

ORDINANCE NO. 2023-6

CITY OF WATKINS
MEEKER COUNTY, MINNESOTA

AN ORDINANCE TO REGULATE THE USE OF PUBLIC RIGHT-OF-WAY OF THE CITY WATKINS, MINNESOTA.

The City Council of the City of Watkins, Minnesota hereby ordains:

Chapter 52. Right of Way Management

52.01 Findings, Purpose and Intent

52.02 Election to Manage the Public Rights-of-Way

52.03 Definitions

52.04 Administration

52.05 Permit Required

52.06 Permit Applications

52.07 Issuance of Permit; Conditions

52.08 Permit Fees

52.09 Right-of-Way Patching and Restoration

52.10 Joint Applications

52.11 Supplementary Applications

52.12 Other Obligations

52.13 Denial of Permit

52.14 Inspection

52.15 Work Done Without a Permit

52.16 Supplementary Notification

52.17 Revocation of Permits

52.18 Mapping Data

52.19 Location and Relocation of Facilities

52.20 Pre-excavation Facilities Location

52.21 Damage to Other Facilities

52.22 Right-of-Way Vacation

52.23 Indemnification and Liability

52.24 Abandoned and Unusable Facilities

52.25 Appeal

52.26 Severability

Section 52:01. Findings, Purpose, and Intent. To provide for the health, safety and welfare of its citizens, and to ensure the 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. The city hereby enacts this section of this code relating to right-of-way permits and administration. This section imposes reasonable regulation on the placement and maintenance of facilities and 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 section, persons excavating and obstructing the rights-of-way will bear financial responsibility for their work.

Finally, this section provides for recovery of out-of-pocket and projected costs from persons using the public rights-of-way

Section 52.02. Election to Manage the Public Right-of-Way Pursuant to the authority granted to the city under state and federal statutory, administrative and common law, the city elects pursuant Minn. Stat. 237.163 subd. 2(b), to manage rights-of-way within its jurisdiction.

Section 52:03. Definitions.

“Abandoned Facility” means a facility no longer in service or physically disconnected from a portion of the operating facility, or from any other facility, that is in use or still carries service. A facility is not abandoned unless declared so by the right-of-way user.

“Applicant” means any person requesting permission to excavate or obstruct a right-of-way.

“Commission” means the State Public Utilities Commission.

“Congested Right-of-Way” means a crowded condition in the subsurface of the public right-of-way that occurs when the maximum lateral spacing between existing underground facilities does not allow for construction of new underground facilities without using hand digging to expose the existing lateral facilities in conformance with Minnesota Statutes, section 216D.04., over a continuous length in excess of 500 feet.

“Construction Performance Bond” means any of the following forms of security provided at registrant’s option: a. Individual project bond; b. Cash deposit; c. Security of a form listed or approved under Minn. Stat. Sec. 15.73, subd. 3; d. Letter of Credit, in a form acceptable to the city e. Self-insurance, in a form acceptable to the city f. A blanket bond for projects within the city, or other form of construction bond, for a time specified and, in a form acceptable to the city.

“Culvert” means a structure that allows water to continually flow under a road, trail, driveway or similar obstruction from one side to the other. A right-of-way permit is required to construct a culvert in the right-of-way.

“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 or disturbance 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 permitting by the city to recover costs associated with the decrease in the useful life of the right-of-way caused by the excavation, and which equals the degradation cost.

“Department” means the Public Works Department of the City.

“Department Inspector” means any person authorized by the city to carry out inspections related to the provisions of this section.

“Director” means the Public Works director of the city, or her or his designee

“Delay Penalty” is the penalty imposed as a result of unreasonable delays in right-of-way excavation, obstruction, patching, or restoration as established by permit.

“Emergency” means a condition that (1) poses a danger to life or health or of a significant loss of property; or (2) requires immediate repair or replacement of facilities 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.

“Facility or Facilities” means any tangible asset in the right-of-way required to provide Utility Service.

“High Density Corridor” means a designated portion of the public right of-way within which telecommunications right-of-way users having multiple and competing facilities may be required to build and install facilities in a common conduit system or other common structure.

“Hole” means an excavation in the pavement, with the excavation having a length less than the width of the pavement.

“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 section.

