

TOWN OF GIBRALTAR ORDINANCE NUMBER 2015-01
UNDERGROUND RIGHT-OF-WAY ACCESS

The Town Board of the Town of Gibraltar does hereby ordain as follows:

Section 1: Title/Purpose

This ordinance shall be known as the Underground Right-of-Way Access Ordinance.

This ordinance is intended to further public safety and welfare by the establishment of permit requirements to facilitate adherence to underground right-of-way access standards, all as set forth below.

Section 2: Authority

The Town Board of the Town of Gibraltar has the specific authority, powers and duties pursuant to Chapters 60, 66 and 86, Wis. Stats., pursuant to the specific statutory sections noted in this ordinance, and/or by its adoption of village powers under Section 60.10, to regulate and control certain uses, activities and operations in the Town of Gibraltar.

The Town Board of the Town of Gibraltar has been granted village powers pursuant to Section 60.10 Wis. Stats.

Section 3. Applicability

This ordinance shall apply to any utility facility, whether public or private, that currently occupies, or will occupy in the future, any highway right-of-way or bridge over which the Town of Gibraltar has jurisdiction.

Section 4: Adoption of Ordinance

The Town Board of the Town of Gibraltar has, by adoption of this ordinance, confirmed the statutory authority, powers and duties noted in the specific sections of this ordinance and has established by these sections and this ordinance the regulation and control of certain uses, activities and operations in the Town of Gibraltar.

Section 5: Permit

Utility work within a Town right-of-way, including (without limitation) installation, repair or replacement, may only be performed pursuant to a valid permit issued by the Town of Gibraltar.

Applications for a permit shall be made available at the Town office.

The permit fees shall be determined by the Town Board of the Town of Gibraltar from time to time, and may be changed without notice or amendment to this ordinance.

A permit when issued may set forth an expiration date; if work is not completed during the permit period, the permit shall lapse and the applicant must reapply for a new permit.

Section 6: Compliance with Underground Right-of-Way Crossing Policy

All utility work which is subject to this Ordinance shall be performed in accordance with the Town of Gibraltar Underground Right-of-Way Access Policy in effect at the time the work is performed or to be performed.

The Town Board of the Town of Gibraltar shall maintain a Town of Gibraltar Underground Right-of-Way Access Policy, and the same may be changed by the Town Board from time to time without notice or amendment to this ordinance. The Town of Gibraltar Underground Right-of-Way Access Policy shall be available for review at the Town office.

Section 7: Violations

1. Citations

- a. This ordinance shall be enforced by the issuance of a citation by the Gibraltar Police Department or any authorized member of the Door County Sheriff's Department. The Town will prosecute the violation(s) according to Wisconsin law and Town ordinance, specifically, but not limited to, provisions of Section 66.12, Wis. Statutes.
- b. The citation shall include the following:
 - i. Name and address of the alleged violator;
 - ii. Factual allegations describing the alleged violation;
 - iii. Time and place of offense;
 - iv. Section number of ordinance violated;
 - v. A designation of the offense in such a manner as can be reasonably understood by a person making a reasonable effort to do so;
 - vi. The time at which the violator may appear in court;
 - vii. Penalty for violation of the ordinance.
- c. Injunctive relief may be sought at the discretion of the Town.

2. Penalties and Remediation

In the event utility work that would require a permit under this ordinance is performed without an appropriate permit being granted, or the work being done exceeds the scope of an issued permit, or otherwise fails to comply with the requirements of the permit, the owner(s) of the utility shall be subject to the following:

- a. A Forfeiture of an amount not to exceed \$1000.
- b. Each day of violation shall be considered an additional violation.
- c. Any remediation or repair work determined to be necessary by the Town Board due to violations of this ordinance shall be done at the expense of the utility owner. Such work may be performed by Town of Gibraltar employees, or by a third-party contractor selected by the Town of Gibraltar. Any remediation or repair expenses

- remaining outstanding more than thirty days after the date due shall be billed to the owner or owners of the parcel or parcels of land benefitted by the utility work.
- d. Any remediation or repair expenses that are billed to an owner of a parcel of land and that remain outstanding more than thirty days after the date due shall be entered on the tax roll as a special charge against that owner's parcel or parcels of land that are benefitted by the utility work.

Section 8: Severance Clause

The provisions of this ordinance are declared to be severable, and if any section, sentence, clause or phrase of this ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses or phrases of the ordinance.

This ordinance shall take effect upon passage and publication as provided by law.

BE IT RESOLVED that the foregoing ordinance be adopted and shall become effective on passage and publication

Dated this 4 day of February, 2015.

Brian Merkel, Town Chairperson

Dick Skare, Town Supervisor

Steven Sohns, Town Supervisor

Brian Hackbarth, Town Supervisor

Karl Stubenvoll, Town Supervisor

Attest:

Beth Hagen, Town Clerk