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MEMORANDUM

TO: HONORABLE MAYOR AND CITY COUNCIL
CC: JOSHUA M. TETZLAFF, CITY ADMINISTRATOR
FROM: KEN ONDICH, PLANNING / COMMUNITY DEVELOPMENT DIRECTOR
SUBJECT: ADOPTION OF ORDINANCE #342 - RIGHT OF WAY ORDINANCE
AMENDMENTS FOR SMALL WIRELESS FACILITIES
DATE: SEPTEMBER 28, 2023

As the City Council may be aware, 2017 Session Law amendments (MS 237.162 and 237.163) were approved that allowed the deployment of “small wireless facilities” in public right of way. The attached memo from Kennedy & Graven dated 7/19/17 and League publication dated 8/1/17 provide the details of the amendments.

The City’s current right of way management ordinance (Section 93.45 of the City Code) follows an older version of the League of Minnesota Cities model ordinance and was written a number of years ago. State law at the time this was written allowed telecommunication right of way users to install their facilities in a city’s right of way and also on whose facilities they are allowed to attach, subject to any local right of way permitting that might have been adopted. With the amendments approved by the state in 2017, the definition of a telecommunications right of way user has now been amended to include “wireless service” providers which was certainly not a technology considered when the city’s ordinance was originally approved.

Since the amendments were approved, the League of Minnesota Cities developed a model ordinance for cities to consider. City Staff reviewed the model ordinance and compared it to the City’s existing right of way ordinance and has incorporated suggested changes with the City Attorney’s assistance.

On March 28, 2018 the Planning Commission reviewed the draft ordinance and suggested that small cell wireless facilities should be conditional uses in both single family and historic zoning districts (staff did not suggest this) and that the City should require screening standards for small cell infrastructure. The topic did not receive any discussion until the City Council discussed and adopted small cell facility aesthetic standards by an April 15, 2019 deadline that was imposed by an FCC order. On April 15, 2019 the City Council adopted the “Small Cell Wireless Facility Design Guidelines Policy” which addressed the Planning Commission’s previously noted aesthetic concerns.

The City Council introduced the ordinance on 9/18/23 and asked for fees to be removed from the ordinance and instead referred to in the City’s Fee Schedule. Staff made the change and has included a resolution for amending the fee schedule with fees suggested by staff along with listing fees set by state statute.

Additionally, staff is proposing a resolution to publish the ordinance by title and summary due to the length of the ordinance (26 pages) to save on publishing costs in the paper.

Staff Recommendation

- A. Staff recommends that the City Council conduct a second reading and adopt Ordinance #342.
- B. Staff recommends adopting the attached resolution approving publication of ordinance #342 by Title and Summary.
- C. Staff recommends adopting the attached resolution amending the City's Fee Schedule.

ORDINANCE NO. 342

CITY OF NEW PRAGUE

AN ORDINANCE AMENDING CHAPTER 93 OF THE CODE OF ORDINANCES TO ADMINISTER AND REGULATE THE PUBLIC RIGHTS OF WAY IN THE PUBLIC INTEREST, AND TO PROVIDE FOR THE ISSUANCE AND REGULATION OF RIGHT-OF-WAY PERMITS.

THE CITY COUNCIL OF THE CITY OF NEW PRAGUE, SCOTT AND LESUEUR COUNTIES, MINNESOTA ORDAINS:

SECTION 1. Chapter 93 titled Right-of-Way Construction Regulations of the City of New Prague City code is amended by deleting the ~~stricken~~ material and adding the underlined material as follows:

RIGHT-OF-WAY CONSTRUCTION REGULATIONS MANAGEMENT

§ 93.45 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.

Accordingly, the city hereby enacts this chapter of this code relating to right-of-way permits and administration. This chapter 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 chapter, persons excavating and obstructing the rights of way will bear financial responsibility for their work. Finally, this chapter provides for recovery of out-of-pocket and projected costs from persons using the public rights of way.

This chapter shall be interpreted consistently with 1997 Session Laws, Chapter 123, substantially codified in Minn. Stat. §§ 237.16, 237.162, 237.163, 237.79, 237.81, and 238.086 (the “Act”) and 2017 Minn. Laws, ch. 94, art. 9, amending the Act, and the other laws governing applicable rights of the city and users of the right-of-way. This chapter shall also be interpreted consistent with Minn. R. 7819.0050–7819.9950 and Minn. R., ch. 7560 where possible. To the extent any provision of this chapter cannot be interpreted consistently with the Minnesota Rules, that interpretation most consistent with the Act and other applicable statutory and case law is intended. This chapter shall not be interpreted to limit 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.

§ 93.456 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~~ Minn. Stat. 237.163 subd. 2(b) to manage rights-of-ways within its jurisdiction.

§ 93.467 DEFINITIONS AND ADOPTION OF RULES BY REFERENCE.

~~Minn. Rules Chapter 7819, as it may be amended from time to time, is hereby adopted by reference and is incorporated into this code as if set out in full. The definitions included in Minn. Rules part 7819.0100 Subparts 1 through 23, as it may be amended from time to time, are the definitions of the terms used in the following provisions of this subchapter.~~

The following definitions apply in this chapter of this code. References hereafter to “sections” are, unless otherwise specified, references to sections in this chapter. Defined terms remain defined terms, whether or not capitalized.

(A) *Abandoned Facility.* 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.

(B) *Applicant.* Any person requesting permission to excavate or obstruct a right-of-way.

(C) *City.* The city of New Prague, Minnesota. For purposes of § 93.73, city also means the City’s elected officials, officers, employees, and agents.

(D) *Collocate or Collocation.* To install, mount, maintain, modify, operate, or replace a small wireless facility on, under, within, or adjacent to an existing wireless support structure or utility pole that is owned privately, or by the city or other governmental unit.

(E) *Commission.* The State Public Utilities Commission.

(F) *Congested Right-of-Way.* 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 Minn. Stat. § 216D.04, subd. 3, over a continuous length in excess of 500 feet.

