

**Ordinance**  
**STREET EXCAVATION**

SECTION 1 - PERMIT REQUIRED

No person shall make any opening or excavation in any public street, highway or right of way, for any purpose whatsoever except under control and direction of the Highway Supervisor and/or his agent or agents, and after obtaining a written permit issued by same. The Highway supervisor shall have authority to grant such permits for the opening, excavation and repair of any public street, highway or right of way as herein provided.

SECTION 2 - APPLICATION PROCEDURE

A. An application may be obtained at the office of the First Selectman on such form as he prepares. Every application for a permit shall be signed by the permittee or an authorized agent thereof and every application shall state the location and a brief description of work to be done, a timetable for completion of said work; and a site plan or drawing showing the work site and the proposed opening.

B. Each application must be accompanied by a \$25.00 fee, and the ticket number assigned to the applicant pursuant to the regulations of the Connecticut Underground Utilities Protection Plan, which number may be

obtained by telephoning the Protection Plan.

C. The Highway Supervisor shall either issue or deny a permit within fifteen (15) days after submission of the application. Work shall not commence until two (2) days after the permit is issued. Formal written application may be waived in such cases where the need for excavation is of an emergency nature as determined by the Highway Supervisor.

### SECTION 3 - INSURANCE AND BOND

A. Every applicant is required to file with the Town of Harwinton a performance bond in an amount and form acceptable to the First Selectman, but in no case less than \$5,000.00, as a guarantee for all obligations imposed by this ordinance upon the permittee, and an insurance policy for liability and property damage in a minimum amount of \$1,000,000, naming the Town of Harwinton as co-insured.

B. The bond and insurance, shall operate to indemnify and hold harmless the Town and its agents from all suits and actions of every name and description brought against the Town and its agents from any injuries or damages resulting from work performed in connection with this permit.

### SECTION 4 - METHOD OF EXCAVATION

All excavations must be made by open cut. No tunneling shall be allowed except by special written permission from the Highway Supervisor. All excavations shall be backfilled with material acceptable to the Highway Supervisor. If material removed from the excavation is to be used for backfill, the backfilling must be compacted in succeeding layers of six (6) inches for the entire depth of the trench. Under no circumstances shall muck, clay, frozen earth or any other hazardous material be placed in the ditch.

Any muck, clay, frozen earth or any other deleterious material shall be replaced with material acceptable to the Highway Supervisor. All materials removed from the excavation shall be removed from the site and disposed of by the contractor.

#### SECTION 5 - RESTORATION OF SURFACE

On all streets or highways surfaced, having a penetration or macadam pavement, the trench shall be backfilled and sealed with a temporary asphalt patch for thirty (30) days. At the end of said period, but no longer than sixty (60) days or when hot-paving material is available after the application of the temporary asphalt, the contractor shall remove the patch and enough material within the ditch to allow a paving of four (4) inches of an approved hot bituminous paving material. The resurfacing shall conform to the standard specifications of the Connecticut Department of Transportation, Bureau of Highways, as time to time amended.

#### SECTION 6 - MAINTENANCE AND REPAIRS

The permittee shall be responsible for any maintenance or repairs required at the excavated site for a period of one (1) year from completion of work.

#### SECTION 7 - SAFETY PRECAUTIONS

A. All excavations shall be properly protected according to Connecticut OSHA and State Department of Transportation requirements.

B. It shall be the duty of the permittee to maintain warning signs and lights at all times that the excavation is open, and to provide flagmen and such additional safety measures as the Highway Supervisor and regulations may require.

C. In the event that it is necessary to excavate across the entire width of any street, highway or right-of-way, only one-half (1/2) of the street, highway or right-of-way may be excavated at one (1) time. The same shall be properly restored for the safe passage of vehicular traffic before the remaining one-half (1/2) of the street is excavated.

D. It shall be the duty of the permittee to maintain proper safety facilities for the purpose of regulating both pedestrian and vehicular traffic at the site.

E. The Highway Supervisor may permit, in writing, excavation across the entire width of the street or right-of-way.

F. Notice of any excavation must be given by the permittee to the Selectman's office, the Highway Supervisor and the emergency services (911) no less than twenty-four (24) hours prior to commencement of work.

#### SECTION 8 - EMERGENCIES

A. In the event of any emergency in which a sewer main, conduit or utility in or under any street breaks or bursts or otherwise is in such condition as to immediately endanger the property, life, health or safety of any individual, the person owning or controlling such sewer main, conduit or utility without first applying for and obtaining an excavation permit hereunder shall immediately take proper emergency measures to cure or remedy the dangerous conditions for the protection of property, life, health or safety of individuals and shall notify the Highway Supervisor's office and emergency services at 911.

However, such person owning or controlling such facility shall apply for an excavation permit not later than the end of the next succeeding day during which the First Selectman's office is open for business and shall not proceed with permanent repairs without first obtaining an excavation permit hereunder.

B. In the event of any such emergency, if the person owning or controlling such facility is unavailable, the town shall have the right, but not the obligation, to repair any defect to eliminate any hazard or emergency condition, and the owner and the person owning or controlling such facility shall reimburse the town for any costs incurred in the completion of the same.

#### SECTION 9 - NOISE, DUST AND INCONVENIENCE

Each permittee shall conduct and carry out the excavation work in such manner as to avoid unnecessary inconvenience and annoyance to the general public and occupants of neighboring property.

#### SECTION 10 - RESTORATION BY TOWN

If the permittee shall have failed to restore the surface of the street to its original and proper condition upon the expiration of the time fixed as set forth herein or shall otherwise have failed to complete the excavation work covered by such permit, the Highway Supervisor shall have the right to do all work and things necessary to restore the road to satisfactory condition. The permittee shall be liable for the actual cost thereof plus twenty-five percent (25%) of such cost in addition for general overhead and administrative expenses.

The town shall have a cause of action for all fees, expenses and amounts paid out and due it for such work together with attorney's fees.

SECTION 11 - LIABILITY OF TOWN

This Article shall not be construed as imposing upon the town or an official or employee any liability or responsibility for damages to any person injured by the performance of any excavation work for which an excavation permit is issued hereunder; nor shall the town or any official or employee of the town deemed to have assumed any such liability or responsibility by reason of inspections of the property, the issuance of any permit or the approval of any excavation work.

SECTION 12 - CLEANUP

The permittee shall, at his or its own expense, clean up and remove all refuse and unused materials of any kind resulting from the excavation and, upon failure to do so within twenty-four (24) hours after having been notified to do so by the Highway Supervisor, said work may be done by the Highway Supervisor and the cost thereof charged to the permittee.

SECTION 13 - PENALTIES FOR OFFENSES

Any person or entity which excavates within the limits of a town highway, street or right-of-way without having obtained the appropriate permit shall be in violation of this Article. Each day a violation exists shall constitute a separate offense. The violator shall be subject to a sum not in excess of one hundred dollars (\$100.) per offense.