

CHAPTER 20

RIGHT-OF-WAY MANAGEMENT

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ARTICLE I. IN GENERAL

Sec. 20-01. Findings and Purpose. To provide for the health, safety and well-being of its citizens, and to ensure the structural integrity of its streets and the appropriate use of the rights of way, the city strives to keep its rights-of-way in a state of good repair and free from unnecessary encumbrances. A primary cause for the early and excessive deterioration of its rights-of-way is frequent excavation.

Rights-of-way obstruction is a source of frustration for merchants, business owners and the general population that must avoid these obstructions.

The city holds the rights-of-way within its geographical boundaries as an asset in trust for its citizens. The city hereby enacts this Article relating to rights-of-way permits and administration. This Article imposes reasonable regulations on the placement and maintenance of equipment currently within its rights-of-way or to be placed therein at some future time. It is intended to complement the regulatory roles of state and federal agencies. Under this Article, persons disturbing and obstructing the right of way will bear a fair share of the financial responsibility for their integrity. Finally, this Article provides for recovery of out-of-pocket and projected costs from persons using the public rights-of-way.

Sec. 20-02. Definitions. The following definitions apply in this Chapter of this Code. References hereafter to “sections” are sections in this Chapter unless otherwise specified. Defined terms remain defined terms whether or not capitalized.

- **Applicant** means any person requesting permission to excavate or obstruct a right-of-way.
- **City** means the City of Oakdale, Minnesota, its elected officials, officers, employees, and agents.
- **City Management Costs** means the actual costs the city incurs in managing its rights-of-way, including such costs, if incurred, as those associated with registering applicants; issuing, processing, and verifying right-of-way or small wireless facility permit applications; inspecting job sites and restoration projects; maintaining, supporting, protecting, or moving user facilities during right-of-way work; determining the adequacy of right-of-way restoration; restoring work inadequately performed after providing notice and the opportunity to correct the work; and revoking right-of-way or small wireless facility permits. Management costs do not include payment by a telecommunications right-of-way user for the use of the right-of-way, unreasonable fees of a third-party contractor used by the city including fees tied to or based on customer counts, access lines, or revenues generated by the right-of-way or for the city, the fees and cost of litigation relating to the interpretation of Minnesota Session Laws 1997, Chapter 123; Minnesota Statutes, Sections 237.162 or 237.163; or any ordinance enacted under those sections or the city fees and costs related to appeals taken pursuant to Section 20-35 of this Chapter.
- **Collocate or Collocation** means to install, mount, maintain, modify, operate, or replace a small wireless facility on, under, within, or adjacent to an existing wireless support structure or utility pole that is owned privately, or by the city or other governmental unit.

- **Degradation** means a decrease in the useful life of the right-of-way caused by excavation in or disturbance of the right-of-way, resulting in the need to reconstruct such right-of-way earlier than would be required if the excavation did not occur.
- **Degradation Cost** subject to Minnesota Rules 7819.1100 means the cost to achieve a level of restoration as determined by the city at the time the permit is issued, not to exceed the maximum Restoration shown in plates 1 to 13, set forth in Minnesota Rules parts 7819.9900 to 7819.9950.
- **Degradation Fee** means the estimated fee established at the time of permitted by the city to cover the costs associated with a decrease in the useful life of a public right-of-way caused by excavation and which equals the Degradation Costs.
- **Delay Penalty** means the penalty imposed for unreasonable delays in right-of-way construction.
- **Department** means the Department of Public Works of the city.
- **Department Inspector** means any person authorized by the Director to carry out inspections related to the provisions of this Chapter.
- **Director** means the Public Works Director/City Engineer, or his/her designee.
- **Downtown Business District** means that portion of the city designated by the City Council by resolution.
- **Emergency** means a condition that (1) poses a clear and immediate danger to life or health, or of a significant loss of property; or (2) requires immediate repair or replacement in order to restore service to a customer.
- **Equipment** means any tangible asset used to install, repair, or maintain facilities in any right-of-way.
- **Excavate** means to dig into or in any way remove or physically disturb or penetrate any part of a right-of-way, except horticultural practices of penetrating the boulevard area to a depth of less than twelve (12) inches.
- **Excavation Permit** means the permit that, pursuant to this Chapter, must be obtained before a person may excavate in a right-of-way. An excavation permit allows the holder to excavate that part of the right-of-way described in such permit.
- **Excavation Permit Fee** means money paid to the city by an applicant to cover the costs as provided in Section 20-11.
- **Facility or Facilities** means any tangible asset in the right-of-way required to provide Utility Service.
- **Five-year Project Plan** means projects adopted by the local government unit for construction within the next five (5) years.
- **Hole** means an excavation in the pavement, with the excavation having a length less than the width of the pavement.
- **In**, when used in conjunction with “right-of-way”, means over, above, in, within, on, or under a right-of-way.
- **Local Representative** means a local person or persons, or designee of such person or persons, authorized by a registrant to accept service and to make decisions for that registrant regarding all matters within the scope of this Chapter.
- **Obstruct** means to place any object in a right-of-way so as to hinder free and open passage over that or any part of the right-of-way.
- **Obstruction Permit** means the permit which, pursuant to this Chapter, must be obtained before a person may obstruct a right-of-way, allowing the holder to hinder free and open passage over the specified portion of that right-of-way by placing equipment described therein on the right-of-way for the duration specified therein.