(G) *Construction Performance Bond.* Any of the following forms of security provided at permittee’s option:

- (1) Individual project bond;
- (2) Cash deposit;
- (3) Security of a form listed or approved under Minn. Stat. § 15.73, subd. 3;
- (4) Letter of Credit, in a form acceptable to the city;

(5) Self-insurance, in a form acceptable to the city;

(6) 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.

(H) Degradation. 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.

(I) Degradation Cost. Subject to Minn. R. 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 Minn. R., parts 7819.9900 to 7819.9950.

(J) Degradation Fee. 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.

(K) Department. The department of public works of the city.

(L) Director. The director of the department of public works of the city, or her or his designee.

(M) Delay Penalty. The penalty imposed as a result of unreasonable delays in right-of-way excavation, obstruction, patching, or restoration as established by permit.

(N) Emergency. 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.

(O) Equipment. Any tangible asset used to install, repair, or maintain facilities in any right-of-way.

(P) Excavate. To dig into or in any way remove or physically disturb or penetrate any part of a right-of-way.

(Q) Excavation permit. The permit which, pursuant to this chapter, must be obtained before a person may excavate in a right-of-way. An Excavation permit allows the holder to excavate that part of the right-of-way described in such permit.

(R) Excavation Permit Fee. Money paid to the city by an applicant to cover the costs as provided in Section 93.57.

(S) Facility or Facilities. Any tangible asset in the right-of-way required to provide Utility Service.

(T) Five-Year Project Plan. Shows projects adopted by the city for construction within the next five years.

(U) *High Density Corridor.* 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.

(V) *Hole.* An excavation in the pavement, with the excavation having a length less than the width of the pavement.

(W) *Local Representative.* A local person or persons, or designee of such person or persons, authorized by a registrant to accept service and to make decisions for that registrant regarding all matters within the scope of this chapter.

(X) *Management Costs.* The actual costs the city incurs in managing its rights of way, including such costs, if incurred, as those associated with registering applicants; issuing, processing, and verifying right-of-way or small wireless facility permit applications; inspecting job sites and restoration projects; maintaining, supporting, protecting, or moving user facilities during right-of-way work; determining the adequacy of right-of-way restoration; restoring work inadequately performed after providing notice and the opportunity to correct the work; and revoking right-of-way or small wireless facility permits. Management costs do not include payment by a telecommunications right-of-way user for the use of the right-of-way, unreasonable fees of a third-party contractor used by the city including fees tied to or based on customer counts, access lines, or revenues generated by the right-of-way or for the city, the fees and cost of litigation relating to the interpretation of Minnesota Session Laws 1997, Chapter 123; Minn. Stat. §§ 237.162 or 237.163; or any ordinance enacted under those sections, or the city fees and costs related to appeals taken pursuant to Section 1.31 of this chapter.

(Y) *Obstruct.* 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.

(Z) *Obstruction Permit.* The permit which, pursuant to this chapter, must be obtained before a person may obstruct a right-of-way, allowing the holder to hinder free and open passage over the specified portion of that right-of-way, for the duration specified therein.

(AA) *Obstruction Permit Fee.* Money paid to the city by a permittee to cover the costs as provided in Section 93.57.

(BB) *Patch or Patching.* A method of pavement replacement that is temporary in nature. A patch consists of (1) the compaction of the subbase and aggregate base, and (2) the replacement, in kind, of the existing pavement for a minimum of two feet beyond the edges of the excavation in all directions. A patch is considered full restoration only when the pavement is included in the city's five-year project plan.

(CC) *Pavement.* 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.

(DD) *Permit.* Has the meaning given "right-of-way permit" in Minn. Stat. § 237.162.

(EE) *Permittee.* Any person to whom a permit to excavate or obstruct a right-of-way has been granted by the city under this chapter.

(FF) *Person.* An individual or entity subject to the laws and rules of this state, however organized, whether public or private, whether domestic or foreign, whether for profit or nonprofit, and whether natural, corporate, or political.

(GG) *Probation.* The status of a person that has not complied with the conditions of this chapter.

(HH) *Probationary Period.* One year from the date that a person has been notified in writing that they have been put on probation.

(II) *Registrant.* 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.

(JJ) *Restore or Restoration.* The process by which an excavated right-of-way and surrounding area, including pavement and foundation, is returned to the same condition and life expectancy that existed before excavation.

(KK) *Restoration Cost.* The amount of money paid to the city by a permittee to achieve the level of restoration according to plates 1 to 13 of Minnesota Public Utilities Commission rules.

(LL) *Public Right-of-Way or Right-of-Way.* The area on, below, or above a public roadway, highway, street, cartway, bicycle lane, or public sidewalk in which the city has an interest, including other dedicated rights of way for travel purposes and utility easements of the city. A right-of-way does not include the airwaves above a right-of-way with regard to cellular or other non-wire telecommunications or broadcast service.

(MM) *Right-of-Way Permit.* Either the excavation permit or the obstruction permit, or both, depending on the context, required by this chapter.

(NN) *Right-of-Way User.* (1) A telecommunications right-of-way user as defined by Minn. Stat., § 237.162, subd. 4; or (2) a person owning or controlling a facility in the right-of-way that is used or intended to be used for providing utility service, and who has a right under law, franchise, or ordinance to use the public right-of-way.

(OO) *Service or Utility Service.* Includes (1) those services provided by a public utility as defined in Minn. Stat. 216B.02, subs. 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. ch. 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., ch. 308A; and (6) water, and sewer, including service laterals, steam, cooling, or heating services.

(PP) *Service Lateral.* An underground facility that is used to transmit, distribute or furnish ‘gas, electricity, communications, or water from a common source to an end-use customer. A service lateral is also an underground facility that is used in the removal of wastewater from a customer’s premises.

(QQ) *Small Wireless Facility.* A wireless facility that meets both of the following qualifications:

(1) each antenna is located inside an enclosure of no more than six cubic feet in volume or could fit within such an enclosure; and

(2) all other wireless equipment associated with the small wireless facility provided such equipment is, in aggregate, no more than 28 cubic feet in volume, not including electric meters, concealment elements, telecommunications demarcation boxes, battery backup power systems, grounding equipment, power transfer switches, cutoff switches, cable, conduit, vertical cable runs for the connection of power and other services, and any equipment concealed from public view within or behind an existing structure or concealment.

