

**Chapter 8. Streets and Sidewalks**

**Section 800 - Driveway/Sidewalks**

**800.01 Approval Required.** No new or existing driveway approach, public sidewalk or ramp shall be repaired or installed by any person without written approval by the Public Works Director or his or her designee.

(Am. Ord. 2004-11, passed 12-14-04)

**800.02 Application Forms.** Application for sidewalk repair or installation approval shall be made on forms furnished by the City.

**800.03 Approval Expiration.** Approval shall expire for work not started within thirty (30) days or completed within sixty (60) days after issuance of a permit, and a new permit shall be required before beginning or completing the work.

**800.04 Construction Standards.** Driveway approaches and sidewalks shall be installed and repaired in accordance with details and specifications as established by the City Council. Standard detail plates may be obtained through the City prior to construction. All sidewalks shall be installed 1 foot off of property pin to curb side. The sidewalk shall be installed at a 2% grade to street side. Grade from street side edge of sidewalk to top of back of curb shall be a minimum of 3% and a maximum of 8%. Any variation to requirements must be approved by the Public Works Director.

(Am. Ord. 2004-11, passed 12-14-04)

**800.05 Inspection.** No work shall start until all proper applications have been filled out and approved by the Public Works Director or his or her designee. Inspections required are rough grading, base, form sets, grades, backfilling and final quality product inspection before the City will accept the driveway approach and sidewalk. Inspections require a 24 hour notice. Failure to perform shall require the removal and installation to City standards.

(Am. Ord. 2004-11, passed 12-14-04)

**800.06 Warranty.** The contractor shall guarantee all work relating to the specifications for a period of at least 2 years from the date of written acceptance of the work or project. The contractor shall make all needed repairs arising out of defective workmanship or materials that, in the judgment of the City, become necessary during such period.

(Am. Ord. 2004-11, passed 12-14-04)

**800.07 Repair of Sidewalks.** All owners of agents of owners with property abutting and fronting upon a street or alley within the corporate limits of the City shall be required to keep the public sidewalks immediately abutting their property in good order and repair. The City may, at its discretion, through the City engineer or the Clerk-Administrator notify the owners that repairs are necessary to put the sidewalk in good order and the owner shall within sixty (60) days after the

notification, under the supervision of the City engineer, complete the repairs as specified in the notice. If the person fails to make the required repairs, the City may repair the same and the owner shall be liable to the City for the cost of the repairs and the expense thereof shall be paid by the owner and if unpaid, it shall be made a special assessment against the abutting property. A permit shall be required to make repairs pursuant to this Section; however, there shall be no charge for the a permit.

**800.08 Assessment.** On or before the 30th day of November of each year, the Clerk-Administrator shall list the total unpaid charges for work performed on sidewalks abutting each separate lot or parcel to which they shall be attributable under Section. The Council may then spread the charges against the property benefited as a special assessment under Minn. Stat. § 429.101 and other applicable statutes, for certification to the County Auditor and collection the following year along with current taxes.

**800.09 Penalty.** Any construction carried on contrary to the provisions of Section shall be a misdemeanor. Any person convicted of violating the requirements of Section shall be punished by a fine or by imprisonment, or both, not to exceed the maximum penalty authorized by State law for a misdemeanor.

### Section 820 - Streets

**820.01 Permit Required.** No person shall make any excavation in any street without first receiving a permit to do so from the Clerk-Administrator.

**820.02 Permit Application.** An application for a permit required by this Section shall be made on forms provided by the City to the Clerk-Administrator.