- **Obstruction Permit Fee** means money paid to the city by a registrant to cover the city fees allowed in this Chapter.
- **Patch or Patching** means a method of pavement replacement that is temporary in nature. A Patch consists of: (1) the compaction of the subbase and aggregate base and (2) the replacement, in kind, of the existing pavement for a minimum of two feet beyond the edges of the excavation in all directions. A patch is considered full restoration only when the pavement is included in the city's Five-year Project Plan.
- **Pavement** means any type of improved surface that is within the public right-of-way and that is paved or otherwise constructed with bituminous, concrete, aggregate, or gravel.
- **Performance Bond** means a performance bond or other form of security posted to ensure the availability of sufficient funds to assure that right-of-way excavation and obstruction work is completed in both a timely and quality manner.
- **Permittee** means any person to whom a permit to excavate or obstruct a right-of-way has been granted by the city under this Chapter.
- **Person** means any natural or corporate person, business association or other business entity including, but not limited to, a partnership, a sole proprietorship, a political subdivision, a public or private agency of any kind, a utility, a successor or assign of any of the foregoing, or any other legal entity (which has or seeks to have equipment in any right-of-way).
- **Probation** means the status of a person that has not complied with the conditions of this Chapter.
- **Probationary Period** means one year from the date that a person has been notified in writing that it has been put on probation.
- **Registrant** means any person who: (1) has or seeks to have its equipment located in any right-of-way or (2) in any way occupies, uses, or seeks to occupy or use the right-of-way or any equipment in the right-of-way.
- **Repair** means a temporary patch of the right-of-way necessary to make it usable for travel.
- **Restore or Restoration** means the process by which an excavated right-of-way and surrounding area, including pavement and foundation, is returned to the same condition and life expectancy that existed before excavation.
- **Restoration Cost** means an amount of money paid to the city by a permittee to cover the cost of restoration according to plates 1 to 13 of PUC rules.
- **Right-of-Way** means the area on, below, or above a public roadway, highway, street, cartway, bicycle lane, or public sidewalk in which the city has an interest, including other dedicated rights-of-way for travel purposes and utility easements of the city. A right-of-way does not include the airwaves above a right-of-way as used by wireless telecommunications or broadcast services.
- **Right-of-Way Permit** means either the Excavation Permit or the Obstruction Permit, or both, depending on the context, required by this Chapter.
- **Right-of-Way User** means: (1) a telecommunications right-of-way user as defined by Minn. Stat., § 237.162, subd. 4; or (2) a person owning or controlling a facility in the right-of-way that is used or intended to be used for providing utility service and who has a right under law, franchise, or ordinance to use the public right-of-way.
- **Service Lateral** is an underground facility that is used to transmit, distribute or furnish gas, electricity, communications, or water from a common source to an end-use customer. A service lateral is also an underground facility that is used in the removal of wastewater from a customer's premises.
- **Service or Utility Service** includes, but is not limited to:

- (1) Those services provided by a public utility as defined in Minn. Stat. § 216B.02, subs. 4 and 6;
- (2) Telecommunications, pipeline, community antenna television, fire and alarm communications, water, electricity, light, heat, cooling energy, or power services;
- (3) The services provided by a corporation organized for the purposes set forth in Minn. Stat. § 301B.01;
- (4) The services provided by a district heating or cooling system;
- (5) Cable communications systems as defined in Minn. Stat. Chapter 238; and
- (6) Telecommunications Rights-of-Way User as defined in Subsection 20-02 (00) below.

- **Small Wireless Facility** means a wireless facility that meets both of the following qualifications:
 - (1) Each antenna is located inside an enclosure of no more than six (6) cubic feet in volume or could fit within such an enclosure; and
 - (2) All other wireless equipment associated with the small wireless facility provided such equipment is, in aggregate, no more than twenty-eight (28) cubic feet in volume, not including electric meters, concealment elements, telecommunications demarcation boxes, battery backup power systems, grounding equipment, power transfer switches, cutoff switches, cable, conduit, vertical cable runs for the connection of power and other services, and any equipment concealed from public view within or behind an existing structure or concealment.
- **Supplementary Application** means an application made to excavate or obstruct more of the right-of-way than allowed or to extend a permit that has already been issued.
- **Telecommunication Rights-of-Way User** means a person owning or controlling a facility in the public right-of-way, or seeking to own or control a facility in the right-of-way that is used or is intended to be used for providing wireless service or transporting telecommunication or other voice or data information. For purposes of this Chapter, a cable communication system defined and regulated under Minn. Stat. Chapter 238, and telecommunication activities related to providing natural gas or electric energy services a public utility as defined in Minn. Stat. § 216B.02, a municipality, a municipal gas or power agency organized under Minn. Stat. Chaps. 453 and 453A, or a cooperative electric association organized under Minn. Stat. Chap. 308A, are not telecommunications right-of-way users for purposes of this Chapter, except to the extent such entity is offering wireless service.
- **Temporary Surface** means the compaction of subbase and aggregate base and replacement, in kind, of the existing pavement only to the edges of the excavation. It is temporary in nature except when the replacement is of pavement included in the local government unit's two-year plan, in which case, it is considered full restoration.
- **Trench** means an excavation in the pavement, with the excavation having a length equal to or greater than the width of the pavement.
- **Unusable Equipment** means equipment in the right-of-way that has remained unused for one year and for which the registrant is unable to provide proof that it has a plan to begin using it within the next twelve (12) months.
- **Utility Pole** means a pole that is used in whole or in part to facilitate telecommunications or electric service.

- **Wireless Facility** means equipment at a fixed location that enables the provision of wireless services between user equipment and a wireless service network, including equipment associated with wireless service, a radio transceiver, antenna, coaxial or fiber-optic cable, regular and backup power supplies, and a small wireless facility, but not including wireless support structures, wireline backhaul facilities, or cables between utility poles or wireless support structures, or not otherwise immediately adjacent to and directly associated with a specific antenna.
- **Wireless Service** means any service using licensed or unlicensed wireless spectrum, including the use of Wi-Fi, whether at a fixed location or by means of a mobile device, that is provided using wireless facilities. Wireless service does not include services regulated under Title VI of the Communications Act of 1934, as amended, including cable service.
- **Wireless Support Structure** means a new or existing structure in a right-of-way designed to support or capable of supporting small wireless facilities, as reasonably determined by the city.

Sec. 20-03. Administration. The Director is the principal city official responsible for the administration of the rights-of-way, right-of-way permits, and the ordinances related thereto. The Director may delegate any or all of the duties hereunder.

Sec. 20-04. Exemptions. Work on service lines to individual properties as provided by a public utility, as defined in Minn. Stat. § 216B.02, subs. 4 and 6, are exempt from the requirements of Sections 20-05 through 20-07.

Sec. 20-05. Registration and Right-of-way Occupancy.

Subd. 1. **Registration.** Each person who occupies, uses, or seeks to occupy or use, the right-of-way or place any equipment or facilities in the right-of-way, including persons with installation and maintenance responsibilities by lease, sublease or assignment, or who has, or seeks to have, equipment or facilities in any right-of-way must register with the Director. Registration will consist of providing application information and paying a registration fee.

Subd. 2. **Registration Prior to Work.** No person may construct, install, repair, remove, relocate, or perform any other work on, or use any equipment or any part thereof in any right-of-way without first being registered with the Director.

Subd. 3. **Exceptions.** Nothing herein shall be construed to repeal or amend the provisions of a city ordinance permitting persons to plant or maintain boulevard plantings or gardens in the area of the right-of-way between their property and the street curb. Persons planting or maintaining boulevard plantings or gardens shall not be deemed to use or occupy the right-of-way, and shall not be required to obtain any permits or satisfy any other requirements for planting or maintaining such boulevard plantings or gardens under this Chapter. However, nothing herein relieves a person from complying with the provisions of the Minn. Stat. Chapter 216D, One Call Law.