(RR) *Supplementary Application.* 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.

(SS) *Temporary Surface.* The compaction of subbase and aggregate base and replacement, in kind, of the existing pavement only to the edges of the excavation. It is temporary in nature except when the replacement is of pavement included in the city’s two-year plan, in which case it is considered full restoration.

(TT) *Trench.* An excavation in the pavement, with the excavation having a length equal to or greater than the width of the pavement.

(UU) *Telecommunications Right-of-Way User.* 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 providing wireless service, or transporting telecommunication or other voice or data information. For purposes of this chapter, a cable communication system defined and regulated under Minn. Stat. ch. 238, and telecommunication activities related to providing natural gas or electric energy services, a public utility as defined in Minn. Stat. § 216B.02, a municipality, a municipal gas or power agency organized under Minn. Stat. ch. 453 and 453A, or a cooperative electric association organized under Minn. Stat. ch. 308A, are not telecommunications right-of-way users for purposes of this chapter except to the extent such entity is offering wireless service.

(VV) *Two Year Project Plan.* Shows projects adopted by the city for construction within the next two years.

(WW) *Utility Pole.* A pole that is used in whole or in part to facilitate telecommunications or electric service.

(XX) Wireless Facility. Equipment at a fixed location that enables the provision of wireless services between user equipment and a wireless service network, including equipment associated with wireless service, a radio transceiver, antenna, coaxial or fiber-optic cable, regular and backup power supplies, and a small wireless facility, but not including wireless support structures, wireline backhaul facilities, or cables between utility poles or wireless support structures, or not otherwise immediately adjacent to and directly associated with a specific antenna.

(YY) Wireless Service. Any service using licensed or unlicensed wireless spectrum, including the use of Wi-Fi, whether at a fixed location or by means of a mobile device, that is provided using wireless facilities. Wireless service does not include services regulated under Title VI of the Communications Act of 1934, as amended, including cable service.

(ZZ) Wireless Support Structure. A new or existing structure in a right-of-way designed to support or capable of supporting small wireless facilities, as reasonably determined by the city.

§ 93.458 ADMINISTRATION.

The public works director is the principal city official responsible for the administration of the rights of way, right-of-way permits, and the ordinances related thereto. The director may delegate any or all of the duties hereunder.

§ 93.459 UTILITY COORDINATION COMMITTEE.

The city may create an advisory utility coordination committee. Participation on the committee is voluntary. It will be composed of any registrants that wish to assist the city in obtaining information and, by making recommendations regarding use of the right-of-way, and to improve the process of performing construction work therein. The city may determine the size of such committee and shall appoint members from a list of registrants that have expressed a desire to assist the city.

§ 93.4550 REGISTRATION AND RIGHT-OF-WAY OCCUPANCY.

(A) Registration. Each person who occupies or 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.

(B) 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.

(C) Exceptions. Nothing herein shall be construed to repeal or amend the provisions of a city ordinance permitting persons to plant or maintain boulevard plantings or gardens in the area of the right-of-way between their property and the street curb. Persons planting or maintaining boulevard

plantings or gardens shall not be deemed to use or occupy the right-of-way, and shall not be required to obtain any permits or satisfy any other requirements for planting or maintaining such boulevard plantings or gardens under this chapter. However, nothing herein relieves a person from complying with the provisions of the Minn. Stat. ch. 216D, Gopher One Call Law.

§ 93.4551 REGISTRATION INFORMATION.

(A) *Information Required.* The information provided to the city at the time of registration shall include, but not be limited to:

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

(2) The name, address, and email 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 registrant by an insurance company licensed to do business in the state of Minnesota, or a form of self-insurance acceptable to the city;

(b) 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;

(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 city be notified thirty (30) days in advance of cancellation of the policy or material modification of a coverage term; and

(e) 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 purposes and policies of this chapter.

(f) The city may require a copy of the actual insurance policies.

(g) If the person is a corporation, a copy of the certificate is required to be filed under state law as recorded and certified to by the secretary of state.

(h) A copy of the person's order granting a certificate of authority from the Minnesota Public Utilities Commission or other authorization or approval from the applicable state or federal agency to lawfully operate, where the person is lawfully required to have such authorization or approval from said commission or other state or federal agency.

(B) 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.

§ 93.4552 REPORTING OBLIGATIONS.

(A) 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.

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

(1) 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

(2) 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").

(C) The term "project" in this section shall include both next-year projects and five-year projects.

(D) By January 1 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.

(E) 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 all such changes in said list. Notwithstanding the foregoing, a registrant may at any time join in a next-year project of another registrant listed by the other registrant.

(F) 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.

§ 93.4753 PERMIT REQUIREMENT.

(A) *Permit required.* Except as otherwise provided in this code, no person may obstruct or excavate any right-of-way, or install or place facilities in the right-of-way, without first having obtained the appropriate permit from the city.

(1) *Excavation permit.* An excavation permit is required by a registrant to excavate that part of the right-of-way described in the 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.

(2) *Obstruction permit.* An obstruction permit is required by a registrant to hinder free and open passage over the specified portion of right-of-way by placing equipment described therein on the right-of-way, to the extent and for the duration specified therein. An obstruction permit is not required if a person already possesses a valid excavation permit for the same project.

(3) *Small Wireless Facility Permit.* A small wireless facility permit is required by a registrant to erect or install a wireless support structure, to collocate a small wireless facility, or to otherwise install a small wireless facility in the specified portion or the right-of-way, to the extent specified therein, provided that such permit shall remain in effect for the length of time the facility is in use, unless lawfully revoked.

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

(C) *Delay penalty.* In accordance with Minn. Rules part 7819.1000 Subpart 3, as it may be amended from time to time and notwithstanding division (B) of this section, the 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 a fee as established from time to time by Council resolution, ~~as it may be amended from time to time.~~

(D) *Permit display.* Permits issued under this subchapter shall be conspicuously displayed or otherwise available at all times at the indicated work site and shall be available for inspection by the Director.

