

CHARTER ORDINANCE NO. 1561

AN ORDINANCE TO REGULATE THE OPENING, UNDERMINING, AND REPAIRING OF THE PUBLIC STREETS AND ALLEYS OF THE VILLAGE OF COLDWATER, OHIO, PRESCRIBING PENALTIES FOR THE VIOLATION THEREOF;

WHEREAS, it has become necessary to effectively regulate street cut permits, openings and restoration to public right-of-way; and

BE IT ORDAINED by the Council of the Village of Coldwater, Ohio, three-fourths of all members elected thereto concurring that:

SECTION ONE

THAT, no opening through, undermining or removal of any pavement or surface in any of the public street alleys, or other public grounds of the Village of Coldwater, Ohio shall be undertaken by any person, firm or corporation until a permit therefore shall have been issued by the Village Manager or his designee, unless otherwise hereinafter provided.

SECTION TWO

THAT, the Village of Coldwater, shall be responsible for the repairing and repaving of the street, alley or public grounds of openings made by the Village. All other such permit holders shall repair and or repave such openings that are associated with the repair of their utility. Said permit holders shall be charged a permit fee in the amount of Twenty-Five Dollars (\$25.00). The Permit fee is in addition to the charges established in the Street Opening Payment Schedule within this Ordinance per square foot for pavement removed, or a minimum of Five Dollars (\$5.00) per square foot of the actual opening. Except for Village Departments, only a licensed and bonded contractor in the State of Ohio shall be allowed to make cuts, openings, and or pavement removal or replacement within a public street, alley, or other public grounds of the Village of Coldwater. All other replacement of disturbed surrounding areas shall be the responsibility of the permit holder.

SECTION THREE

THAT, prior to obtaining a permit the Contractor shall furnish the Village of Coldwater with the following:

- a) a plan and or general specifications showing the proposed location, extent and nature of the work contemplated on an application provided by the Village of Coldwater
- b) For those companies, corporations, contractors, or public utilities that, as a matter of necessity, are required to make numerous street openings, the Village of Coldwater shall require a cash deposit. The amount of the cash deposit prior to issuance of a permit shall be twenty percent (20%) of the projected cost in accordance with the Street Opening Payment Schedule in Subsection (d). The balance of the street opening cost shall be due and payable within thirty days of receipt of invoice.
- c) The Village Manager may approve, in lieu of a cash bond, a surety bond or performance bond in the amount equal to the sum determined adequate to cover the cash bond required for utilities or contractors who carry out regular and ongoing street cuts in the Village of Coldwater in order to maintain underground utilities.
- d) The applicant shall be required to submit the following payment(s) to the Village of Coldwater. This schedule of payments shall apply to any street surface, curb, and sidewalk (if contiguous to the curb). A list of streets and the year they were improved will be maintained and kept by the Village Manager.

Cost Based Upon a Single Opening
1 Square foot up to 200 Square feet in Area

Year of Improvement	Cost	Per Sq. Ft. Cost
	1-20 Sq. Ft Min	In excess of 20 Sq. Ft.
1	\$1,000.00	\$50.00
2	1,000.00	50.00
3	1,000.00	50.00
4	900.00	45.00
5	800.00	40.00
6	700.00	35.00
7	600.00	30.00
8	500.00	25.00
9	400.00	20.00
10	300.00	15.00
11	200.00	10.00
12	100.00	5.00
13	100.00	5.00
14	100.00	5.00
15+	100.00	5.00

Example: Excavation of an 8' x 12' area in a 4 year old street.

\$900 for the first 20 square feet of excavation

96 sq. ft. - 20 sq. ft. = 76 sq. ft.

76 sq. ft. x \$45 per sq. ft. = \$3,420

\$3,420 + \$900 = \$4,320 total payment

Cost Based Upon a Any Opening
Larger than to 200 Square feet in Area

Year of Improvement	Cost	Per Sq. Ft. Cost
	1-200 Sq. Ft Min	In excess of 200 Sq. Ft.
1	\$10,000.00	\$50.00
2	10,000.00	50.00
3	10,000.00	50.00
4	9,000.00	45.00
5	8,000.00	40.00
6	7,000.00	35.00
7	6,000.00	30.00
8	5,000.00	25.00
9	4,000.00	20.00
10	3,000.00	15.00
11	2,000.00	10.00
12	1,000.00	5.00
13	1,000.00	5.00
14	1,000.00	5.00
15+	1,000.00	5.00

Example: Excavation of an 3' x 100' area in a 5 year old street.

\$8,000 for the first 200 square feet of excavation

300 sq. ft. - 200 sq. ft. = 100 sq. ft.