Sec. 20-06. Registration Information.

Subd. 1. **Information Required.** The information provided to the Director at the time of registration shall include, but not be limited to:

- (a) Each registrant's name, Gopher One-Call registration certificate number, address, and e-mail address, if applicable, and telephone and facsimile numbers.

- (b) The name, address, and e-mail address, if applicable, and telephone and facsimile numbers of a local representative. The local representative or designee shall be available at all times. Current information regarding how to contact the local representative in an emergency shall be provided at the time of registration.
- (c) The agent for service of process.
- (d) A certificate of insurance or self-insurance:
 - (1) Verifying that an insurance policy has been issued to the registrant by an insurance company licensed to do business in the State of Minnesota, or is covered by self insurance which the Director determines to provide the city with protections equivalent to that of a Minnesota licensed insurance company, legally independent from the registrant;
 - (2) Verifying that the registrant is insured against claims for personal injury, including death, as well as claims for property damage arising out of the:
 - (i) Use and occupancy of the right-of-way by the registrant, its officers, agents, employees, and permittees, and
 - (ii) Placement and use of equipment in the right-of-way by the registrant, its officers, agents, employees, and permittees, including, but not limited to, protection against liability arising from completed operations, damage of underground equipment and collapse of property;
 - (3) Naming the city as an additional insured as to whom the coverages required herein are in force and applicable and for whom defense will be provided as to all such coverages;
 - (4) Requiring that the Director be notified thirty (30) days in advance of cancellation of the policy; and
 - (5) Indicating comprehensive liability coverage, automobile liability coverage, workers compensation and umbrella coverage established by the Director in amounts sufficient to protect the city and carry out the purposes and policies of this Chapter.
- (e) The city may require a copy of actual insurance policies.
- (f) If the person is a corporation, a copy of the certificate required to be filed under Minnesota law as recorded and certified by the Secretary of State.
- (g) A copy of the person's order granting a certificate of authority from the Minnesota Public Utilities Commission or other authorization or approval from the applicable state or federal agency to lawfully operate in the city, where the person is lawfully required to have such authorization or approval from said commission or other state or federal agency.

Subd. 2. **Notice of Changes.** The Registrant shall keep all of the information listed above current at all times by providing to the Director information as to changes within fifteen (15) days following the date on which the registrant has knowledge of any change.

Sec. 20-07. Reporting Obligations.

Subd. 1. **Operations.** Each registrant shall, at the time of registration and by December 1 of each year, file a construction and major maintenance plan for equipment and facilities with the Director. Such plan shall be submitted using a format designated by the Director and shall contain the

information determined by the Director to be necessary to facilitate the coordination and reduction in the frequency of excavations and obstructions of rights-of-way.

The plan shall include, but not be limited to, the following information:

- (a) The locations and the estimated beginning and ending dates of all projects to be commenced during the next calendar year (in this section, a “Next-year Project”); and
- (b) To the extent known, the tentative locations and estimated beginning and ending dates for all projects contemplated for the five years following the next calendar year (in this section, a “Five-year Project”).

The term “project” in this section shall include both Next-year Projects and Five-year Projects.

By January 1 of each year, the Director will have available for inspection in the Director’s office a composite list of all projects of which the Director has been informed in the annual plans. All registrants are responsible for keeping themselves informed of the current status of this list.

Thereafter, by February 1, each registrant may change any project in its list of next-year projects, and must notify the Director and all other registrants of all such changes in said list. Notwithstanding the foregoing, a registrant may at any time join in a next-year project of another registrant listed by the other registrant.

Subd. 2. Additional Next-year Projects. Notwithstanding the foregoing, the Director will not deny an application for a Right-of-Way Permit for failure to include a project in a plan submitted to the city if the registrant has used commercially reasonable efforts to anticipate and plan for the project.

Sec. 20-08. Permit Requirement.

Subd. 1. Permit Required. Except as otherwise provided in this Code, no person may obstruct or excavate any right-of-way, or install or place facilities in the right-of-way, without first having obtained the appropriate Right-of-Way Permit from the Director to do so:

- (a) **Excavation Permit.** An Excavation Permit is required by a registrant to excavate that part of the right-of-way described in such permit and to hinder free and open passage over the specified portion of the right-of-way by placing equipment described therein, to the extent and for the duration specified therein.
- (b) **Obstruction Permit.** An Obstruction Permit is required by a registrant to hinder free and open passage over the specified portion of right-of-way by placing equipment described therein on the right-of-way, to the extent and for the duration specified therein. An Obstruction Permit is not required if a person already possesses a valid Excavation Permit for the same project.
- (c) **Small Wireless Facility Permit.** A small wireless facility permit is required by a registrant to erect or install a wireless support structure, to collocate a small wireless facility, or to otherwise install a small wireless facility in the specified portion of the right-of-way, to the extent specified therein, provided that such permit shall remain in effect for the length of time the facility is in use, unless lawfully revoked

Subd. 2. Permit Extensions. No person may excavate or obstruct the right-of-way beyond the date or dates specified in the permit unless such person:

- (a) Makes a supplementary application for another right-of-way permit before the expiration of the initial permit; and
- (b) A new permit or permit extension is granted.

Subd. 3. **Delay Penalty.** Notwithstanding Subd. 2 of this Section, the Director shall establish and impose a Delay Penalty for unreasonable delays in right-of-way excavation, obstruction, repair, or restoration.

Subd. 4. **Permit Display.** Permits issued under this Chapter shall be conspicuously displayed or otherwise available at all times at the indicated work site and shall be available for inspection by the Director.

Sec. 20-09. Permit Applications. Application for a permit is made to the Director. Right-of-Way Permit applications shall contain, and will be considered complete only upon compliance with the requirements of the following provisions:

- (a) Registration with the Director pursuant to this Chapter;
- (b) Submission of a completed permit application form, including all required attachments, and scaled drawings showing the location and area of the proposed project and the location of all existing and proposed equipment;
- (c) Payment of money due the city for:
 - (1) permit fees and costs;
 - (2) prior obstructions or excavations;
 - (3) any undisputed loss, damage, or expense suffered by the city because of applicant's prior excavations or obstructions of the rights-of-way or any emergency actions taken by the city;
 - (4) franchise fees, if applicable.
- (d) Payment of disputed amounts due the city by posting security or depositing in an escrow account an amount equal to at least 110 percent (110%) of the amount owing.
- (e) When an Excavation Permit is requested for purposes of installing additional equipment, and the posting of a Performance Bond for the additional equipment is insufficient, the posting of an additional or larger Performance Bond for the additional equipment may be required.