Penalty, see § 10.99

§ 93.4854 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, sealed 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 registrant by an insurance company licensed to do business in the state, or a form of self insurance acceptable to the Director;~~

~~(b) Verifying that the registrant is insured against claims for personal injury, including death, as well as claims for property damage arising out of the use and occupancy of the right of way by the registrant, its officers, agents, employees, and permittees, and 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;~~

~~(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 coverages;~~

~~(d) Requiring that the Director be notified 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 the person is a corporation, a copy of the certificate required to be filed under M.S. § 300.06, as it may be amended from time to time 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 the certificate from the Commission or other state or federal agency.~~

~~(B) Payment of money due the city for:~~

~~(1) Permit fees as established from time to time by Council resolution, as may be amended from time to time, estimated restoration costs and other management costs;~~

~~(2) Prior obstructions or excavations;~~

~~(3) Any undisputed loss, damage, or expense suffered by the city because of the applicant's prior excavations or obstructions of the rights of way or any emergency actions taken by the city; or~~

~~(4) Franchise fees or other charges as established from time to time by Council resolution, as may be amended from time to time, if applicable.~~

(C) Registration with the city pursuant to this chapter.

(D) 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.

(E) Payment of money due the city for:

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

(2) prior obstructions or excavations;

(3) any undisputed loss, damage, or expense suffered by the city because of applicant's prior excavations or obstructions of the rights of way or any emergency actions taken by the city;

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

(F) Payment of disputed amounts due the city by posting security or depositing in an escrow account an amount equal to at least 110 percent of the amount owing.

(G) Posting an additional or larger construction performance bond for additional facilities when applicant requests an excavation permit to install additional facilities and the city deems the existing construction performance bond inadequate under applicable standards.

§ 93.4955 ISSUANCE OF PERMIT; CONDITIONS.

(A) *Permit issuance.* If the applicant has satisfied the requirements of this chapter, the Director shall issue a permit.

(B) *Conditions.* The Director 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. In addition, a permittee shall comply with all requirements of local, state, and federal laws, including but not limited to Minn. Stat. §§ 216D.01 - .09 (Gopher One Call Excavation Notice System) and Minn. R., ch. 7560.

(C) *Small Wireless Facility Conditions.* In addition to subdivision 2, the erection or installation of a wireless support structure, the collocation of a small wireless facility, or other

installation of a small wireless facility in the right-of-way, shall be subject to the following conditions:

(1) A small wireless facility shall only be collocated on the particular wireless support structure, under those attachment specifications, and at the height indicated in the applicable permit application.

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

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

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

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

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

(7) The City's Small Cell Wireless Facility Design Guidelines Policy shall be complied with.

(A) *Small Wireless Facility Agreement.* A small wireless facility shall only be collocated on a small wireless support structure owned or controlled by the city, or any other city asset in the right-of-way, after the applicant has executed a standard small wireless facility collocation agreement with the city. The standard collocation agreement may require payment of rent, maintenance and monthly electric fees as established by MS 237.163 and the City's fee schedule.

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

§ 93.5056 ACTION ON SMALL WIRELESS FACILITY PERMIT APPLICATIONS.

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

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

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

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

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

(1) The city receives applications from one or more applicants seeking approval of permits for more than 30 small wireless facilities within a seven-day period. In such case, the city may extend the deadline for all such applications by 30 days by informing the affected applicants in writing of such extension.

(2) The applicant fails to submit all required documents or information and the city provides written notice of incompleteness to the applicant within 30 days of receipt the application. Upon submission of additional documents or information, the city shall have ten days to notify the applicant in writing of any still-missing information.

(3) The city and a small wireless facility applicant agree in writing to toll the review period.

§ 93.5057 PERMIT FEES.

Permit fees shall be in an amount established from time to time by Council resolution, as it may be amended from time to time.

(A) *Excavation permit fee.* The city shall ~~establish~~ impose an excavation permit fee as ~~established from time to time by Council resolution, as may be amended from time to time,~~ in an amount sufficient to recover the following costs:

- (1) The city management costs; and

(2) Degradation costs, if applicable.

(B) *Obstruction Permit Fee.* The city shall ~~establish~~ impose the obstruction permit fee as ~~established from time to time by Council resolution, as may be amended from time to time, and~~ shall be in an amount sufficient to recover the city management costs.

(C) *Small Wireless Facility Permit Fee.* The city shall impose a small wireless facility permit fee in an amount sufficient to recover:

(1) management costs, and;

(2) city engineering, make-ready, and construction costs associated with collocation of small wireless facilities.

(~~E~~) *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 those fees within 30 days of billing.

(~~E~~) *Non-refundable.* Permit fees ~~as established from time to time by Council resolution, as may be amended from time to time,~~ that were paid for a permit that the Director has revoked for a breach as stated in § 93.5867 are not refundable.

(~~E~~) *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.

(~~F~~) *Consistent with Minnesota Rules.* All permit fees shall be established consistent with the provisions of Minn. Rules part 7819.1000, as it may be amended from time to time.

§ 93.5158 RIGHT-OF-WAY PATCHING AND RESTORATION.

(A) *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 unseasonal or unreasonable under this subchapter.

(B) *Patch and restoration.* The permittee shall patch its own work. The city may choose either to have the city restore the right-of-way or to restore the right-of-way itself.

(1) *City restoration.* If the city restores the right-of-way, the permittee shall pay the costs thereof within 30 days of billing. If following the restoration, the pavement settles due to the permittee's improper backfilling, the permittee shall pay to the city, within 30 days of billing, all costs associated with having to correct the defective work.

(2) *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 Minn. Rules part 7819.3000, as it may be amended from time to time.

(3) *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.

(C) *Standards.* The permittee shall perform patching and restoration according to the standards and with the materials specified by the city and shall comply with Minn. Rules part 7819.1100, as it may be amended from time to time. ~~The Director shall have the authority to prescribe the manner and extent of the restoration, and may do so in written procedures of general application or on a case-by-case basis.~~

(D) *Duty to correct defects.* The permittee shall correct defects in patching, or restoration performed by the permittee or its agents. The permittee upon notification from the Director, shall correct all restoration work to the extent necessary, using the method required by the Director. The work shall be completed within five calendar days of the receipt of the notice from the Director, not including days during which work cannot be done because of circumstances constituting force majeure or days when work is prohibited as unseasonal or unreasonable under this subchapter.