“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 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 permits. Management costs do not include payment by a telecommunications right-of-way User for the use of the right-of-way, the fees and cost of litigation

relating to the interpretation of 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 subsection 52.26 of this section.

“Obstruct” means to place any tangible object in a right-of-way so as to hinder free and open passage over that or any part of the right-of-way.

“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.

“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.

“Permit” has the meaning given “right-of-way permit” in Minnesota Statutes, section 237.162.

“Permit holder” means any person to whom a permit to excavate or obstruct a right-of-way has been granted by the city under this section.

“Registrant” means any person who (1) has or seeks to have its equipment or facilities located in any right-of-way means any person who (1) has or seeks to have its equipment or facilities located in any right-of-way, or (2) in any way occupies or uses, or seeks to occupy or use, the right-of-way or place its facilities or equipment in the right-of-way. Water pipes, sanitary sewer pipes and appurtenances thereto installed for the purpose of connection to the City water or sewer services are not required to be registered pursuant to this Section.

“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 that existed before excavation.

“Restoration Cost” means the amount of money paid to the city by a registrant to achieve the level of restoration according to plates 1 to 13 of Minnesota public Utilities Commission rules.

“ROW Excavation permit,” means the permit which, pursuant to this section, 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.

“ROW Excavation permit fee” means money paid to the city by an applicant to cover the costs as provided in Section 52.08.

“ROW Obstruction Permit” means the permit which, pursuant to this section, 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, for the duration specified therein.

“ROW Obstruction Permit Fee” means money paid to the city by a permit holder to cover the costs as provided in Section 52.08.

“Public Right-of-Way” means the area on, below, or above a public roadway, highway, street, cart way, bicycle lane and 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 with regard to cellular or other non-wire telecommunications or broadcast service.

“Right-of-Way Permit” means either the right-of-way excavation permit or the right-of-way obstruction permit, depending on the context, required by this section.

“Right-of-Way User” means (1) a telecommunications right-of-way user as defined by Minnesota Statutes, section 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 or Utility Service” includes (1) those services provided by a public utility as defined in Minn. Stat. 216B.02, subd. 4 and 6; (2) services of a telecommunications right-of-way user, including transporting of voice or data information; (3) services of a cable communications systems as defined in Minn. Stat. Chapter. 238; (4) natural gas or electric energy or telecommunications services provided by the city; (5) services provided by a cooperative electric association organized under Minn. Stat., Chapter 308A; and (6) water, sewer, steam, cooling or heating services.

“Supplementary Application” means an application made to excavate or obstruct more of the right-of-way than allowed in, or to extend, a permit that had already been issued.

“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. “Trench” means an excavation in the right-of-way, with the excavation having a length equal to or greater than the width of the pavement, includes all various forms of trenchless methods.

“Telecommunication right-of-way User” means a person owning or controlling a facility in the 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 transporting telecommunication or other voice or data information. For purposes of this section, a cable communication system defined and regulated under Minn. Stat. Chap. 238, and telecommunication activities related to providing natural gas or electric energy services whether provided by a public utility as defined in Minn. Stat. Sec. 216B.02, a municipality, a municipal gas or power agency organized under Minn. Stat. Chaps. 453A, or a cooperative electric association organized under Minn. Stat. Chap. 308A, are not telecommunications right-of-way users for purposes of this section.

Subsection 52.04. Administration. The director and city clerk are the principal city officials responsible for the administration of the rights of-way and right-of-way permits. The director may delegate any or all of the duties under this section.

Section 52.05. Permit Requirement.

Subd. 1. Permit Required. Except as otherwise provided in this code, no person may obstruct or excavate any right-of-way without first having obtained the appropriate right-of-way permit from the city to do so.

(a) ROW Excavation Permit. An excavation permit is required by a registrant to excavate any part of a right-of-way and to hinder free and open passage of the right-of-way. The permit will describe the right-of-way affected, the facilities used and expected duration of the excavation.

(b) ROW Obstruction Permit. An obstruction permit is required by a registrant to hinder the free and open passage of a right-of-way. The permit will describe the right-of-way, the equipment used, and the

extent and duration of the obstruction. An obstruction permit is not required if a person already possesses a valid excavation permit for the same project.

Subd. 2. Permit Extensions. No person may excavate or obstruct the right-of-way beyond the date or dates specified in the permit unless (i) the person makes a supplementary application for another right-of-way permit before the expiration of the initial permit, and (ii) a new permit or permit extension is granted.