Sec. 20-10. Issuance of Permit; Conditions.

Subd. 1. **Permit Issuance.** If the Director determines that the applicant has satisfied the requirements of this Chapter, the Director shall issue a permit.

Subd. 2. **Conditions.** The Director may impose reasonable conditions upon the issuance of the permit and the performance of the applicant thereunder to protect the public health, safety and welfare, to ensure the structural integrity of the right-of-way, to protect the property and safety of other users of the right-of-way, and to minimize the disruption and inconvenience to the traveling public.

Sec. 20-11. Small Wireless Facility Conditions.

Subd. 1. In addition to conditions under Section 20-10, subdivision 2, the erection or installation of a wireless support structure, the collocation of a small wireless facility, or other installation of a small wireless facility in the right-of-way, shall be subject to the following conditions: A small wireless facility shall only be collocated on the particular wireless support structure, under those attachment specifications, and at the height indicated in the applicable permit application.

Subd. 2. No new wireless support structure installed within the right-of-way shall exceed fifty (50) feet in height without the city's written authorization, provided that the city may impose a lower height limit in the applicable permit to protect the public health, safety and welfare or to protect the right-of-way and its current use, and further provided that a registrant may replace an existing wireless support structure exceeding fifty (50) feet in height with a structure of the same height subject to such conditions or requirements as may be imposed in the applicable permit.

Subd. 3. No wireless facility may extend more than ten (10) feet above its wireless support structure.

Subd. 4. Where an applicant proposes to install a new wireless support structure in the right-of-way, the city may impose separation requirements between such structure and any existing wireless support structure or other facilities in and around the right-of-way.

Subd. 5. Where an applicant proposes collocation on a decorative wireless support structure, sign or other structure not intended to support small wireless facilities, the city may impose reasonable requirements to accommodate the particular design, appearance or intended purpose of such structure.

Subd. 6. Where an applicant proposes to replace a wireless support structure, the city may impose reasonable restocking, replacement, or relocation requirements on the replacement of such structure.

Sec. 20-12. Small Wireless Facility Agreement.

Subd. 1. A small wireless facility shall only be collocated on a small wireless support structure owned or controlled by the city, or any other city asset in the right-of-way, after the applicant has executed a standard small wireless facility collocation agreement with the city. The city may require payment of the following in the standard collocation agreement:

- (a) Up to \$150 per year for rent to collocate on the city structure.
- (b) \$25 per year for maintenance associated with the collocation;
- (c) A monthly fee for electrical service as follows:
 - (1) \$73 per radio node less than or equal to 100 maximum watts;
 - (2) \$182 per radio node over 100 maximum watts; or
 - (3) The actual costs of electricity, if the actual cost exceed the foregoing.

The standard collocation agreement shall be in addition to, and not in lieu of, the required small wireless facility permit, provided, however, that the applicant shall not be additionally required to obtain a license or franchise in order to collocate. Issuance of a small wireless facility permit does not supersede, alter or affect any then-existing agreement between the city and applicant,

Sec. 20-13. Action on Small Wireless Facility Permit Applications.

Subd. 1. **Deadline for Action.** The city shall approve or deny a small wireless facility permit application within ninety (90) days after filing of such application. The small wireless facility permit, and any associated building permit application, shall be deemed approved if the city fails to approve or deny the application within the review periods established in this section.

Subd. 2. **Consolidated Applications.** An applicant may file a consolidated small wireless facility permit application addressing the proposed collocation of up to fifteen (15) small wireless facilities, or a greater number if agreed to by a local government unit, provided that all small wireless facilities in the application:

- (a) are located within a two-mile (2) radius;
- (b) consist of substantially similar equipment; and
- (c) are to be placed on similar types of wireless support structures.

In rendering a decision on a consolidated permit application, the city may approve some small wireless facilities and deny others, but may not use denial of one or more permits as a basis to deny all small wireless facilities in the application.

Subd. 3. **Tolling of Deadline.** The ninety-day (90) deadline for action on a small wireless facility permit application may be tolled if:

- (a) The city receives applications from one or more applicants seeking approval of permits for more than thirty (30) small wireless facilities within a seven-day period. In such case, the city may extend the deadline for all such applications by thirty (30) days by informing the affected applicants in writing of such extension.
- (b) The applicant fails to submit all required documents or information and the city provides written notice of incompleteness to the applicant within thirty (30) days of receipt the application. Upon submission of additional documents or information, the city shall have ten days to notify the applicant in writing of any still-missing information.
- (c) The city and a small wireless facility applicant agree in writing to toll the review period.

Sec. 20-14. Permit Fees.

Subd. 1. **Excavation Permit Fee.** The Excavation Permit fee shall be established by the Director in an amount sufficient to recover the following costs:

- (a) The city Management Costs;
- (b) Degradation Costs, if applicable.

Subd. 2. **Obstruction Permit Fee.** The Obstruction Permit fee shall be established by the director and shall be in an amount sufficient to recover the city Management Costs.

Subd. 3. **Payment of Permit Fees.** No Excavation Permit or Obstruction Permit shall be issued without payment of the required fees before the issuance of such a permit unless the applicant shall agree to pay such fees within thirty (30) days of billing.

Subd. 4. **Non-refundable.** Permit fees that were paid for a permit that the Director has revoked for a breach as stated in Section 20-21 are not refundable.

Sec. 20-15. Small Wireless Facility Permit Fee.

Subd. 1. The city shall impose a small wireless facility permit fee in an amount sufficient to recover:

- (a) City management costs; and
- (b) City engineering, make-ready, and construction costs associated with collocation of small wireless facilities.

Sec. 20-16. Right-of-Way Patching and Restoration.

Subd. 1. **Timing.** The work to be done under the excavation permit, and the patching and restoration of the right-of-way as required herein, must be completed within the dates specified in the permit, increased by as many days as work could not be done because of extraordinary circumstances beyond the control of the permittee or when work was prohibited as unseasonal or unreasonable.

In addition to repairing its own work, the permittee must restore the right-of-way and surrounding areas, including the pavement and its foundation, to the same condition that existed before the commencement of the work and must inspect the area of the work and use reasonable care to maintain the same condition for thirty-six (36) months thereafter.

Subd. 2. **Patching and Restoration.** Permittee shall repair its own work. The city may choose either to have the permittee restore the right-of-way or to restore the right-of-way itself.