(E) *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 the work. In that event the permittee shall pay to the city, within 30 days of billing, the cost of restoring the right-of-way. If the permittee fails to pay as required, the city may exercise its rights under the construction performance bond.

~~(F) *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 as established from time to time by Council resolution, as may be amended from time to time. However, the right of way user shall remain responsible for patching and the degradation fee shall not include the cost to accomplish these responsibilities.~~

§ 93.59 JOINT APPLICATIONS.

(A) *Joint application.* Registrants may jointly apply for permits to excavate or obstruct the right-of-way at the same place and time.

(B) *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.

(C) *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.

§ 93.5260 SUPPLEMENTARY APPLICATIONS.

(A) *Limitation on area.* A right-of-way permit is valid only for the area of the right-of-way specified in the permit. No permittee may do any work outside the area specified in the permit, except as provided herein. Any permittee which determines that an area greater than that specified in the permit must be obstructed or excavated must before working in that greater area make application for a permit extension and pay any additional fees required thereby, and be granted a new permit or permit extension.

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

§ 93.61 OTHER OBLIGATIONS.

(A) *Compliance with Other Laws.* Obtaining a right-of-way permit does not relieve permittee of its duty to obtain all other necessary permits, licenses, and authority and to pay all fees required by the city or other applicable rule, law or regulation. A permittee shall comply with all requirements of local, state and federal laws, including but not limited to Minn. Stat. §§ 216D.01-.09 (Gopher One Call Excavation Notice System) and Minn. R., ch. 7560. A permittee shall perform all work in conformance with all applicable codes and established rules and regulations, and is responsible for all work done in the right-of-way pursuant to its permit, regardless of who does the work.

(B) *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.

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

(D) *Trenchless excavation.* As a condition of all applicable permits, permittees employing trenchless excavation methods, including but not limited to Horizontal Directional Drilling, shall follow all requirements set forth in Minn. Stat. ch. 216D and Minn. R., ch. 7560 and shall require

potholing or open cutting over existing underground utilities before excavating, as determined by the director.

§ 93.5362 DENIAL OR REVOCATION OF PERMIT.

(A) *Reasons for Denial.* 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.

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

§ 93.5463 INSTALLATION REQUIREMENTS.

The excavation, backfilling, patching and restoration, and all other work performed in the right-of-way shall be done in conformance with Minn. Rules part 7819.1100 and 7819.5000 and other applicable local requirements, in so far as they are not inconsistent with M.S. §§ 237.162 and 237.163, as they may be amended from time to time. Installation of service laterals shall be performed in accordance with Minn. R., ch 7560 and these ordinances. Service lateral installation is further subject to those requirements and conditions set forth by the city in the applicable permits and/or agreements referenced in § 93.67 subd. 2 of this ordinance.

§ 93.5564 INSPECTION.

(A) *Notice of completion.* When the work under any permit hereunder is completed, the permittee shall furnish a completion certificate in accordance Minn. Rules part 7819.1300, as it may be amended from time to time.

(B) *Site inspection.* The 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.

(C) *Authority of Director.*

(1) 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.

(2) The Director 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 days after issuance of the order, the permittee shall present proof to the Director that the

violation has been corrected. If proof has not been presented within the required time, the Director may revoke the permit pursuant to § 93.5867.

§ 93.5665 WORK DONE WITHOUT A PERMIT.

(A) *Emergency situations.*

(1) Each ~~person-registrant~~ 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-registrant~~ of the facilities may proceed to take whatever actions are necessary to respond to the emergency. Excavators' notification to Gopher State One Call regarding an emergency situation does not fulfill this requirement. Within two business days after the occurrence of the emergency, the ~~owner-registrant~~ shall apply for the necessary permits, pay the fees associated therewith and fulfill the rest of the requirements necessary to bring itself into compliance with this chapter for the actions it took in response to the emergency.

(2) If the city becomes aware of an emergency regarding facilities, the city will attempt to contact the local representative of each ~~facility-owner~~ registrant 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~~ registrant whose facilities occasioned the emergency.

(B) *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 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.

§ 93.5766 SUPPLEMENTARY NOTIFICATION.

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

§ 93.5867 REVOCATION OF PERMITS.

(A) *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 the 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, or the perpetration or attempt to perpetrate any fraud or deceit upon the city or its citizens;

- (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 permittees control; or
- (5) The failure to correct, in a timely manner, work that does not conform to a condition indicated on an order issued pursuant to § 93.5564.

(B) *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 that 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 discretion, to place additional or revised conditions on the permit to mitigate and remedy the breach.

(C) *Response to notice of breach.* Within 24 hours of receiving notification of the breach, the permittee shall provide the city with a plan, acceptable to the city, that will cure the breach. The permittee's failure to so contact the city, or the permittee's failure to submit an acceptable plan, or the permittee's failure to reasonably implement the approved plan, shall be cause for immediate revocation of the permit. Further, permittee's failure to so contact the city, or permittee's failure to submit an acceptable plan, or permittee's failure to reasonably implement the approved plan, shall automatically place the permittee on probation for one (1) full year.

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

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

(~~D~~) *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 the revocation.

§ 93.5968 MAPPING DATA;~~INFORMATION REQUIRED.~~

~~Each permittee shall provide mapping information required by the city in accordance with Minn. Rules parts 7819.4000 and 7819.4100, as it may be amended from time to time.~~

(A) *Information Required.* Each registrant and permittee shall provide mapping information required by the city in accordance with Minn. R. 7819.4000 and 7819.4100. Within ninety (90) days following completion of any work pursuant to a permit, the permittee shall provide the director accurate maps and drawings certifying the "as-built" location of all equipment installed, owned, and maintained by the permittee. Such maps and drawings shall include the horizontal and

vertical location of all facilities and equipment and shall be provided consistent with the city's electronic mapping system, when practical or as a condition imposed by the director. Failure to provide maps and drawings pursuant to this subsection shall be grounds for revoking the permit holder's registration.