Subd. 3. Delay Penalty. In accordance with Minnesota Rule 7819.1000 subd. 3 and notwithstanding subd. 2 of this Section, the city will establish and impose a delay penalty for unreasonable delays in right-of-way excavation, obstruction, patching, or restoration. The delay penalty will be established from time to time by city council resolution.

Subd. 4. Permit Display. Permits issued under this section will be conspicuously displayed or otherwise available at all times at the work site and will be available for inspection by the city.

Section 52.06. Permit Applications.

Application for a permit is made to the city. Right-of-way permit applications will contain, and will be considered complete only upon compliance with the requirements of the following provisions:

Subd. 2. 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 known existing and proposed facilities.

Subd. 3. Payment of money due the city for:

(a) permit fees, estimated restoration costs and other management costs

(b) prior obstructions or excavations

(c) 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

(d) franchise fees or other charges, if applicable.

Subd.4. Posting an additional or larger construction performance bond for additional facilities when applicant requests a right of way excavation permit to install additional facilities and the city deems the existing construction performance bond inadequate under applicable standards.

Section 52.07. Issuance of Permit; Conditions.

Subd. 1. Permit Issuance. If the Applicant has satisfied the requirements of this section, the city will issue a permit.

Subd. 2. Conditions. The city may impose reasonable conditions upon the issuance of the permit and upon the applicant's performance under the permit to protect the health, safety and welfare or when necessary to protect the right-of-way and its current use.

Section 52:08. Permit Fees.

Subd. 1. ROW Excavation Permit Fee. The City will establish a right of way excavation permit fee in an amount sufficient to recover the following costs:

- (a) the city management costs;
- (b) degradation costs, if applicable.

Subd. 2. ROW Obstruction Permit Fee. The City will establish the obstruction permit fee which will be in an amount sufficient to recover the city management costs.

Subd. 3. Payment of Permit Fees. No ROW excavation permit or ROW obstruction permit will be issued without payment of excavation or obstruction permit fees. The city may allow Applicant to pay such fees within thirty (30) days of billing.

Subd. 4. Non-Refundable. Permit fees that were paid for a permit that the city has revoked for a breach as stated in subsection 52.18 are not refundable.

Subd. 5. Application to Franchises. Unless otherwise agreed to in a franchise, management costs may be charged separately from and in addition to the franchise fees imposed on a right-of-way user in the franchise.

Subd. 6. Rates for Permit Fees. The rates for all right-of-way permit fees will be listed in the fee schedule

Section 52.09. 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 by this section, must be completed within the dates specified in the permit, increased by as many days as work could not be done because of circumstances beyond the control of the permit holder or when work was prohibited as unseasonal or unreasonable under Section 52.11.

Subd. 2. Patch and Restoration. Permit holder will patch its own work. The city may choose either to have the permit holder restore the right-of-way or to restore the right-of-way itself.

(a) City Restoration. If the city restores the right-of-way, the permit holder will pay the costs of restoration within 30 days of billing. If, following the Restoration, the pavement settles due to the permit holder's improper backfilling, the permit holder will pay to the city, all costs associated with correcting the defective work, within thirty (30) days of billing.

(b) Permit holder Restoration. If the permit holder restores the right-of-way itself, it will at the time of application for an Excavation permit post a construction performance bond in accordance with the provisions of Minnesota Rule 7819.3000.

(c) Degradation fee in Lieu of Restoration. In lieu of right-of-way restoration, a right-of way user may elect to pay a degradation fee. However, the right-of-way user will remain responsible for patching and the degradation fee will not include the cost to accomplish these responsibilities.

Subd. 3. Standards. The permit holder will perform excavation, backfilling, patching and restoration according to the standards and with the materials specified by the city and will comply with Minnesota Rule 7819.1100.

Subd. 4. Duty to Correct Defects. The permit holder will correct defects in patching, or restoration performed by permit holder or its agents. The permit holder upon notification from the city, will correct all restoration work to the extent necessary, the methods required by the city. The work will be completed within five calendar days of the receipt of the notice from the city, not including days during which work cannot be done because of circumstances constituting force majeure or days when work is prohibited as unseasonable or unreasonable.