100 sq. ft. x \$40 per sq. ft. = \$4,000

\$8,000 + \$4,000 = \$12,000 total payment

- e) The following exemptions shall apply regarding the fee set forth in Subsection (d) hereof, for opening a new or newly improved street:
- (1) Individual sanitary sewer laterals and water service lines under improved streets in place for existing homes shall be exempted from the payment schedule. New connections to natural gas, water or sewer mains to serve new buildings may also be exempt from the payment schedule listed above. The serving of these vacant parcels shall be planned for prior to a street reconstruction or repaving project and where practice shall be installed in advance as to prevent disturbing the new street within the first fifteen (15) year period following construction.
 - (2) If repairs, replacement, removal, and or relocation of an underground utility are made prior to a proposed street improvement, a report shall be submitted which details the extent of the repairs and or replacement of utilities which demonstrates due diligence on the part of the utility to reduce the need for re-entering the street following the improvements. A resolution of up to seventy-five (75%) in the Street Opening Payment Schedule may be applicable for those utilities that demonstrate due diligence in repair, replacement, and or the relocation of their infrastructure prior to the street improvement.
 - (3) The Village of Coldwater shall have the right to waive the Street Opening Cost, and exempt a corporation, contractor, or public utility in the case of an opening required as a result of a natural disaster. The Village Manager shall also have the authority to waive street opening costs due to circumstances beyond the control of the utility involved in such related cost shall be assessed to the contractor or entity responsible for causing the necessity of repair.
 - (4) Permits must be obtained retroactively as a result of a break in a utility line that may occur after normal business hours and necessitates emergency repairs. Such permit must be obtained within five (5) working days after repair is initiated.

SECTION FOUR

THAT, the Board of Zoning Appeals shall review any appeals made by individuals, corporations, contractors, or public utilities who are not satisfied with the decision made by the Village Manager, who is the zoning inspector, regarding the exemption section of this Chapter. The Board of Zoning Appeals shall hear both parties and make a decision based upon the information provided. The decision of the Appeals Board shall be binding and final.

SECTION FIVE

THAT, should public utilities or contractor(s) that occupy streets, alleys or public grounds fail to complete their project within a reasonable time in the Village of Coldwater, then the Village may make such necessary repairs and invoice said public utility or contractor(s) for the cost of repairs and said public utility or contractor(s) shall pay all cost (labor, equipment, and or materials) of restoring said pavement or surface and shall make payment to the Village not later than thirty days from date of invoice.

SECTION SIX

THAT, the application for a permit shall state the location and time, when the opening is to be made, the probable length of time required for making the repair, sizes of the openings to be made, the purpose of the excavation, and such other information as the Manager may deem necessary for the general health, safety, and welfare of the public.

SECTION SEVEN

THAT, the Village manager shall from time to time make rules and regulations governing the opening of public streets, alleys, and public grounds, the materials to be used for resurfacing or repairing of all openings made by the applicant(s). Such work shall be performed under the supervision of the Public Works Department of the Village of Coldwater.

THAT, the permit holder shall be responsible for the immediate backfilling of said openings in accordance with the Village policies and procedures regarding same.

SECTION EIGHT

THAT, the every person who shall dig, or cause to be dug, in or adjoining any street, alley, or public ground any excavation whatsoever, and every person who shall occupy or cause to be occupied any portion of any street within building material, or any obstruction, shall provide sufficient warning lights and barricades to adequately protect pedestrian and vehicular traffic. Such person shall cause not less than two (2) warning lights to be securely and conspicuously posted in or near such excavation, building material or obstruction (one or ore at each end of the space so excavated or occupied) and if the space occupied by such obstruction shall exceed ten feet (10') in extent, additional lights shall be posted as aforesaid for every additional ten feet (10') of excavation obstruction. Such lights shall be kept operating during the hours of darkness or at anytime ordinary visibility is obscured. The Manager, or his designee, may require additional lights for and excavated area deemed unsafe. In the case of excavations, whether in an adjoining street, alley or public ground and in case of other open or exposed places within the Village, suitable warning barriers shall be erected to protect against accidents.

SECTION NINE

THAT, prior to the construction or reconstruction of any street, alley, or public ground the Manager, or his designee, shall cause notices to be sent to all abutting property owners, requiring them to install any necessary utility service lines. Notice shall also be sent to all public utility or private utility corporations and Village Departments to repair, replace, relocate, or install all necessary mains, conduits, service lines and structures. Property owners, public and private utility corporations and Village departments shall be allowed necessary, reasonable, and legal times required for the aforesaid before the new pavement is laid. Thereafter, during the period of three (3) years from the final completion of the new pavement, no new permit for making an opening in such pavement shall be issued by the Village, except by express authority in each case by the Village Manager, which authority shall be exercised only for reasons of public necessity or of undue hardship, where the necessity for opening arises from causes over which the applicant has no control. Lack of foresight in not installing service connections prior to the laying of new pavement shall not be considered and adequate reason for abrogation of the three year restriction without adherence with the Street Opening Payment Schedule as delineated in Section Three, Subsection (d) of this Ordinance.

SECTION TEN

THAT, any person, or firm, or corporation violating any of the above provisions of this Ordinance shall be deemed guilty of a misdemeanor. Each day of continued violation and each opening made in any street, alley, or public ground without complying with the provisions of this Ordinance shall constitute a separate offense.

SECTION ELEVEN

THAT, all Ordinances or parts thereof in conflict with the provisions of this Ordinance are hereby repealed.

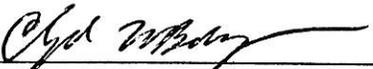
SECTION TWELVE

This ordinance shall take effect and be in force from and after the earliest period allowed by law, but no earlier than August 1, 2008.

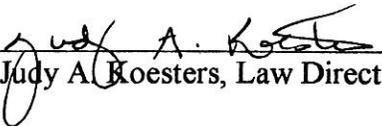
Adopted this 25TH day of AUGUST, 2008.


Vern Stammen, Mayor

Attest:


Clyde Bellinger, Clerk

Approved:


Judy A. Koesters, Law Director