effectively safeguarded from unauthorized use. Amber lights or torch lamps shall be kept burning and entirely visible at said excavation site from sunset to sunrise. Said amber lights or torch lamps shall be placed in such a way and in sufficient number to provide adequate warning to pedestrians or vehicles traveling nearby.

No trench or excavation shall be excavated more than a total of 250 feet, whether in advance of pipe laying or after pipe laying. In addition to those safe guards called for herein all other necessary precautions and safeguard shall be taken to guard the public effectively from accidents or damaged persons or property through the period of the work. Each person making such opening and/or obtaining a permit as called for herein for said excavation shall be exclusively liable for all damages, including costs incurred by the Village in defending any acts should be brought against it for damages, as well as costs for any appeal, that may result from neglect or negligence of such person or permittee or those working at the direction of said person or permittee.

Section 14-126. Replacing Street Surface on Public Roads.

In opening any street or sidewalk, the paving materials, sand, gravel, and earth or other materials moved or penetrated and all surface monuments or shrubs must be promptly, and without delay, removed and replaced as nearly as possible in their original condition or position and the same relation to the remainder as before. Any excavated material shall be replaced with approved backfill material. All rubbish shall be immediately removed, leaving the street or sidewalk in good repair. Upon issuance of a permit to excavate, there shall be paid to the Village a permit fee for a normal road cut 36 inches wide, one-half of the width of the road, and a fee for a normal road cut 36 inches wide and the full width of the road. These fees as from time to time will be established by the Village Board. Openings greater than 36 inches wide or any unforeseen damages will be billed to the Contractor. The asphalt must be saw cut before removal. In opening any street or sidewalk, all surface monuments or shrubs must be removed and replaced nearly as possible in their original condition or position and all rubbish shall be immediately removed, leaving the street or sidewalk in good repair. The trench must be backfilled with a granular backfill to within sixteen inches (16") or the surface area of the pavement and extending five feet (5') beyond the pavement into the shoulder area. Granular backfill must be compacted to ninety-five percent (95%) of maximum density determined by modified proctor. The remaining sixteen inches (16") shall be topped off with twelve inches (12") of a ¾" traffic bond, firmly compacted, and four inches (4") of asphaltic concrete, which shall meet the grade of the existing asphalt road surface. Written notice must be given to the Public Works Director twelve (12) hours in advance of the time of placing the backfill and an inspector from the Public Works Department must be on site during backfill placement.

Section 14-127. Excavation in Permanently Improved Streets.

Whenever the Village determines to provide for the permanent improvements or repaving of any street, such determination shall be made not less than 60 days before the work of improvement or repaving shall begin. Immediately after such determination, the Village shall notify, in writing, each person owning property adjacent to the above-mentioned streets, all utilities, Village Departments or other agencies owning or controlling any sewer, water main, conduit or other utility in or under said street, that all such excavation work in such street shall be completed within 60 days. After such improvement or repaving, a road opening permit must be obtained in compliance with this ordinance.

Section 14-128. Emergency Excavation Authorized.

In the event of any emergency, any person owning or controlling any sewer, water main, conduit or utility in or under any street, and his or her agents or employees, may take immediate emergency measures to remedy dangerous conditions for the protection of property, life, health or safety, without first obtaining an excavation permit. Such permit shall be obtained no later than the end of the next succeeding business day and no permanent repairs shall be made without first obtaining an excavation permit hereunder.

Section 14-129. Village Work Excluded.

The provisions of this section shall not apply to excavation work under the direction of the Public Works Director by Village employees or contractors performing work under contract with the Village necessitating openings or excavations in Village streets.

Section 14-130. Excavation by Public Utilities.

In lieu of the bond required herein, the certificate of insurance required herein and the deposit required herein, but prior to the issuance of any permit required hereby, public utilities shall file with the Village an indemnity agreement conditioned upon compliance with the terms of this section and indemnifying and saving harmless the Village from any and all liability and claims for damages arising out of or resulting from work and labor performed by them for which permits are required hereby. If restoration of the public way is required, no further permits shall be issued to the utility involved until restoration has been completed and approved by the Public Works Director or the cost of same has been paid by said public utility.

SECTION 2.

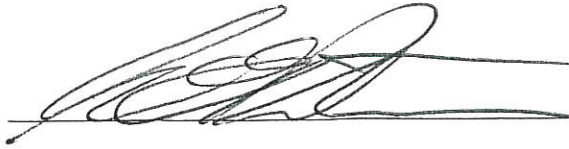
Sections 66-41 through 66-68 of the Municipal Code of the Village of Fontana-on-Geneva Lake are hereby repealed in their entirety.

SECTION 3. EFFECTIVE DATE

This ordinance shall be in full force and effect upon and from its passage, approval and publication as required by law.

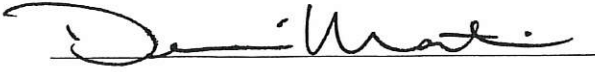
PASSED AND ADOPTED by the Village Board of the Village of Fontana-on-Geneva Lake, Walworth County, Wisconsin, this 2nd day of August, 2010.

VILLAGE BOARD OF THE VILLAGE
OF FONTANA-ON-GENEVA LAKE



By:

Arvid E. Petersen,
Village President



Attest:

Dennis Martin, Village Clerk