

CHAPTER 7

STREETS AND PUBLIC PLACES

RIGHT-OF-WAY-REGULATION

7.101 Election: The city hereby elects pursuant to this section to manage rights-of-way within its jurisdiction.

7.102 Definitions: The definitions in Minn. Stat. §237.162, Minnesota Rules 7819.0100 subps. 1- 23, and Minnesota Rules 7560.0100 subps. 1-12 are hereby adopted by reference and incorporated into this ordinance.

7.103 Permit Requirements: Except as otherwise provided, no person may obstruct or excavate any right-of-way without first having obtained a permit from the city.

- (1) *Excavation Permit*. An excavation permit is required to excavate any part of a right-of-way and which may hinder free and open passage over a specified portion of the right-of-way to the extent and for the duration specified in the permit.
- (2) *Permit Extensions*. No person may excavate or obstruct the right-of-way beyond the date specified in the permit unless such person: (i) makes a supplementary application for another right-of-way permit before the expiration of the initial permit, and (ii) a permit extension is granted.
- (3) *Delay Penalty*. In accordance with Minnesota Rule 7819.1000 subp. 3, and notwithstanding subd. 3 of this section, the city shall establish and impose, by appropriate resolution, a delay penalty for unreasonable delays in right-of-way excavation, obstruction, patching, or restoration.
- (4) Permits issued under this chapter shall be available at all times at the indicated work site and available for inspection.

7.104 Permit Applications; An application for a permit shall contain, and will be considered complete, only upon compliance with the requirements of subdivisions 1 and 2 as follows:

- (1) Submission of a completed permit application form, including all required attachments, scaled drawings showing the location and area of the proposed project, and the location of all known existing and proposed facilities, and the following information:
 - a. Each permittee's name, Gopher One-Call registration certificate

number, address and e-mail address, if applicable, and telephone and facsimile numbers. Current information regarding how to contact the local representative in an emergency shall be provided at the time of registration.

- b. A certificate of insurance verifying that an insurance policy has been issued to the permittee by an insurance company licensed to do business in the State of Minnesota, which includes the following terms:
 - 1. The permittee 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 permittee, its officers, agents, employees and permittees, and (ii) placement and use of facilities and equipment in the right-of-way by the permittee, its officers, agents, employees and permittees, including, but not limited to, protection against liability arising from completed operations, damage of underground facilities and collapse of property;
 - 2. Naming the city as an additional insured;
 - 3. Requiring that the city be notified promptly as cancellation of the policy or material modification of the coverage term; and
 - 4. Indicating comprehensive liability coverage, automobile liability coverage, workers compensation and umbrella coverage as may be required by the city in amounts sufficient to protect the city and the public.
- c. If the person is a corporation, a copy of the certificate required to be filed under Minn. Stat. §300.06 as recorded and certified to by the Secretary of State.
- d. A copy of the person's order granting a certificate of authority from the Minnesota Public Utilities Commission or other applicable state or federal agency, where the person is lawfully required to have such certificate.

- (2) Payment of money due the city for permit fees, estimated restoration costs and other management costs; prior obstructions or excavations; any undisputed loss, damage, or expense suffered by the city because of

applicant's prior excavations or obstructions of the right-of-way or any emergency actions taken by the city; and, applicable franchise fees or other charges.

7.105 Issuance of Permit. If the applicant has satisfied the requirements of this ordinance, the city shall issue a permit.

- (1) *Conditions.* The city may impose reasonable conditions upon the issuance of the permit and the performance of the applicant to protect the health, safety and welfare of persons or property, or when necessary to protect the right-of-way and its current use. A permittee shall comply with all requirements of local, state, and federal laws.
- (2) *Trenchless Excavation.* Permittees employing trenchless excavation methods, such as Horizontal Directional Drilling, shall follow all requirements set forth in Minn. Stat. Chapter 216D and Minnesota Rules Chapter 7560, and shall require potholing or open cutting over existing underground utilities before excavating as may be determined by the City.

7.106 Permit Fees. The city shall establish by appropriate resolution a permit fee in an amount sufficient to recover city management costs and degradation costs, if applicable.