**820.03 Permit Agreement.** Every applicant for a permit shall sign an agreement in substantially the following terms:

In consideration of the granting of the excavation permit, the applicant shall agree: (1) to do the work as directed by the street superintendent and to provide at least 24 hours notice prior to the beginning of work and, or requiring the shutting off of water service so as to cause the least possible inconvenience to the public; (2) to guard any open excavation with substantial railings constructed and placed so as to bar all entrance to the excavation, and at night to show the limits of the railings and excavation by warning lights; and also to mark the limits of piles of material by the lights; (3) to refill the excavation as soon as possible, and replace paving, sidewalks, and all appurtenances in at least as good condition as before the excavation; and in refilling to lay the earth in layers not over six inches deep and to compact each layer thoroughly. If within one year after the refilling, the street superintendent shall find any defects caused by improper excavation or improper refilling, to remedy the defects on receipt of notice. If the person doing the excavation work shall fail to remedy any defects after

receiving notice from the street superintendent, the municipality may cause the work to be done at the contractors expense; (4) to remove at once all rubbish and surplus earth; (5) to indemnify and hold the municipality harmless from all damages or claims arising out of the excavation work or accidents caused or claimed by the injured party to have been caused by the excavation or by the failure to do the work or guard it properly.



**820.04 Performance Bond.** Each applicant shall file a performance bond in the amount set in the fee schedule adopted from time to time by the Council with the Clerk-Administrator to assure compliance with the provisions of this Section. The Clerk-Administrator upon notification by the street superintendent of satisfactory compliance with the provisions of this Section shall return the performance bond to the applicant after the one year waiting period. In lieu of the performance bond required under this Subsection, an applicant may provide proof of an annual construction bond in an amount sufficient to satisfy the intent of this Subsection.

### Section 830 - Right-of-Way

**830.01 Election to Manage the Public Right-of-Way.** In accordance with the authority granted to the City under state and federal statutory, administrative and common law, the City hereby elects pursuant to this Chapter to manage rights-of-ways within its jurisdiction.  
(Ord. 2003-8, passed 4-8-03)

**830.02 Definitions.** The definitions included in Minn. Stat. § 237.162 and Minnesota Rules 7819.0100 subs. 1 through 23 are hereby adopted by reference and are incorporated into this Chapter as if set out in full.  
(Ord. 2003-8, passed 4-8-03)

**830.03 Administration.** The City Administrator's Office is the principal City office responsible for the administration of rights-of-way, right-of-way permits and the ordinances relating thereto. The City Administrator may delegate any or all of the duties hereunder.  
(Ord. 2003-8, passed 4-8-03)

#### **830.04 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 or on the right-of-way, including persons with installation and maintenance responsibilities by lease, sublease or assignment, must register with the City. Registration will consist of providing application information and paying a registration fee. The registration fee shall be established from time to time by City Council resolution.

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

**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 Minn. Stat. Chapter 216D, Gopher One-Call Law.

Additionally, nothing herein relieves a person from complying with Section 600.03 and City planting policies. The City may remove plantings from the right-of-way without replacing same. (Ord. 2003-8, passed 4-8-03)

### **830.05 Registration Information.**

**Subd. 1 Information Required.** This information provided to the City 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) 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 a form of self insurance acceptable to the City;
  - (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 facilities and 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 facilities 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 City be notified thirty (30) days in advance of cancellation of the policy or material modification of a coverage term;

(5) Indicating comprehensive liability coverage, automobile liability coverage, workers compensation and umbrella coverage established by the City in amounts sufficient to protect the City and the public and to carry out the purpose and policies of this Chapter.

(d) The City may require a copy of the actual insurance policies.

(e) If a person is a corporation, a copy of the certificate required to be filed under Minn Stat. § 300.06 as recorded and certified to the Secretary of State.

(f) 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 a certificate from said commission or other state or federal agency.

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

(Ord. 2003-8, passed 4-8-03)

**830.06 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 underground facilities with the City. Such plan shall be submitted using a format designated by the City and shall contain the information determined by the City 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 of each year the City will have available for inspection in the City’s office a composite list of all projects of which the City has been informed of 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 City and all other registrants of 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 City 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.

(Ord. 2003-8, passed 4-8-03)

### **830.07 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 permit from the City.

(a) **Excavation Permit.** An excavation permit is required 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 facilities described therein, to the extent and for the duration specified therein. An excavation permit shall be required for the installation of all equipment in any portion of the public rights-of-way including, but not limited to, the installation of poles, vaults, transformers and down guys.