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

(1) payments to contractors working on a public improvement project, including those under Minn. Stat. ch. 429, and

(2) city approval under development agreements or other subdivision or site plan approval under Minn. Stat. ch. 462. The director shall reasonably determine the appropriate method of providing such information to the city. Failure to provide prompt and accurate information on the service laterals installed may result in the revocation of the permit issued for the work or future permits to the offending permittee or its subcontractors.

§ 93.6069 LOCATION AND RELOCATION OF FACILITIES.

- (A) *Compliance required.* Placement, location, and relocation of facilities must comply with applicable laws, and with Minn. Rules parts 7819.3100, 7819.5000 and 7819.5100, as they may be amended from time to time, to the extent the rules do not limit authority otherwise available to cities.
- (B) *Corridors.* The city may assign a specific area within the right-of-way, ~~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. Any registrant who has facilities in the right-of-way in a position at variance with the corridors established by the city shall, no later than at 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 registrant.
- (C) *Nuisance.* One year after the passage of this chapter, any facilities found in a right-of-way that have not been registered shall be deemed to be a nuisance. The city may exercise any remedies or rights it has at law or in equity, including, but not limited to, abating the

nuisance or taking possession of the facilities and restoring the right-of-way to a useable condition.

(~~CD~~) *Limitation of space.* To protect the 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 limit the placement of new or additional facilities within the right-of-way. In making those decisions, the Director shall strive to the extent possible to accommodate all existing and potential users of the right-of-way, but shall be guided primarily by considerations of the public interest, the public's needs for the particular utility service, the condition of the right-of-way, the time of year with respect to essential utilities, the protection of existing 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.

§ 93.6170 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 shall mark the horizontal and vertical placement of all said facilities. Any registrant whose facilities are less than twenty (20) inches below a concrete or asphalt surface shall notify and work closely with the excavation contractor to establish the exact location of its facilities and the best procedure for excavation.

§ 93.6171 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 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 registrant and must be paid within 30 days from the date of billing. Each ~~facility owner~~ registrant shall be responsible for the cost of repairing any facilities in the right-of-way which it or its facilities damages. ~~Each facility owner~~ registrant shall be 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 ~~owner's~~ registrant's facilities.

§ 93.6272 RIGHT-OF-WAY VACATION.

If the city vacates a right-of-way which contains the facilities of a registrant, the registrant's rights in the vacated right-of-way are governed by Minn. Rules part 7819.3200, as it may be amended from time to time.

§ 93.6373 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 Minn. Rules 7819.1250, as it may be amended from time to time.

§ 93.6474 ABANDONED AND UNUSABLE FACILITIES; 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 this requirement is waived by the Director.~~

(A) *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 chapter have been lawfully assumed by another registrant.

(B) *Removal.* Any registrant who has abandoned facilities in any right-of-way shall remove it from that right-of-way if required in conjunction with other right-of-way repair, excavation, or construction, unless this requirement is waived by the city.

§ 93.6575 APPEAL.

A right-of-way user that has been denied registration; has been denied a permit; has had a permit revoked; or believes that the fees imposed are ~~invalid~~ not in conformity with Minn. Stat. § 237.163, subd. 6; or disputes a determination of the director regarding §93.68, subd.2 of this ordinance, 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 provided the right-of-way user has submitted its appeal with sufficient time to include the appeal as a regular agenda item. A decision by the City Council affirming the denial, revocation, or fee as imposition will be in writing and supported by written findings establishing the reasonableness of the decision.

§ 93.6676 RESERVATION OF REGULATORY AND POLICE POWERS.

A permittee's or registrant's rights are subject to the regulatory and police powers of the city to adopt and enforce general ordinances necessary to protect the health, safety and welfare of the public.

§ 93.77 SEVERABILITY.

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

§ 93.67 [RESERVED]

§ 93.68 [RESERVED]

~~§ 93.69 [RESERVED]~~

§ 93.708 RIGHT-OF-WAY ENCROACHMENTS.

(A) *Purpose.* The public welfare requires that the public rights-of-way within the city, including highways, roads, streets and alleys, be reserved for public uses. Public use of the full width of the rights-of-way is necessary to public safety and the proper and efficient maintenance of the rights-of-way. However, it is recognized that limited private use or encroachment onto the rights-of-way is not necessarily inconsistent with public use. It is the purpose of this section to provide for lawful private use of public rights-of-way not inconsistent with public use.

(B) *Permit to encroach.*

(1) *Permit required.* The right to use public rights-of-way within the city for any private use or purpose other than the primary purpose of public travel, whether the use constitutes a substantial or incidental use, may be acquired only through issuance of a permit pursuant to this section.

(2) *Application for permit.* Any person may apply to the City Administrator or his or her designated representative for a permit to construct, install or locate and maintain private property or improvements within a publicly-owned right-of-way. The application shall be in writing and must describe with specificity the private property or improvement and right-of-way involved and the nature and extent of the requested encroachment. The applicant shall further provide a handmade drawing (to scale) or survey drawing showing the location of the proposed encroachment within the right-of-way. The permit shall become effective upon an associated encroachment agreement being duly recorded at the offices of the County Recorder. The city shall be the party responsible for recording the encroachment agreement at the offices of the County Recorder.

(3) *Application fee.* Each application for a license required by the provisions of this section shall be accompanied by an application fee in an amount established by resolution of the City Council, which fee shall be retained by the city whether or not a license is issued.

(4) *Issuance of permit; conditions.* The City Administrator or his or her designated representative may grant the permit and draft an encroachment agreement if it is determined that the encroachment applied for is not inconsistent with safe and efficient public use of the public right-of-way. However, no permit will be issued until the landowner has agreed in writing to waive any right to recover from the city for damage occurring to the item of encroachment within the right-of-way. The landowner must also agree to hold the city harmless from any claim of damage or liability against the city arising out of the encroachment.

(5) *Revocation of permit.* The city reserves the right to revoke any permit and encroachment agreement granted under this section as may be required by the public interest.

(C) *Unlawful encroachments.* Any privately-owned property located within or encroaching upon public rights-of-way which has not been authorized in accordance with this section shall be unlawful and be subject to removal by the city at the owner's expense.

