

CHAPTER 13

TOWN OF RIB FALLS, MARATHON COUNTY, WISCONSIN ORDINANCE RELATING TO UTILITIES IN A PUBLIC RIGHT-OF-WAY

The Town Board of the Town of Rib Falls do ordain as follows:

SECTION 1: Ordinance #20-98 of the Municipal Code of the Town of Rib Falls entitled "TOWN UTILITY POLICY" is hereby created to provide as follows:

TOWN UTILITY POLICY

INTRODUCTION

A. OVERVIEW OF UTILITY ACCOMMODATION

The Town constructs, operates, and maintains the Town Highway 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 entities is essential if the public is to be served at the lowest costs consistent with the respective public service needs, obligations, and interests.

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 interests of the traveling public.

C. PURPOSE OF THE UTILITY ACCOMMODATION POLICY

The purpose of this document is to prescribe the policies and procedures that shall be met by any utility whose facility currently occupies, or will occupy in the future, any Town Highway or bridge over which the town has maintenance jurisdiction.

D. UTILITY ACCOMMODATION

1. Permits

It is the policy of the town to permit utility facilities on Town Highways when:

- a. Such use and occupancy does not adversely affect the primary functions of the 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.

2. Additions

Nothing in this policy shall be construed as limiting the rights of the town to impose restrictions or requirements in addition 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.

3. 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 constructing, maintaining, altering, and relocating the permitted facilities shall be the obligation of the applicant, unless a specific town-executed utility parcel or agreement otherwise provides.

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 permitted installation. The town has final determination as to the validity of the hardship. If the town determines that the changes were made due to the installers preference, and not due to hardship, the utility will take action within 10 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.

PERMIT REQUIREMENTS

A. NEED FOR A PERMIT

A utility shall obtain a permit from the town before any use or occupancy of Town highways is allowed.

B. PERMIT AUTHORIZATION TO USE AND/OR OCCUPY RIGHT-OF-WAY

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.

The town does not warrant that 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.

The permit does not transfer any land; nor give, grant or convey any land right, right in land, or easement.

Written authorization from the town does not relieve the utility from compliance with all applicable federal and state laws and codes, and local laws and ordinances which affect the design, construction, materials, or performance of the work. The town's authorization shall not be construed as superseding any other governmental agency's more restrictive requirements.

Each permit shall require that the standard indemnification language is part of the overall document.

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.

REQUIRED INFORMATION

A. GENERAL POLICY

A utility's 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.

B. PERMIT APPLICATION FORMS

Utilities shall only use the single-page, triplicate permit application forms which are made by the Town and available from the Town. Alteration of the permit form by the applicant is prohibited and shall be cause for application rejection or permit revocation.

One original, with 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 current permit form is shown in the appendix.

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

D. INSTALLATION INFORMATION

The utility shall provide installation information:

1. This information shall include, but is 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 utility's existing facilities to remain in place within the right-of-way.
2. The town may require the utility to provide a description of proposed construction procedures, special traffic control and protection measures, proposed access points, coordination of activities with the highway contractor,

and/or vegetation to be removed.

3. When an attachment to a structure is proposed, additional information is required. This information should include, but not be limited to, bridge number, weight of lines, hanger spacing, hanger details, and expansion/contraction details.

E. METRIC\ENGLISH UNITS

Although the town may be working with the Metric System in the future, English units or English units followed by metric equivalents in parenthesis should be used on all permit forms. After the town's formal conversion to the Metric System, this section may be changed to reflect new metric permit requirements.

F. FEES

Annual Maintenance Permit	\$100.00
Permit Application & Review Fee	\$ 25.00
Inspection Fee per Permit*	\$ 50.00
Open Cuts Across Paved Roadways	\$250.00

Inspection fee is not required for spraying and trimming permits.

LOCATION REQUIREMENTS

A. GENERAL LOCATION

Utility facilities shall be located in such a manner in order to minimize the need for later adjustment to:

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

footings 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:

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.
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 as 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 the ditch bottom or on the inslope.

D. ABOVE GROUND LONGITUDINAL LOCATION

The longitudinal location of above ground utility facilities shall be outside of the clear zone. Such lines shall be on a uniform alignment and be located at or as 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 line.