- (1) Permit fees paid for a permit that the city has revoked are not refundable.
- (2) Unless otherwise agreed to, management costs may be charged separately from and in addition to the franchise fees imposed on a right-of-way user in the franchise.

7.107 Right-of-Way Restoration.

- (1) *Time:* All work to be done under the excavation permit, including restoration of the right-of-way, 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 permittee or when work was prohibited as unseasonable or unreasonable.
- (2) *Patching and Restoration.* The city may choose either to have the permittee restore the right-of-way or to restore the right-of-way itself.
 - a. If the city restores the right-of-way, permittee shall pay the costs thereof within thirty (30) days of billing. If 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, all costs associated with having to correct the

defective work.

b. If the permittee restores the right-of-way itself, it may be required by city to post a construction performance bond in accordance.

- (3) *Standards.* The permittee shall perform patching and restoration according to the standards and with the materials specified by the city and shall comply with Minnesota Rule 7819.1100.
- (4) *Duty to correct defects.* The permittee shall correct defects in patching or restoration performed by permittee or its agents. Upon notification from the city, permittee shall correct all defective restoration work consistent with the terms stated by city. Work shall be completed within five (5) calendar days of the receipt of the notice, 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.
- (5) *Failure to Restore.* If permittee fails to restore the right-of-way in the manner and to the condition required by city, or fails to satisfactorily and timely complete all restoration, the city at its option may do such work. In that event, 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.

7.108 Supplementary Applications.

- (1) *Area.* A right-of-way permit is valid only for the area specified in the permit. No permittee may do any work outside the specified area. Any permittee which determines that an area greater than that specified in the permit must be obstructed or excavated must before working in the greater area (i) make application for a permit extension and pay any additional fees, and (ii) be granted a new permit or permit extension.
- (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 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 submitted before the permit end date. 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 city of the accurate information as soon as this information is known.

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

7.110 Installation Requirements: The 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 other applicable local requirements, in so far as they are not inconsistent with the Minn. Stat. §237.162 and 237.163.

7.111 Inspection.

- (1) When the work under any permit is completed, the permittee shall furnish a completion certificate in accordance Minnesota Rules 7819.1300.
- (2) Permittee shall make the work-site available to city personnel and to all others as authorized by law for inspection at all reasonable times.
- (3) The city may order the immediate cessation of any work which poses a serious threat to the life, health, safety, or well-being of the public. The city may issue an order to the permittee 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 permittee shall present proof to the city that the violation has been corrected. If such proof has not been presented within the required time, the city may revoke the permit consistent with this ordinance.

7.112 No Permit Work.

- (1) *Emergency.* Each person with facilities in the right-of-way shall immediately notify the city of any event considered an emergency. The owner of the facilities may proceed to take whatever actions are necessary to respond to the emergency. Within two business days after the occurrence of the emergency, the owner shall apply for the necessary permits, pay the required fees, and fulfill the rest of the requirements necessary to bring itself into compliance.

If the city becomes aware of an emergency regarding facilities, the city will attempt to contact the local representative of each facility owner 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 shall be borne by the person whose facilities occasioned

the emergency.

- (2) *Non-Emergency.* Except in an emergency, any person who, without having the appropriate permit, obstructs or excavates a right-of-way must subsequently obtain a permit, and as a penalty pay double the normal fee for said permit, pay double all the other fees required by this ordinance, 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 ordinance.

7.113 Revocation of Permits: The city reserves the right to revoke any right-of-way permit 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 permittee shall include, but shall not be limited to, the following:

- (1) The violation of any material provision of the right-of-way permit;
- (2) An evasion or attempt to evade any material provision of the right-of-way permit;
- (3) Any material misrepresentation of fact in the application for a right-of-way permit;
- (4) 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
- (5) The failure to correct, in a timely manner, non-conforming work as duly noticed by the city.

Written Notice. The city shall make a written demand upon the permittee to remedy any violation. The demand shall state that continued violations might be cause for revocation of the permit. A substantial breach will allow the city, at its discretion, to place additional or revised conditions on the permit to mitigate and/or remedy the breach.