- (a) **City Restoration.** If the city restores the right-of-way, permittee shall pay the costs thereof within thirty (30) days of billing. If, during the thirty-six (36) months following such restoration, the pavement settles due to permittee's improper backfilling, the permittee shall pay to the city, within thirty (30) days of billing, the cost of repairing said pavement.
- (b) **Permittee Restoration.** If the permittee is required to restore the right-of-way, it shall at the time of application for an Excavation Permit, post a performance bond in accordance with provisions of Minnesota Rules 7819.3000.

Subd. 3. **Permit Fees.** All permit fees shall be established consistent with the provisions of Minnesota Rules 7819.1000.

Subd. 4. **Standards.** The permittee shall perform patches and restoration according to the standards and with the materials specified by the Director and shall comply with Minnesota Rules 7819.1100. The Director shall have the authority to prescribe the manner and extent of the restoration, and may do so in written procedures of general application or on a case-by-case basis.

Subd. 5. **Duty to Correct Defects.** The permittee shall correct defects in patching or restoration performed by permittee or its agents. Permittee, upon notification from the Director, shall correct all restoration work to the extent necessary, using the method required by the Director. Said work shall be completed within five (5) calendar days of the receipt of the notice from the Director, not including days during which work cannot be done because of extraordinary circumstances beyond the control of the permit or days when work is prohibited as unseasonal or unreasonable.

Subd. 6. **Failure to Restore.** If the permittee fails to restore the right-of-way in the manner and to the condition required by the Director, or fails to satisfactorily and timely complete all restoration required by the Director, the Director at its option may do such work. In that event the permittee shall pay to the city, within thirty (30) days of billing, the cost of restoring the right-of-way. If permittee fails to pay as required, the city may exercise its rights under the Construction Performance Bond.

Subd. 7. **Degradation Fee in Lieu of Restoration.** In lieu of right-of-way restoration, a permittee shall pay to the city a degradation fee to cover city costs associated with a decrease in the useful life of a public right-of-way caused by excavation and repairs. Payment of a degradation fee does not relieve permittee of the obligation to make necessary right-of-way repairs.

Sec. 20-17. Joint Applications.

Subd. 1. **Joint Application.** Registrants may jointly apply for permits to excavate or obstruct the right-of-way at the same place and time.

Subd. 2. **With City Projects.** Registrants who join in a scheduled obstruction or excavation performed by the Director, whether or not it is a joint application by two or more registrants or a single application, are not required to pay the obstruction and degradation portions of the permit fee.

Subd. 3. **Shared Fees.** Registrants who apply for permits for the same obstruction or excavation, which the Director does not perform, may share in the payment of the obstruction or excavation permit fee. Registrants must agree among themselves as to the portion each will pay and indicate the same on their applications.

Sec. 20-18. Supplementary Applications.

Subd. 1. **Limitation on Area.** A right-of-way permit is valid only for the area of the right-of-way specified in the permit. No permittee may do any work outside the area specified in the permit, except as provided herein. Any permittee which determines that an area greater than that specified in the permit must be obstructed or excavated must before working in that greater area:

- (a) Make application for a permit extension and pay any additional fees required thereby, and
- (b) Be granted a new permit or permit extension.

Subd. 2. **Limitation on Dates.** A right-of-way permit is valid only for the dates specified in the permit. No permittee may begin its work before the permit start date or, except as provided herein, continue working after the end date. If a permittee does not finish the work by the permit end date, it must apply for a new permit for the additional time it needs, and receive the new permit or an extension of the old permit before working after the end date of the previous permit. This supplementary application must be done before the permit end date.

Sec. 20-19. Other Obligations.

Subd. 1. **Compliance with Other Laws.** Obtaining a right-of-way permit does not relieve permittee of its duty to obtain all other necessary permits, licenses, and authority and to pay all fees required by the city or other applicable rule, law or regulation. A permittee shall comply with all requirements of local, state and federal laws, including Minn. Stat. § 216D.01-.09 (“One Call Excavation Notice

System”). A permittee shall perform all work in conformance with all applicable codes and established rules and regulations, and is responsible for all work done in the right-of-way pursuant to its permit, regardless of who does the work.

Subd. 2. **Prohibited Work.** Except in an emergency, and with the approval of the Director, no right-of-way obstruction or excavation may be done when seasonally prohibited or when conditions are unreasonable for such work.

Subd. 3. **Interference with Right-of-Way.** A permittee shall not so obstruct a right-of-way that the natural free and clear passage of water through the gutters or other waterways shall be interfered with. Private vehicles of those doing work in the right-of-way may not be parked within or next to a permit area, unless parked in conformance with city parking regulations. The loading or unloading of trucks must be done solely within the defined permit area unless specifically authorized by the permit.

Sec. 20-20. Denial of Permit. The Director may deny a permit for failure to meet the requirements and conditions of this Chapter, if the Director determines that the denial is necessary to protect the public health, safety, or welfare, or when necessary to protect the right-of-way and its current use.

Sec. 20-21. Procedural Requirements. The denial or revocation of a permit must be made in writing and must document the basis for the denial. The city must notify the applicant or right-of-way user in writing within three business days of the decision to deny or revoke a permit. If an application is denied, the right-of-way user may address the reasons for denial identified by the city and resubmit its application. If the application is resubmitted within thirty (30) days of receipt of the notice of denial, no additional application fee shall be imposed. The city must approve or deny the resubmitted application within thirty (30) days after submission.

Sec. 20-22. Installation Requirements. Excavation, backfilling, patching and restoration, and all other work performed in the right-of-way shall be done in conformance with Minnesota Rules 7819.1100 and “The Standard Specifications for Street Openings” as promulgated by the Director and at a location as required by Section 20-28.

Sec. 20-23. Inspection.

Subd. 1. **Notice of Completion.** When the work under any permit hereunder is completed, the permittee shall notify the Director.

Subd. 2. **Site Inspection.** Permittee shall make the work-site available to the Director and to all others as authorized by law for inspection at all reasonable times during the execution of and upon completion of the work.

Subd 3. **Authority of Director.**

- (a) The Director may order the immediate cessation of any work which poses a serious threat to the life, health, safety or welfare of the public.
- (b) The Director may issue an order to the registrant for any work that does not conform to the terms of the permit or other applicable standards, conditions, or codes. The order shall state that failure to correct the violation will be cause for revocation of the permit. Within ten (10) days after issuance of the order, the registrant shall present proof to the Director that the

violation has been corrected. If such proof has not been presented within the required time, the Director may revoke the permit pursuant to Section 20-26

Sec. 20-24. Work Done Without a Permit.