(D) *Exemptions from provisions.* The use of the public right-of-way for the placement of the following items shall be exempt from the permit requirements of this section:

(1) Mailboxes with the following conditions:

(a) The mailbox is positioned or clustered according to specific directions of the city and/or United States Postal Service;

(b) Mailboxes servicing a planned unit development (PUD) are positioned or clustered within the platted portion of the PUD;

(c) The location of the mailbox or mailboxes does not interfere with the city's maintenance of the right-of-way.

(2) Grass, ground cover, or flowers that do not extend more than two feet in height from the ground (trees and shrubs shall not be allowed).

(3) Sprinkler systems with an approved lawn sprinkler permit.

(Ord. 219, passed 4-16-07)

SECTION 2. This Ordinance shall take effect and be in force upon its publication, in accordance with Section 3.13 of the City Charter.

Introduced to the City Council of the City of New Prague, Minnesota, the 18th day of September, 2023.

The required 10 days posted notice was completed on the City Website and City Hall Bulletin Board on or before September 19, 2023.

Passed by the City Council of the City of New Prague, Minnesota, the 2nd day of October, 2023 and to be published on the 12th day of October, 2023.

Duane J. Jirik, Mayor

Joshua M. Tetzlaff, City Administrator

CITY OF NEW PRAGUE
RESOLUTION # _____

RESOLUTION AMENDING THE OFFICIAL 2023 FEE SCHEDULE

WHEREAS, several sections of the City Code allow the City Council to adopt permit fees which will be effective in the City; and,

WHEREAS, the City Council has historically reviewed and updated its Official Fee Schedule each year and made amendments during the year as necessary; and,

WHEREAS, due to the recent adoption of Ordinances #339 and #342, City Staff has reviewed and suggested changes to the existing 2023 Fee Schedule that would become effective with the amended 2023 Fee Schedule; and,

NOW, THEREFORE BE IT RESOLVED, by the City Council of New Prague, MN, that the attached 2023 Official City Fee Schedule is hereby **approved** and will become effective on 10/2/2023, until amended.

This resolution is approved effective immediately upon its passage and without publication.

Adopted by the City Council of the City of New Prague on this 2nd day of October, 2023.

Duane J. Jirik, Mayor

ATTEST: _____

Joshua M. Tetzlaff, City Administrator

2023 OFFICIAL CITY FEE SCHEDULE		
(Adopted 10/2/23 - Effective 10/2/23)		
		2023 Fee (In Dollars)
ADMINISTRATIVE SERVICE CHARGES:		
Assessment Search (per parcel)		\$25.00
Nuisance/Code Violation Search (per parcel)		\$20.00
Nuisance Abatement Service Administrative Charge (per lot, per incident)	75.00 or 15% of Service Charge - Whichever is Greater	
Nuisance Abatement Assessment Administrative Fee (only if assessed to taxes)	\$100.00 per property that is assessed	
Utility Charges Assessment Administrative Fee (only if assessed to taxes)	\$100.00 per property that is assessed	
NSF Charge		\$30.00
Special Meeting Fee for Park Board, Planning Commission and City Council as requested (workshops not included)	\$500.00 + \$50.00 per diem per member	
Consent Assessment Administrative Fee		\$350.00
Employee Mileage	(Standard Federal IRS Rate)	
Past Due and Delinquent Invoices (Non-Utility Bills)	1% Monthly Service Charge of Past Due Amount or \$1.00, whichever is greater	
Overnight Parking Permit		\$10.00
Application for Deferral of Special Assessment		\$100.00
Subordination of Small Cities Development Program Agreements		\$150.00
Release of Deferred Assessment Certificate	\$100.00 (does not include recording fee)	
City Repayment / Lien Agreement Verification Fee		\$30.00
MAPS:		
Small - Less than 11 x 17 (Color or Black and White)		\$1.20
Medium - 11 x 17 to 17 x 22 (Color or Black and White)		\$6.00
Large - Larger than 17 x 22 up to 34 x 44 (Color or Black and White)		\$24.00
Copy charge per page (Black and White)		0.35
Copy charge per page (Color)		0.65
Fax service per page		1.10
Notary (per document)		2.20
Custom GIS Maps (per hour)		99.00
PUBLIC WORKS SERVICES:		
<i>(Minimum 1 hour charge for all items below)</i>		
Mileage	(Standard Federal IRS Rate)	
Sweeper		\$85.00/hr
Roller		\$55.00/hr
Loader		\$100.00/hr
Sewer Jetter		\$110.00/hr
Trucks		\$70.00/hr
Tractor & Implements (mower, etc.)		\$70.00/hr
Gravel		Actual Cost
Blacktop		Actual Cost
Labor (during regular hours of 7:30AM - 3:45 PM)		\$70.00/hr
Labor (after hours)		\$87.50/hr

2023 OFFICIAL CITY FEE SCHEDULE	
(Adopted 10/2/23 - Effective 10/2/23)	
	2023 Fee (In Dollars)
Labor (Sundays and Holidays)	\$117.50/hr
Skid Loader	\$60.00/hr
Lawn Mower	\$40.00/hr
Pickup & Plow	\$50.00/hr
Pressure Washer	\$150.00/day (1/2 day min.)
Parks Utility Vehicle	\$45.00/hr
Equipment rate to be charged at established rate plus actual labor costs	
Road Surface Deposit	\$500.00
MISCELLANEOUS LICENSES/PERMITS:	
Bingo/Gambling License	\$20.00
Commercial Lawn Spraying License	\$30.00
Dance Permit	\$100.00
Tobacco / Cigarette License	\$200.00
THC License Application / Investigation Fee	\$200.00
THC License Annual Fee	\$350.00
Dog License	\$10.00 per license year (no refunds or transfers)
Replacement Dog Tag	\$5.00
Peddlers/Transient Merchant License	\$30.00
Solicitor License / Permit (per person)	\$0.00
Golf Cart Operator Permit (annual)	\$30.00
Golf Cart Event Operation Permit (each event)	\$30.00
Class 2 ATV / Utility Task Vehicle Operator Permit (annual)	\$40.00
Adult Use License (annual)	\$3,000.00
Commercial Refuse Hauler License (annual)	\$100.00 for first vehicle, \$25 for each additional vehicle
Fireworks Display Permit	\$50.00
Pawn Broker / Seconhand Goods Dealer Application Fee	\$500.00
Annual Pawn Broker License Fee	\$10,000.00 Annual
Filming Permit - Documentary	\$250 plus actual costs
Filming Permit - Low Impact Commercial	\$500 plus actual costs
Filming Permit - High Impact Commercial	\$1,000 plus actual costs
Large Assembly Permits	
Level A - New Event (single/mult. days, street closures, alcohol, fencing, live entertainment)	\$150.00
Level A - Repeat Event (single/mult. days street closures, alcohol, fencing, live entertainment)	\$75.00
Level B - New/Repeat Event (single/mult. days, sidewalk use, live entertainment)	\$50.00
Level C - New/Repeat Event (single day, park area, no live entertainment)	\$30.00
ROW Management	
Excavation Permit Fee	\$100.00
Small Wireless Facility Permit Fee	\$250/application for first 5 facilities, \$100 each after 5 (up to 15 max)
Obstruction Permit Fee	\$50.00
Degradation Fee In Lieu of Restoration	Negotiated fee determined on a case by case basis.
Small Wireless Faciltiy Agreement Fees (Set by M.S. 237.163 as may be amended)	
Collocation Rental Fee on City Structure	\$150 per year