Subd. 5. Failure to Restore. If the permit holder has elected to restore the right-of-way and fails to restore the right-of-way in the manner and to the condition required by the city, or fails to satisfactorily and timely complete all restoration required by the city, the city at its option may do the restoration work. In that event the permit holder will pay to the city the cost of restoring the right-of-way within 30 days of billing. If permit holder fails to pay as required, the city may exercise its rights under the construction performance bond.

Section 52.10. Joint Applications.

Subd. 1. Joint application.

Permit holders may jointly apply for permits to excavate or obstruct the right-of-way at the same place and time.

Subd. 2. Shared fees.

Registrants who apply for permits for the same obstruction or excavation, which the city does not perform, may share in the payment of the obstruction or excavation permit fee. In order to obtain a joint permit, registrants must agree among themselves as to the portion each will pay and indicate the same on their applications.

Subd. 3. With city projects.

Registrants who join in a scheduled obstruction or excavation performed by the city, whether or not it is a joint application by two or more registrants or a single application, are not required to pay the excavation or obstruction and degradation portions of the permit fee, but a permit would still be required.

Section 52.11. 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 permit holder may do any work outside the area specified in the permit, except as provided in this section. Any permit holder who determines that an area greater than that specified in the permit must be obstructed or excavated must before working in that greater area (i) make application for a permit extension, and (ii) pay any additional fees required, and (iii) 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 permit holder may begin its work before the permit start date or, except as provided by this section continue working after the end date. If a permit holder 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 submitted before the permit end date.

Section 52.12. Other Obligations.

Subd. 1. Compliance with Other Laws. Obtaining a right-of-way permit does not relieve permit holder 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 permit holder will comply with all requirements of local, state and federal laws, including Minn. Stat. Chapter 216D. (Gopher One Call Excavation Notice System). A permit holder will 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 city, 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 permit holder will not so obstruct a right-of-way that the natural, free and clear passage of water through the gutters or other waterways are interfered with. The private vehicles of those doing work in the right-of-way may not be parked within or next to the 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.

Section 52.13. Denial of Permit. The city may deny a permit for failure to meet the requirements and conditions of this section or if the city determines that the denial is necessary to protect the health, safety, and welfare or when necessary to protect the right-of-way and its current use.

Section 52.14. Inspection.

Subd. 1. Notice of Completion. When the work under a permit is completed, the permit holder will furnish a Completion Certificate in accordance Minnesota Rule 7819.1300.

Subd. 2. Site Inspection. The permit holder will make the work-site available to the city 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) At the time of inspection, the director may order the immediate cessation of any work which poses a serious threat to the life, health, safety or well-being of the public.

(b) The director may issue an order to the permit holder for any work that does not conform to the terms of the permit or other applicable standards, conditions, or codes. The order will 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 permit holder will 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.

Section 52.15. Work Done Without a Permit.

Subd. 1. Emergency Situations. Each permit holder will immediately notify the director of any event regarding its facilities that it considers to be an emergency. The permit holder may proceed to take whatever actions are necessary to respond to the emergency. Within two business days after the occurrence of the emergency the permit holder will apply for the necessary permits, pay the associated fees and fulfill the rest of the requirements necessary to bring itself into compliance with this section for the actions it took in response to the Emergency. If the city becomes aware of an emergency regarding a permit holder's facilities, the city will attempt to contact the local representative of each permit holder affected, or potentially affected, by the emergency. In any event, the city may take whatever action it deems necessary to respond to the emergency, the cost of which will be borne by the permit holder whose facilities occasioned the emergency.

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

Subsection 52.16. Supplementary Notification. If the obstruction or excavation of the right-of-way begins later or ends sooner than the date given on the permit, permit holder will notify the city of the accurate information as soon as this information is known.

Subsection 52.17. 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 material condition of the permit. A substantial breach by permit holder includes but will 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 permit holder's control; or
- (e) The failure to correct, in a timely manner, work that does not conform to a condition indicated on an order issued pursuant to Section 52.14.

Subd. 2. Written Notice of Breach. If the city determines that the permit holder has committed a substantial breach of a term or condition of any statute, ordinance, rule, regulation or any condition of the permit the city will make a written demand upon the permit holder to remedy such violation. The written notice will state that continued violations may be cause for revocation of the permit. A substantial breach, as stated above, will allow the city to place additional or revised conditions on the permit to mitigate and remedy the breach.