Response. Within two days of receiving notification of the breach, permittee shall provide the city with a plan, acceptable to the city, which will cure the breach. Permittee's failure to so contact the city, 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.

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

7.114 Mapping Data.

- (1) Each permittee shall provide mapping information required by the city in accordance with Minnesota Rules 7819.4000 and 7819.4100.
- (2) 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 city reasonably requires it. Permittees or their subcontractors shall submit to the city evidence of the installed service lateral locations. Compliance with this subdivision and 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 (i) payments to contractors working on a public improvement project, and (ii) City approval of performance under development agreements, or other subdivision or site plan approval under Minnesota Statutes, Chapter 462. The city shall reasonably determine the appropriate method of providing such information. 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 for future permits to the offending permittee or its subcontractors.

7.115 Location of Facilities: Placement, location, and relocation of facilities must comply with all appropriate law including Minnesota Rules 7819.3100, 7819.5000 and 7819.5100, to the extent the rules do not limit authority otherwise available to cities.

- (1) The city may assign specific corridors within the right-of-way, or any particular segment thereof, for each type of facility 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 shall designate the proper corridor for the facilities at issue.
- (2) To protect health, safety, and welfare of person or property or when necessary to protect the right-of-way and its current use, the city shall have the power to prohibit a facility within the right-of-way. The city shall attempt to accommodate all existing and potential users of the right-of-way. The city shall be guided primarily by considerations of the public interest, the public's need 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.

7.116 Damage to Other Facilities: When the city finds it necessary to maintain, support,

or move facilities within the right-of-way to protect the facility, the city shall promptly notify owner. The costs associated therewith will be billed to that facility owner and must be paid within thirty (30) days from the date of billing. Each facility owner shall be responsible for the cost or repairing of any facilities in the right-of-way which it or its facilities damages. Each facility owner shall be responsible for the cost of repairing any damage to the facilities of another caused during the city's response to an emergency occasioned by that owner's facilities.

7.117 Right-of Way Vacation: If the city vacates a right-of-way that contains facilities, the facility owner's rights in the vacated right-of-way are governed by Minnesota Rules 7819.3200.

7.118 Indemnification and Liability: By applying for and accepting a permit under this chapter, a permittee agrees to defend and indemnify the city in accordance with the provisions of Minnesota Rules 7819.1250.

7.119 Abandoned Facilities: Any person who has abandoned facilities in any right-of-way shall remove them from that right-of-way if required in conjunction with right-of-way repair, excavation, or construction, unless the city waives this requirement.

7.120 Appeal: A right-of-way user that: (i) has been denied a permit; (ii) has had a permit revoked; (iii) believes that the fees imposed are invalid; or (iv) disputes a determination of the city, may have the denial, revocation, fee imposition, or decision reviewed upon written request by the City council. The city council shall act in 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.

7.121 Reservation of Regulatory and Police Powers: A permittee's rights are subject to the regulatory and police powers of the city to adopt and enforce general ordinance necessary to protect the health, safety and welfare of the public.

SNOW REMOVAL ON SIDEWALKS

7.201 Obligation of Snow Removal. The owner of any property abutting any municipal or public sidewalk in the City of Long Prairie shall have the obligation of all maintenance, repair, ice and snow removal; removal of debris, branches, litter; and elimination of any other obstruction, accumulation of material, or dangerous condition whatsoever. No such owner shall allow ice, snow, debris, branches, or litter to remain on the sidewalk for more than 24 hours after the fall or accumulation thereof.

7.202 Costs for Removal. The City Administrator/Clerk may cause to be removed any ice, snow, debris, branches, or litter remaining after the time allowed under section 7.201 has elapsed. The City Administrator/Clerk shall keep a record of all costs for removal of such matter

as prescribed above which costs shall be paid by the owner or occupant of the property adjacent to the sidewalk.