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 facility to be protected by a town approved barrier such as 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 extend beyond the normal right-of-way limits.

E. EXISTING UTILITIES

When a utility facility exists within the right-of-way of an existing or proposed highway, it may remain provided it does not adversely affect highway safety based on sound engineering judgement and economic considerations. The existing facility shall be relocated if:

1. It conflicts with any construction or maintenance activities, or
2. It is located longitudinally under the pavement or shoulder for a reconditioning or reconstructed project.
3. Is found to not be within accepted standards for depth of bury, or overhead clearance or in locations not acceptable to the town.

Exceptions may be granted for 1 and 2 above based on sound engineering, judgement and economic considerations.

F. RESTORATION OF HIGHWAY

The utility shall be responsible for prompt restoration of the highway.

Any curb, gutter, pavement, sidewalk, driveway, gravel base, ballast, shouldering material, or other element of the highway disturbed by the permitted works shall be restored in kind to the qualities, grades, compactions and conditions at least equal to those prevailing prior to the permitted work operations and in a manner satisfactory to the town. Section 96.95 of the appendix shall be used as a guide for backfilling excavation operations.

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 utility's expense.

Any subsequent heavings, settlings, or other faultings attributable to the permitted works shall be repaired in a manner satisfactory to the town at the utility's expense.

Any turfed area of the highway disturbed by the permitted works and operations shall be restored with topsoil having a depth of not less than 100 millimeters (four inches), and reseeded to perennial grass, or sodded to the satisfaction of the town. The restoration shall be performed within one week after completion of the facility installation. Exceptions may be allowed (e.g. in the case of bad weather) with prior approval from the town.

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.

G. HIGHWAY CLEARANCES

The minimum clearances between the traveled portion of a road and an overhead line as reflected on the attached State Highway Maintenance Manual, Highway Clearance Diagram 96.94, shall at all times be observed by any utility now maintaining or hereafter maintaining any overhead line in the Town of Rib Falls.

SECTION 2: PENALTIES. Any person, firm or corporation failing to obtain a permit or failing to otherwise comply with the provisions of this ordinance shall forfeit to the Town not less than \$50 nor more than \$500 for each violation, together with the costs of prosecution and a default of payment of such forfeiture and costs of prosecution shall be imprisoned in the County Jail until payment thereof, but not exceeding 60 days for each violation. Each day that a violation continues after notice shall constitute a separate offense. In any such action the fact that a permit was issued shall not constitute a defense nor shall any error, oversight or dereliction of duty on the part of the Town Board or any of its agents, officers or employees constitute a defense. In addition, the Town may seek to enjoin any action taken in violation of this ordinance, including the removal of any utility placed in the public right-of-way in violation of the

provisions of this ordinance.

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

SECTION 4: This ordinance shall be in full force and effect from and after its passage and publication as provided by law.

TOWN BOARD, TOWN OF RIB FALLS

By: L. F. Stelzel
L. F. Stelzel, its Chairman

ATTEST:
Pamela Pietrowski
Pamela Pietrowski, its Clerk

Dennis Buep

ADOPTED: 11/10/98
PUBLISHED: 11/18/98

MEMO REGARDING UTILITY POLICY

Regarding the Town Utility Policy and the Charges:

1. Off-pavement permit is for working in the right-of-way.
2. Inspection fee is for our inspections of the installation for location and depth.
3. For road crossing--blacktop, seal coat or general.

Example: Items 1--\$25.00

" 2-- 50.00

" 3--250.00

Total bill \$325.00

L.F. Stelzel, Chairman

April 5, 1999

TOWN OF RIB FALLS PERMIT TO CONSTRUCT
MAINTAIN OR REPAIR UTILITIES WITHIN
HIGHWAY RIGHT-OF-WAY

NAME _____

ADDRESS _____

OFFICE PHONE _____ LOCAL PHONE _____

TYPE OF UTILITY INSTALLATION _____

PLANS PREPARED BY _____

UTILITY LOCATION IS: to cross Roadway parallel to C/L of Road
 overhead underground

PROPOSED METHOD OF INSTALLATION:

tunnel trench open cut suspend on towers
 jack & bore cased suspend on poles

Estimated Starting Date _____ Estimated Restoration Date _____

The applicant understands and agrees that the permitted work shall comply with all permit provisions and conditions of the Rib Falls Utility Policy in effect at the time of this application, and with any special provisions listed below or attached hereto, and any and all plans, details or notes attached hereto and made a part hereof.