Subd. 1. **Emergency Situations.** Each registrant shall immediately notify the Director of any event regarding its equipment that it considers to be an emergency. The registrant may proceed to take whatever actions are necessary to respond to the emergency. Within two (2) business days after the occurrence of the emergency the registrant shall apply for the necessary permits, pay the fees associated therewith and fulfill the rest of the requirements necessary to bring itself into compliance with this Chapter for the actions it took in response to the emergency.

If the Director becomes aware of an emergency regarding a registrant's equipment, the Director will attempt to contact the local representative of each registrant affected, or potentially affected, by the emergency. In any event, the Director may take whatever action it deems necessary to respond to the emergency, the cost of which shall be borne by the registrant whose equipment occasioned the emergency.

Subd. 2. **Non-Emergency Situations.** Except in an emergency, any person who obstructs or excavates a right-of-way without first having obtained the necessary permit, must subsequently obtain a permit, pay double the normal fee for said permit, pay double all the other fees required by the City Code, deposit with the Director the fees necessary to correct any damage to the right-of-way and comply with all of the requirements of this Chapter.

Sec. 20-25. Supplementary Notification. If the obstruction or excavation of the right-of-way begins later or ends sooner than the date given on the permit, permittee shall notify the Director of the accurate information as soon as this information is known.

Sec. 20-26. Revocation of Permits.

Subd. 1. **Substantial Breach.** The city reserves its right, as provided herein, to revoke any right-of-way permit, without a fee refund, if there is a substantial breach of the terms and conditions of any statute, ordinance, rule or regulation, or any condition of the permit. A substantial breach by a permittee shall include, but shall not be limited to, the following:

- (a) The violation of any material provision of the right-of-way permit;
- (b) An evasion or attempt to evade any material provision of the right-of-way permit, or the perpetration or attempt to perpetrate any fraud or deceit upon the city or its citizens;
- (c) Any material misrepresentation of fact in the application for a right-of-way permit;
- (d) The failure to complete the work in a timely manner; unless a permit extension is obtained or unless the failure to complete work is due to reasons beyond the permittee's control; or
- (e) The failure to correct, in a timely manner, a condition indicated on an order issued pursuant to Section 20-23.

Subd. 2. **Written Notice of Breach.** If the Director determines that the permittee has committed a substantial breach of a term or condition of any statute, ordinance, rule, regulation or any condition of the permit the Director shall make a written demand upon the permittee to remedy such violation. The demand shall state that continued violations may be cause for revocation of the permit. Further, a

substantial breach, as stated above, will allow the Director, at his or her discretion, to place additional or revised conditions on the permit.

Subd. 3. **Response to Notice of Breach.** Within twenty-four (24) hours of receiving notification of the breach, permittee shall contact the Director with a plan, acceptable to the Director, for its correction. Permittee's failure to so contact the Director, or the permittee's failure to submit an acceptable plan, or permittee's failure to reasonably implement the approved plan, shall be cause for immediate revocation of the permit. Further, permittee's failure to so contact the Director, or the permittee's failure to submit an acceptable plan, or permittee's failure to reasonably implement the approved plan, shall automatically place the permittee on probation for one (1) full year.

Subd. 4. **Causes for Probation.** From time to time, the Director may establish a list of conditions of the permit, which if breached will automatically place the permittee on probation for one (1) full year, such as, but not limited to, working out of the allotted time period or working on right-of-way grossly outside of the permit.

Subd. 5. **Automatic Revocation.** If a permittee, while on probation, commits a breach as outlined above, permittee's permit will automatically be revoked and permittee will not be allowed further permits for one (1) full year, except for emergency repairs.

Subd. 6. **Reimbursement of City Costs.** If a permit is revoked, the permittee shall also reimburse the city for the city's reasonable costs, including restoration costs and the costs of collection and reasonable attorneys' fees incurred in connection with such revocation.

Sec. 20-27. Mapping Data.

Subd. 1. **Information Required.** Each registrant and permittee shall provide mapping information required by the city in accordance with Minnesota Rules 7819.4000 and 7819.4100. Within ninety (90) days following completion of any work pursuant to a permit, the permittee shall provide the director accurate maps and drawings certifying the "as-built" location of all equipment installed, owned and maintained by the permittee. Such maps and drawings shall include the horizontal and vertical location of all facilities and equipment and shall be provided consistent with the city's electronic mapping system, when practical or as a condition imposed by the director. Failure to provide maps and drawings pursuant to this subsection shall be grounds for revoking the permit holder's registration.

Subd. 2. **Service Laterals.** All permits issued for the installation or repair of service laterals, other than minor repairs as defined in Minnesota Rules 7560.0150, subpart 2, shall require the permittee's use of appropriate means of establishing the horizontal locations of installed service laterals and the service lateral vertical locations in those cases where the director reasonably requires it. Permittees or their subcontractors shall submit to the director evidence satisfactory to the director of the installed service lateral locations. Compliance with this subdivision 2 and with applicable Gopher State One Call law and Minnesota Rules governing service laterals installed after December 31, 2005 shall be a condition of any city approval necessary for:

- (a) payments to contractors working on a public improvement project including those under Minnesota Statutes Chapter 429; and
- (b) city approval under development agreements or other subdivision or site plan approval under Minnesota Statutes Chapter 462. The Director shall reasonably determine the appropriate

method of providing such information to the city. Failure to provide prompt and accurate information on the service laterals installed may result in the revocation of the permit issued for the work or future permits to the offending permittee or its subcontractors.

Sec. 20-28. Location of Facilities.

Subd. 1. **Undergrounding.** Unless otherwise provided in an existing franchise or unless existing above-ground equipment is repaired, new construction and the installation of new equipment and replacement of old equipment shall be placed underground or contained within buildings or other structures in conformity with Article III of this Chapter.

Subd. 2. **Corridors.** The Director may assign specific corridors within the right-of-way, or any particular segment thereof as may be necessary, for each type of equipment that is or, pursuant to current technology, the Director expects will someday be located within the right-of-way. All excavation, obstruction, or other permits issued by the Director involving the installation or replacement of equipment shall designate the proper corridor for the equipment at issue.

Any registrant whose equipment is in the right-of-way in a position at variance with the corridors established by the Director shall, no later than at the time of the next reconstruction or excavation of the area where its equipment is located, move that equipment to its assigned position within the right-of-way, unless this requirement is waived by the Director for good cause shown, upon consideration of such factors as the remaining economic life of the facilities, public safety, customer service needs and hardship to the registrant.