7.203 Liability. That any property damage or personal injury which is caused by any condition upon any municipal or public sidewalk within the City of Long Prairie which is declared to be a negligent, hazardous or dangerous, entitling any person, firm, corporation, or entity to damages, shall be the sole responsibility and liability of the adjacent owner of the property charged in Section 7.201 of this ordinance for the duties therein imposed; which owner shall further have the obligation of indemnifying the City of Long Prairie for any such damages which the City of Long Prairie is required to pay.

7.204 Repairs by City. In the event the city determines that public sidewalks within the city are unsafe, it shall cause a notice to be served by certified mail or personal service upon the owner of the property and the occupant, if the owner does not reside within the city or cannot be found therein, ordering such owner to have the sidewalk repaired and made safe within thirty (30) days, and stating that if the owner fails to do so, the city shall do so and that the expenses thereof must be paid by the owner and that if unpaid, it will be made a special assessment against the property concerned. If the sidewalk is not repaired within thirty (30) days after receipt of the notice, the City Administrator/Clerk shall report the facts to the council and the council shall order to repair the sidewalk and make it safe.

7.205 Costs to be Assessed. Prior to September 1 of each year, the City Administrator/Clerk shall report to the council a list of all unpaid charges for removal of snow, ice, debris, litter, branches or sidewalk repairs as specified under sections 7.201 to 7.204. The council may extend as a special assessment against the property those costs and shall submit the list to the county auditor to be certified for collection with other special taxes and assessments in the manner required by law.

7.206 Penalty. Any person interfering with a city employee in the performance of duties prescribed under sections 7.201 to 7.204 shall be guilty of a misdemeanor.

SNOW EMERGENCY

7.210. Definitions. For the purposes of sections 7.210 to 7.213, the following terms shall have the meanings given them:

- (1) "Due Notice to the Public" shall mean 12 hours notice given to the public by all media available to announce or publish the notice.
- (2) "Snow Emergency" means a period after a snow fall during which intensive unobstructed snow removal shall be necessary to clean the streets.

(Ordinance 158, 1/16/67)

7.211. Declaration of "Snow Emergency". If, in the judgment of the street superintendent, intensive unobstructed snow removal is necessary, the City Administrator/Clerk shall declare a snow emergency and give due notice to the public that the parking of motor vehicles on certain streets shall be prohibited at the times specified in the public notice.
(Ordinance 158, 1/16/67)

7.212. Parking of Vehicles. No person shall park a motor vehicle on any street on which parking has been prohibited for a snow emergency and due notice to the public of the prohibition has been given.
(Ordinance 158, 1/16/67)

7.213. Violating Vehicle. Any motor vehicle parked in violation of section 7.212 may be removed by the city without notice to the owner or operator, and the cost of removal and storage of any vehicle removed under this section shall be assessed against the owner of or operator of the vehicle. These costs shall be a lien against the vehicle.
(Ordinance 158, 1/16/67)

7.214. Penalty. Any person violating any provision of sections 7.210 to 7.213, and any person interfering with a city employee in the performance of duties under sections 7.210 to 7.213 shall be guilty of a misdemeanor.
(Ordinance 158, 1/16/67)

NUMBERING OF HOUSES AND BUILDINGS

7.301. Definitions. For the purposes of sections 7.301 to 7.305, the following terms shall have the meanings given them.

- (1) "Streets" means all thoroughfares within the city running in a north-south direction; alleys are excluded from this definition.
- (2) "Avenues" means all thoroughfares within the city running in an east-west direction; alleys are excluded from this definition.
(Ordinance 135, section 3, 2/18/52)

7.302. Display of Number Required. The house or building number assigned by the City Administrator/Clerk shall be painted on or affixed to the house or building to which the number has been assigned within 30 days after assignment or completion of construction whichever occurs first.

- (1) The numbers shall be clearly visible from the adjacent street.

- (2) All figures used for displaying the number shall be perfectly formed, neat, legible, and permanent.