BY _____ TITLE _____
Signature of Authorized Representative) DATE _____

PERMIT APPROVAL BY PERMITTING AUTHORITY

The foregoing application is hereby approved and permit issued by the Permitting Authority subject to full compliance by the Applicant with all provisions and conditions stated in the Rib Falls Utility Policy in effect on the date of this application.

OTHER SPECIAL PROVISIONS:

BY _____ TITLE _____
(Signature of Authorized Permitting Authority Representative) DATE _____

- OFF PAVEMENT PERMIT FEE: \$25.00
- INSPECTION PERMIT FEE: \$50.00
- OPEN PAYMENT (PER CUT/OPENING) FEE: \$250.00

RECEIVED OF _____ (Authorizing Agent Signature)

WHITE - APPLICANT YELLOW - OFFICE PINK-ENG/PATROL SUPT.

Permit No.: _____
Highway: _____
Town of Rib Falls

____ 1/4 of ____ 1/4, Sec. ____
T _____ N, R _____ E

Effective: April 1, 1995

96.00 Utility Accommodation

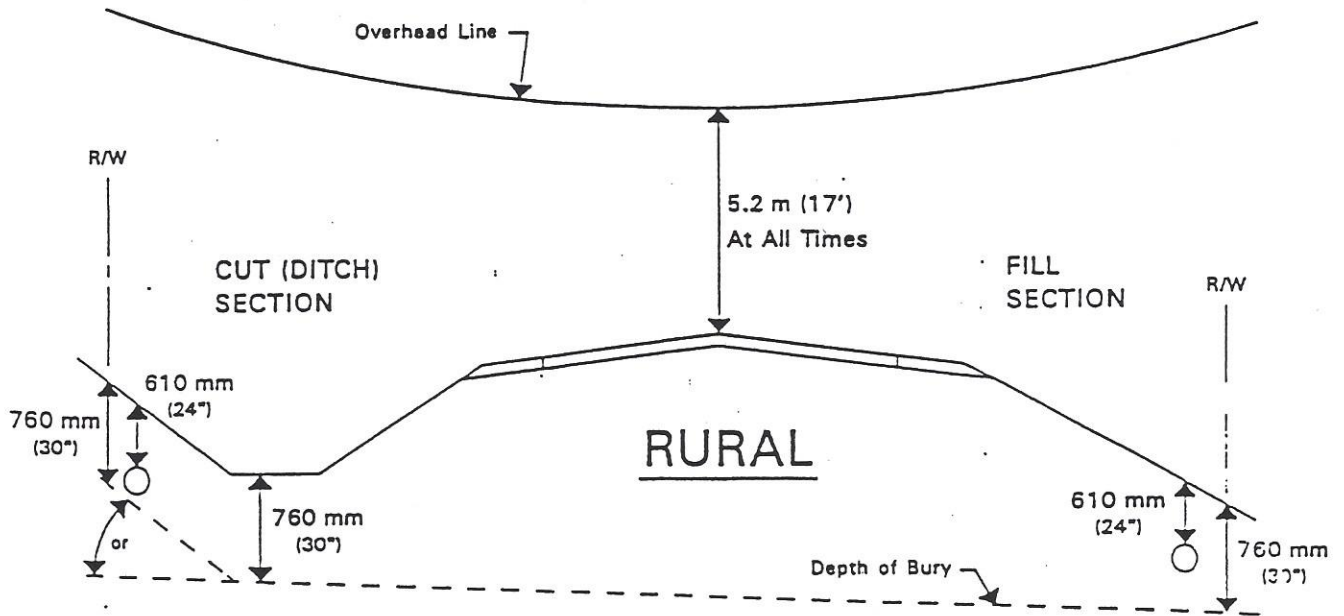
Supersedes: New Policy

96.90 Appendix

96.94 Highway Clearance Diagram

By: Director, Office of Highway Maintenance

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MINIMUM CLEARANCES