Subd. 3. **Nuisance.** One year after the passage of this Chapter, any equipment found in a right-of-way that has not been registered shall be deemed to be a nuisance. The city may exercise any remedies or rights it has at law or in equity, including, but not limited to, abating the nuisance or taking possession of the equipment and restoring the right-of-way to a usable condition.

Subd. 4. **Limitation of Space.** To protect health and safety, the Director shall have the power to prohibit or limit the placement of new or additional equipment within the right-of-way if there is insufficient space to accommodate all of the requests of registrants or persons to occupy and use the right-of-way. In making such decisions, the Director shall strive to the extent possible to accommodate all existing and potential users of the right-of-way, but shall be guided primarily by considerations of the public interest, the public's needs for the particular utility service, the condition of the right-of-way, the time of year with respect to essential utilities, the protection of existing equipment in the right-of-way, and future city plans for public improvements and development projects which have been determined to be in the public interest.

Sec. 20-29. Relocation of Equipment. The Director may require a registrant to promptly remove and relocate its equipment and facilities in the right-of-way, at the registrant's expense, when the Director determines that the registrant's equipment or facilities interferes or will interfere with one of more of the following:

- (a) An existing or planned city public improvement project, authorized by law, but not a city-owned gas, electric or telecommunications utility improvement project; or
- (b) The city's duty to protect the health, safety or welfare or the public, including the city's duty to ensure safe and convenient travel over the right-of-way.

For purposed of this section, “interfere” means that the location of the equipment or facilities (1) restricts the city from carrying out the above projects or duties, or (2) causes or will cause the city to incur significant additional cost or be exposed to potential liability to the registrant or third parties in carrying out the above projects or duties, were the equipment or facilities to remain in the same location; or (3) constitutes a safety hazard. Following removal and relocation the registrant, at its own expense, must restore the right-of-way affected to the same condition that existed prior to the removal and indented quote.

Sec. 20-30. Pre-Excavation Facility and Equipment Location. In addition to complying with the requirements of Minn. Stat. § 216D.01-.09 (“One Call Excavation Notice System”) before the start date of any right-of-way excavation, each registrant who has facilities or equipment in the area to be excavated shall mark the horizontal and approximate vertical placement of all said equipment. Any registrant whose equipment is less than twenty (20) inches below a concrete or asphalt surface shall notify and work closely with the excavation contractor to establish the exact location of its equipment and the best procedure for excavation.

Sec. 20-31. Damage to Other Equipment. When the city does work in the right-of-way and finds it necessary to maintain, support, or move a registrant’s equipment to protect it, the Director shall notify the local representative as early as is reasonably possible. The costs associated therewith will be billed to that registrant and must be paid within thirty (30) days from the date of billing.

Each registrant shall be responsible for the cost of repairing any equipment in the right-of-way that it or its equipment damages. Each registrant shall be responsible for the cost of repairing any damage to the equipment of another registrant caused during the city’s response to an emergency occasioned by that registrant’s equipment.

Sec. 20-32. Right-of-Way Vacation.

Subd. 1. **Reservation of Right.** If the city vacates a right-of-way which contains the equipment of a registrant, and if the vacation does not require the relocation of registrant or permittee equipment, the city may, to the extent permitted by law, reserve, to and for itself and all registrants having equipment in the vacated right-of-way, the right to install, maintain and operate any equipment in the vacated right-of-way and to enter upon such right-of-way at any time for the purpose of reconstructing, inspecting, maintaining or repairing the same.

Subd. 2. **Relocation of Equipment.** If the vacation requires the relocation of registrant or permittee equipment; and (a) if the vacation proceedings are initiated by the registrant or permittee, the registrant or permittee must pay the relocation costs; or (b) if the vacation proceedings are initiated by the city, the registrant or permittee must pay the relocation costs unless otherwise agreed to by the city and the registrant or permittee; or (c) if the vacation proceedings are initiated by a person or persons other than the registrant or permittee, such other person or persons must pay the relocation costs.

Sec. 20-33. Indemnification and Liability. By registering with the Director or by accepting a permit under this Chapter, a registrant or permittee agrees to defend and indemnify the city in accordance with the provisions of Minnesota Rules 7819.1250.

Sec. 20-34. Abandoned and Unusable Equipment.

Subd. 1. **Discontinued Operations.** A registrant who has determined to discontinue its operations in the city must either:

- (a) Provide information satisfactory to the Director that the registrant's obligations for its equipment in the right-of-way under this Chapter have been lawfully assumed by another registrant; or
- (b) Remove as outlined in Subd. 2.

Subd. 2. **Removal.** Any registrant who has unusable and abandoned equipment in any right-of-way shall remove it from that right-of-way if required in conjunction with other right-of-way repair, excavation, or construction, unless this requirement is waived by the Director.

Sec. 20-35 Appeal. A right-of-way user that:

- (a) Has been denied registration;
- (b) Has been denied a permit;
- (c) Has had a permit revoked; or
- (d) Believes that the fees imposed are invalid, may have the denial, revocation, or fee imposition reviewed, upon written request, by the City Council. The City Council shall act on a timely written request at its next regularly scheduled meeting. A decision by the City Council affirming the denial, revocation, or fee imposition will be writing and supported by written findings establishing the reasonableness of the decision.

Sec. 20-36. Reservation of Regulatory and Police Powers. A permittee's or registrant's rights are subject to the regulatory and police powers of the city to adopt and enforce general ordinances necessary to protect the health, safety and welfare of the public.

Sec. 20-37. Severability. If any section, subsection, sentence, clause, phrase, or portion of this Chapter is for any reason held invalid or unconstitutional by any court or administrative agency of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions thereof. If a regulatory body or a court of competent jurisdiction should determine by a final, non-appealable order that any permit, right or registration issued under this Chapter or any portions of this Chapter is illegal or unenforceable, then any such permit, right or registration granted or deemed to exist hereunder shall be considered as a revocable permit with a mutual right in either party to terminate without cause upon giving sixty (60) days written notice to the other. The requirements and conditions of such a revocable permit shall be the same requirements and conditions as set forth in the permit, right or registration, respectively, except for conditions relating to the term of the permit and the right of termination. Nothing in this Chapter precludes the city from requiring a franchise agreement with the applicant, as allowed by law, in addition to requirements set forth herein.