Subd. 3. Response to Notice of Breach. Within a time period established within a written notification of breach received from the city, the permit holder will provide the city with a plan acceptable to the director that will cure the breach. The permit holder's failure to contact the city, the permit holder's failure to timely submit an acceptable plan, or permit holder's failure to reasonably implement the approved plan, will be cause for immediate revocation of the permit.

Subd. 4. Reimbursement of city costs. If a permit is revoked, the permit holder will reimburse the city for the city's reasonable costs, including restoration costs, the costs of collection and reasonable attorneys' fees incurred in connection with the revocation.

Section 52.18. Mapping Data.

Subd. 1. Information Required. Each permit holder will provide mapping information required by the city in accordance with Minnesota Rules 7819.4000 and 7819.4100.

Section 52.19. Location and Relocation of Facilities.

Subd. 1. Placement, location, and relocation of facilities must comply with the Act, with other applicable law, and with Minnesota Rules 7819.3100, 7819.5000 and 7819.5100, to the extent the rules do not limit authority otherwise available to cities.

Subd. 2. Corridors. The city may assign a specific area within the right-of-way, or any particular segment of the right-of-way as may be necessary, for each type of facilities that is or, the city expects will someday be located within the right-of-way. All excavation, obstruction, or other permits issued by the city involving the installation or replacement of facilities will designate the proper corridor for the facilities at issue. Any permit holder who has facilities in the right-of-way in a position at variance with the corridors established by the city will, no later than the time of the next reconstruction or excavation of the area where the facilities are located, move the facilities to the assigned position within the right-of-way, unless this requirement is waived by the city 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 permit holder.

Subd. 3. Limitation of Space. To protect health, safety, and welfare or when necessary to protect the right-of-way and its current use, the city has the power to prohibit or limit the placement of new or additional facilities within the right-of-way. In making such decisions, the city will strive to the extent possible to accommodate all existing and potential users of the right-of-way, but will 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 facilities 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.

Section 52.20. Pre-excavation Facilities 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 will mark the horizontal and vertical placement of all said facilities. Any registrant whose facilities are less than 20 inches below a concrete or asphalt surface will notify and work closely with the excavation contractor to establish the exact location of its facilities and the best procedure for excavation.

Section 52.21. Damage to Other facilities. When the city does work in the right-of-way and finds it necessary to maintain, support, or move a registrant's facilities to protect it, the city will notify the local representative as early as is reasonably possible. Associated costs will be billed to that registrant and must be paid within 30 days from the date of billing. Each registrant is responsible for the cost of repairing any facilities in the right-of-way which it or its facilities damages. Each registrant is responsible for the cost of repairing any damage to the facilities of another registrant caused during the city's response to an Emergency occasioned by that registrant's facilities.

Section 52.22. Right-of-Way Vacation. Reservation of right. If the city vacates a right-of-way that contains the facilities of a registrant, the registrant's rights in the vacated right-of-way are governed by Minnesota Rules 7819.3200.

Section 52.23. Indemnification and Liability By accepting a permit under this section, a permit holder agrees to defend and indemnify the city in accordance with the provisions of Minnesota Rule 7819.1250.

Section 52.24. Abandoned and Unusable Facilities.

Subd. 1. Discontinued Operations. A registrant who has determined to discontinue all or a portion of its operations in the city must provide information satisfactory to the city that the registrant's obligations for its facilities in the right-of-way under this section have been lawfully assumed by another registrant.

Subd. 2. Removal. Any registrant who has abandoned facilities in any right-of-way will 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 city.

Section 52.25. Appeal. A right-of-way user that:

(1) has been denied a permit;

(2) has had a permit revoked; or

(3) 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 will 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 in writing and supported by written findings establishing the reasonableness of the decision.

Section 52.26. Severability. If any portion of this section is for any reason held invalid by any court of competent jurisdiction, such portion will be deemed a separate, distinct, and independent provision and such holding will not affect the validity of the remaining portions. Nothing in this section precludes the city from requiring a franchise agreement with the applicant, as allowed by law, in addition to requirements set forth in this section.

This Ordinance shall be in full force and effect from and after its passage and publication as provided by law.

This Ordinance was adopted this 10th day of August, 2023.

Christopher Rowan, Mayor

ATTEST: (SEAL)

Debra Kramer, City Clerk