(b) **Obstruction Permit.** An obstruction permit is required to hinder free and open passage over the specified portion of the right-of-way by placing equipment described therein on the right-of-way, to the extent and for the duration specified therein.

**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 (i) 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 subp. 3 and notwithstanding subd. 2 of this section, City shall establish and impose a delay penalty for unreasonable delays in right-of-way excavation, obstruction, patching, or restoration. The delay penalty shall be established from time to time by City Council resolution.

**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.

(Ord. 2003-8, passed 4-8-03)

**830.08 Permit Applications.** Application for a permit shall contain and will be considered complete only upon compliance with the requirements of the following provisions:



(a) 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:

(1) Each permittee's name, Gopher One-Call registration certificate number, address and e-mail address if applicable, and telephone and facsimile numbers;

(2) 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;

(3) A certificate of insurance or self-insurance:

(A) Verifying that an insurance policy has been issued to the permittee by an insurance company licensed to do business in the State of Minnesota, or a form of self insurance acceptable to the director;

(B) Verifying that the permittee is insured against all 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;

(C) 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:

(D) Requiring that the director be notified thirty (30) days in advance of cancellation of the policy or material modification of a coverage term;

(E) Indicating comprehensive liability coverage, automobile liability coverage, workers compensation and umbrella coverage established by the director in amounts sufficient to protect the City and the public and to carry out the purposes and policies of this Chapter.

(4) The City may require a copy of the actual insurance policies.

(5) If a 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.

(6) 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 from said commission or other state or federal agency.

(b) Payment of money due the City for:

(1) Permit fees, estimated restoration costs and other management cost;

(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 an emergency actions taken by the City;

(4) Franchise fees or other charges, if applicable.

(Ord. 2003-8, passed 4-8-03)

**830.09 Issuance of Permit; Conditions.**

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

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

(Ord. 2003-8, passed 4-8-03)

**830.10 Permit Fees.**

**Subd. 1 Excavation Permit.** The City shall, from time to time, by resolution establish the Excavation Permit Fee 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 City shall from time to time by resolution establish the Obstruction Permit Fee and shall be in an amount sufficient ten recover the City management costs.

**Subd. 3 Payment of Permit Fees.** No excavation permit or obstruction permit shall 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 Section 830.17 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** All permit fees shall be established consistent with the provisions of Minnesota Rule 781 9.100.

(Ord. 2003-8, passed 4-8-03)

### **830.11 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 circumstances beyond the control of the permittee or when work was prohibited as unseasonable or unreasonable.

**Subd. 2 Patch and Restoration.** Permittee shall patch 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. 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 permittees 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) Permittee Restoration. If the permittee restores the right-of-way itself, it shall at the time of application for an excavation permit post a construction performance bond in accordance with the provisions of Minnesota Rules 7810.3000.

(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 shall remain responsible for patching and the degradation fee shall not include the cost to accomplish these responsibilities.

**Subd. 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.

**Subd. 4 Duty to Correct Defects.** The permittee shall correct defects in patching, or restoration performed by permittee or its agents. Permittee upon notification from the City shall correct all restoration work to the extent necessary, using the method required by the City. Said work shall be completed within five (5) 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 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.

(Ord. 2003-8, passed 4-8-03)

### **830.12 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 specified in the permit must be obstructed or excavated must before working in that greater area (i) make application for a permit extension and pay any additional fees required thereby, and (ii) be granted 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 doesn't 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 pervious permit. This supplementary application must be submitted before the permit end date.

(Ord. 2003-8, passed 4-8-03)

**830.13 Denial of Permit.** The City may deny a permit for failure to meet the requirements and conditions of this Chapter 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.

(Ord. 2003-8, passed 4-8-03)

**830.14 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 consistent with the Minn. Stat. §§ 237.152 and 237.163.

(Ord. 2003-8, passed 4-8-03)

### **830.15 Inspection.**

**Subd. 1 Notice of Completion.** When the work under any permit hereunder is completed, the permittee shall furnish a Completion Certificate in accordance with Minnesota Rules 7819.1300.