ARTICLE II. CURB CUTS

Sec. 20-38. Removal of Existing Curb; Joints Between Existing Curb and New Entrance. In making curb cuts, the existing curb shall be removed in complete whole sections. No cutting, sawing or breaking of the existing curb shall be made at the existing joints in the existing curb.

Sec. 20-39. Repair of Pavement Disturbed by Curb Cut Work. Any portion of the existing pavement structure disturbed during curb cut work shall be repaired with similar materials of equal or greater structural capacity. Repair limits shall be defined by right angle saw cuts so oriented to provide the least noticeable surface patch.

Sec. 20-40. Time Limit on Curb Cut Work. On existing streets improved with curb and gutter, the period between removing the existing curb and constructing the new entrance shall not exceed seventy-two (72) hours.

Sec. 20-41. Other Requirements. All provisions of Article I shall apply, subject to the modifications outlined in Sections 20-38 through 20-40.

ARTICLE III. UNDERGROUND UTILITIES

Sec. 20-42. Purpose. The City Council finds that it is in the public interest and desirable in order to promote and preserve the general welfare, assure the orderly development of the city, and provide for the safety and convenience of its inhabitants, that new transmission lines of electrical utilities be placed, constructed and installed underground. This requirement does not apply to high voltage transmission lines of 15,500 volts or more, or electrical utilities constructed within state trunk highway rights-of-way created pursuant to Article XIV of the Minnesota Constitution.

Sec. 20-43. Underground Electric Wire Installations. In addition to any other requirements of this Chapter, the following shall be applicable to the installation of electric distribution systems of all electrical utilities excluding high voltage circuits and transmission lines of 15,000 volts or more.

- (a) Every permanent extension of any distribution lines, circuits, and systems and any service lateral providing permanent electric power service shall be installed underground for:
 - (1) Any new installation of buildings, signs, streetlights, or other structures where the service lateral is street fed;
 - (2) Any new subdivision;
 - (3) Any new development or industrial park containing new commercial or industrial buildings.
- (b) Any permanent replacement, relocation or reconstruction of more than 400 yards of any distribution line, circuit or system of any such utility and any service lateral shall be installed underground when for or made in connection with street paving, street widening, public utility installation and other such projects. Such requirements may be waived by the Director when it is not technically or economically feasible.
- (c) Wherever any part or portion of the distribution system of any such utilities in the city is now located underground, such part or portion shall remain underground and any replacement, relocation, reconstruction, repair and extension thereof shall be installed underground.
- (d) All high voltage circuits and transmission lines of 15,000 volts or more which are constructed within the corporate limits of this city after obtaining approval of the Director, if, however, not feasible to be placed underground, shall be placed whenever possible on two-legged or single-pole structures of metal or wood unless the Director approves of other structural techniques.

Sec. 20-44. Exception, Emergency or Unusual Circumstances. Notwithstanding the provisions of this article, the Director may grant special permission on such terms as he or she may deem appropriate in cases of emergency or other unusual circumstances, without discrimination as to any person or utility, to temporarily erect, construct, install, maintain, use or operate poles, overhead wires and associated overhead structures for periods up to nine (9) months. Said permits may be renewed for additional six-month (6) periods upon good cause shown. Upon a showing of unusual circumstances of a permanent nature which cause extreme hardship, the City Council may grant special permission to a person or utility to erect, construct, install, maintain, use or operate poles, overhead wires and associated structures within the corporate limits of this city.

Sec. 20-45. Liability and Claims. All persons and companies providing electrical distribution and communications services under this article shall at all times save the city harmless from all damages arising from all accidents, injuries or any damage whatsoever that may be caused to any person or property due to the installation or use of any underground wiring, conduit or cables installed pursuant to the terms of this article and upon a ten (10) day notice from the city shall appear and defend all suits for damages against the city as a result of any such accident, injury or damage.

Sec. 20-46. Application for Underground Space. Persons or companies making application for spaces for underground facilities shall present their application and location drawings to the Director clearly indicating the type of underground system to be used, whether the system is to be a joint system to include electric supply and communications facilities, and specifying the proposed start and duration of the construction and the part of the street needed for construction. When such system, plans and specifications have been approved by the Director, applicants who are unable to show financial responsibility to the satisfaction of the Director may be required to deposit with the city a sufficient sum to defray the cost of repaving that portion of the street used by them in case such paving is required.

Sec. 20-47. Issuance of Permit. The Director shall then issue a permit for such applicant granting the right to enter upon such streets as may be necessary, designating that portion that such applicant may be permitted to use and the location of their underground facilities. Any question arising regarding the amount of space to be allowed any applicant or the location of their underground facility shall be determined by the Director, and where a disagreement arises with reference to the Director's decision, the said decision may be appealed to the City Council for final determination.

Sec. 20-48. Installation of Underground Facilities. Underground facilities shall be located in the designated space as approved by the Director. All excavations for the purpose of placing facilities underground shall be made in accordance with specifications as approved by the Director. Periodic inspections of excavations and back-filling procedures will be conducted by representatives of the Director to insure adherence and compliance to specifications.

- (a) The top of all duct and cable system structures shall be located at a sufficient depth, in accordance with the National Electric Safety Code, to protect the system from injury.
- (b) All utility companies shall keep current records and plats of all underground facilities they own and operate. Such plats shall be available to all other utility companies and this city immediately upon the request of the Engineering Department.
- (c) In the repair, addition or change of any underground facilities, no person or company shall be permitted to interfere with the underground facilities of any other person or company, except so far as shall be necessary to make such repairs, additions or changes. All such repairs, additions,

or changes shall be made in accordance with specifications as approved by the Director and the Director shall be notified before work thereon is commenced.

- (d) Conditions requiring emergency street opening and for repair may be handled at the discretion of the Director.
- (e) All companies laying underground facilities under provisions of this article shall begin such work at a time fixed by the Director and shall proceed with the construction of the same following the time scheduling as ordered by the Director.

Sec. 20-49. Authorized Servicemen. Those employees designated or authorized by any utility to enter any building, areaway, or other private place, for the purpose of placing, extending, or repairing any wires, cables, conduits, or other fixtures pertaining to the underground electric service, shall be furnished appropriate identification that shall be displayed upon request. No person except those designated shall seek to enter any private place under pretense of being employed on such service and no authorized servicemen shall in any way alter, remove or interfere with the wires, cables, conduits or fixtures of any person or company other than that in whose employ he may be, without proper authority from the owners or agents thereof.

Sec. 20-50. Existing Poles, Wires. Nothing in this article shall be construed as prohibiting necessary repairs to any poles or wires properly in use within the corporate limits of this city. (Ord. 834, 11/14/17).