7.303. Assignment of New Numbers. The City Administrator/Clerk shall assign house or building numbers in the following manner:

- (1) On all streets running north from Central Avenue, the properties shall be allotted numbers beginning with the lowest number nearest Central Avenue, and in units of one hundred numbers to the block, in a regular ascending order, as the street progresses northerly. The properties fronting upon the westerly side of any avenue or street shall be given an odd number, and the properties fronting upon the easterly side of any avenue or street shall be given even numbers, with the due regard being taken for any vacant lots fronting on any such street. The hundred digit (and, in the event it becomes necessary, the thousand digit) in any house number assigned shall correspond with the number of avenue intersecting the street on which the property is located, immediately south of said property, except in case of properties located in those blocks immediately north of the said Central Avenue, where numbers from one to ninety-nine shall be assigned.
- (2) On all streets running south from Central Avenue, the properties shall be assigned numbers beginning with the lowest number nearest Central Avenue, and in units of one hundred numbers to the block, in a regular ascending order, as the street progresses southerly. The properties fronting upon the westerly side of the street shall be given an odd number and the properties fronting upon the easterly side of any street shall be given an even number, with due regard being taken for any vacant lots fronting on any such street. The hundred digit (and in the event it becomes necessary, the thousand digit) in any number assigned shall correspond with the number of the avenue intersecting the street on which the property is located, immediately, except in the case of properties located in those blocks immediately south of said Central Avenue, where numbers from one to ninety-nine shall be assigned.
- (3) On all avenues running east from Lake Street, the properties shall be assigned numbers beginning with the lowest number nearest Lake Street, and in units of one hundred numbers per block, in a regular ascending order as the Avenue progresses easterly. The properties fronting upon the south side of the avenue shall be given an odd number and the properties fronting upon the north side of the avenue shall be given an even number, with due regard being taken for any vacant lots fronting on any such avenue. The hundred digit (and in the event it becomes necessary, the thousand digit) in any number so assigned shall correspond with the

number of the street intersecting the avenue on which the property is located, immediately west of said property, except in the case of properties located in those blocks immediately east of Lake Street, where numbers from one to ninety-nine shall be assigned.

- (4) On all avenues running westerly from Lake Street, the properties shall be assigned numbers beginning with the lowest numbers nearest Lake Street, and in units of one hundred numbers per block, in a regular ascending order as the avenue progresses westerly. The properties fronting upon the south side of the avenue shall be given an odd number and the properties fronting upon the north side of the avenue shall be given an even number, with due regard being taken for any vacant lots fronting on any such avenue. The hundred digit (and in the event it becomes necessary, the thousand digit) in any number so assigned shall correspond with the number of the street intersecting the avenue on which the property is located immediately east of said property, except in the case of properties located in those blocks immediately west of said Lake Street, where numbers from one to ninety-nine shall be assigned.
(Ordinance 135, section 4, 2/18/52)

7.304. Procedure For Assignment. The City Administrator/Clerk shall follow the procedures outlined below when assigning house or building numbers:

- (1) When property is annexed into the city, the City Administrator/Clerk shall immediately assign numbers to all houses and building and shall send notice to all owners of property within the annexation that numbers have been assigned.
(Ordinance 135, section 5, 2/18/52)

7.305. Penalty. Any person violating any provision of sections 7.301 to 7.304 or any person affixing or displaying upon any house or building any numbers other than those assigned it shall be guilty of a misdemeanor.
(Ordinance 135, 2/18/52)

PLANTING OF TREES IN BOULEVARDS

7.401. Property Owners May Plant Trees. The owner of any property abutting any street may plant or cause to be planted trees between the sidewalk line and curb line of that street in conformance with such tree planting plan as may be approved by the council.
(Ordinance 9, section 1, 2/1/04)

7.402. Property Owners to Maintain Trees. The owner of any property abutting any street in which trees have been planted adjacent to that property between the sidewalk line and

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the curb line shall trim and maintain those trees in such a manner that allows free use of the streets and sidewalks by the public.

(Ordinance 9, section 3, 2/1/04)

7.403. Damaging of Trees. No person shall in any manner injure or damage any tree planted as prescribed in sections 7.401 and 7.402.

(Ordinance 9, section 2, 2/1/04)

7.404. Penalty. Any person violating any provision of section 7.401 to 7.403 shall be guilty of a misdemeanor. (Ordinance 9, section 4, 2/1/04)