**Subd. 2 Site Inspection.** Permittee shall make the work-site available to City personnel 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 or Designee.**

(a) At the time of inspection 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.

(b) The City may, at any time, order the immediate cessation of any work which violates OSHA standards and regulations.

(c) The City may order the immediate cessation of any work which violates the Minnesota Department of Transportation Temporary Traffic Control Lay Out Field Manual.

(d) The City may issue an order to the permittee for any work which 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 director may revoke the permit pursuant to Section 830.17.

(Ord. 2003-8, passed 4-8-03)

**830.16 Work Done Without a Permit.**

**Subd. 1 Emergency Situations.** Each person with facilities in the right-of-way shall immediately notify the City of any event regarding its facilities which it considers to be 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 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 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.

**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 said permit, pay double all the other fees required by this 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 Chapter.

(Ord. 2003-8, passed 4-8-03)

**830.17 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.

(Ord. 2003-8, passed 4-8-03)

**830.18 Revocation Permits.**

**Subd. 1 Substantial Breach.** The City reserves its right, as provided herein, to revoke any right-of-way permit, without a fee refund, 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:

- (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, work that does not conform to a condition indicated on an order issued pursuant to Sec. 830.14.

**Subd. 2 Written Notice of Breach.** If the City 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 City 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. A substantial breach, as stated above, will allow the City, at its direction, to place additional or revised conditions on the permit to mitigate and remedy the breach.

**Subd. 3 Response to Notice of Breach.** Within twenty-four (24) hours of receiving notification of the breach, permittee shall provide the City with a plan, acceptable to the City, that will cure the breach. Permittee's failure to so contact the City, or the permittees failure to submit an acceptable plan, or permittees failure to reasonably implement the approved plan, shall because for immediate revocation of the permit.

**Subd. 4 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.

(Ord. 2003-8, passed 4-8-03)

### **830.19 Mapping Data.**

**Subd. 1 Information Required.** Each permittee shall provide mapping information required by the City in accordance with Minnesota Rules 7819.4000 and 7819.4100.

(Ord. 2003-8, passed 4-8-03)

### **830.20 Location of Facilities.**

**Subd. 1** Placement, location, and relocation of facilities must comply with the act, with other applicable law, and with Minnesota Rules 7819.3000, 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 specific corridors within the right-of-way, or any particular segment thereof as may be necessary, for each type of facilities that is or pursuant to current technology, 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.

**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 director shall have the power to prohibit or 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 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.

(Ord. 2003-8, passed 4-8-03)

**830.21 Damage to Other Facilities.** When the City does work in the right-of-way and finds it necessary to maintain, support, or move facilities to protect it, the director shall notify the local representative as early as is reasonably possible and placed as required. 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 of repairing 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.

(Ord. 2003-8, passed 4-8-03)

### **830.22 Right-of-Way Vacation.**

**Subd. 1 Reservation of right.** If the City vacates a right-of-way which contains facilities, the facility owner's rights in the vacated right-of-way are governed by Minnesota Rules 7819.3200.

(Ord. 2003-8, passed 4-8-03)

**830.23 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 Rule 7819.1250.

(Ord. 2003-8, passed 4-8-03)

### **830.24 Abandoned Facilities.**

**Subd. 1 Removal of 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 other right-of-way repair, excavation, or construction, unless the director waives this requirement.

(Ord. 2003-8, passed 4-8-03)

**830.25 Appeal.** A right-of-way user that: (1) has been denied registration; (2) has been denied a permit; (3) has had permit revoked; or (4) 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 in writing and supported by written findings establishing the reasonableness of the decision.

(Ord. 2003-8, passed 4-8-03)

**830.26 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 ordinances necessary to protect the health, safety and welfare of the public.

(Ord. 2003-8, passed 4-8-03)