2023 OFFICIAL CITY FEE SCHEDULE		
(Adopted 10/2/23 - Effective 10/2/23)		
		2023 Fee (In Dollars)
Maintainace for Collocation Fee		\$25 per year
Monthly Electrical Service		
Per Radio Node Less than or equal to 100 maximum watts		\$73.00
Per Radio Node Over 100 maximum watts		\$182.00
Actual costs of electricity (if actual costs exceed forgoing fees)		See Electric Fees in this fee schedule
LIQUOR LICENSES:		
Off Sale Intoxicating		\$150.00
Off Sale 3.2% Malt Liquor		\$100.00
Small Brewer (Off Sale)		\$100.00
On Sale Intoxicating		3,000.00
On Sale 3.2% Malt Liquor		\$400.00
Brewer Taproom (On Sale)		\$400.00
Set-up License		\$300.00
Sunday Liquor		\$200.00
Temporary On Sale Non-intoxicating (1-4 days)		\$100.00
Temporary On Sale Intoxicating (1-4 days)		\$100.00
Wine License		\$500.00
License Investigation Fee - On/Off Sale Intoxicating		\$200.00
Application Fee		\$200.00
Premises Extension Permit for Alcohol on Temporary Patio		\$100.00
PUBLICATIONS:		
Audit Booklet		\$28.00
City Code of Ordinances		\$110.00
Comprehensive Plan		\$55.00
Comprehensive Utility Plans (each)		\$1.65
Subdivision Ordinance		\$55.00
Zoning Ordinance		\$55.00
ZONING/SUBDIVISION APPLICATION FEES:		
Minor Subdivision Fee		\$400.00
Comprehensive Plan Amendment		\$660.00
Concept Review (Plats, CUP)		\$330.00
Conditional Use / Planned Unit Development Fee		\$550.00
Conditional Use Amendment		\$440.00
Interim Use Permit		\$495.00
Final Plat Application Fee		\$495.00
Final Plat Major Modification		\$440.00
RLS Review Fee		\$550.00
Building Relocation Deposit/Escrow		\$5,000.00
Preliminary Plat Application Fee		\$660.00

2023 OFFICIAL CITY FEE SCHEDULE		
(Adopted 10/2/23 - Effective 10/2/23)		
		2023 Fee (In Dollars)
Rezoning		\$550.00
Sign Permit (permanent)		\$82.00
Sign Permit (temporary - only need to pay one time per year)		\$33.00
Vacation Fee (Easements and Right of Way)		\$495.00
Zoning Code Amendment		\$550.00
Right of Way Encroachment Permit		\$330.00
Variance Fee		\$385.00
Rental Registration Fee - New and Transfers (Valid for up to 2 years)		\$28.00/building
Zoning Verification Letter		\$55.00
2nd Kitchen Permit/Agreement		\$110.00
Bed and Breakfast Home/Inn License		\$110.00
Annexation Administration Fee - plus filing fees from state		\$605.00
Natural Landscape Permit Fee		\$220.00
Wetland Mitigation/Monitoring Escrow		\$1,760.00
PARK FACILITY RENTALS:		
Shelter (except Memorial Park Shelter)		
Resident (of City of New Prague)		\$33.00 plus sales tax
Non-resident		\$66.00 plus sales tax
Picnic Table Rental		\$17 plus sales tax per table (For tables not normally located at a shelter)
Damage Deposit (Shelter Rental)		\$100.00
Daily Use of Softball/Baseball Fields (Includes a picnic shelter at park)(Does not include dragging of the fields - contact the City for requests to drag fields for actual costs)		
Resident - One Field (\$30 for shelter and \$20 for field)		\$50.00 plus sales tax
Non-Resident - One Field (\$60 for shelter and \$40 for field)		\$100.00 plus sales tax
Resident - Two Fields (\$30 for shelter and \$20 for each field)		\$70.00 plus sales tax
Non-Resident - Two Fields (\$60 for shelter and \$40 for each field)		\$140.00 plus sales tax
Daily Use of Memorial Stadium Baseball Field (single game)		\$80.00 plus sales tax
Volleyball Court		\$10.00/day plus sales tax
Tournament Fees		
Memorial Park Softball Fields (Includes Memorial Park Shelter and both fields)		
One Day Tournament - Resident (\$30 for shelter and \$20 for each field)		\$70.00 plus sales tax
One Day Tournament - Non-Resident (\$60 for shelter and \$40 for each field)		\$140.00 plus sales tax
Two Day Tournament - Resident (\$30 for shelter and \$40 for each field)		\$110.00 plus sales tax
Two Day Tournament - Non-Resident (\$60 for shelter and \$80 for each field)		\$220.00 plus sales tax
Damage Deposit for Memorial Park Shelter Concession Stand		\$100.00
Temporary Liquor License for On-Sale 3.2 Malt Liquor (With Tournaments)		\$25.00
Memorial Stadium Baseball Field (Concessions to be Coordinated with the Orioles)		
One Day Tournament		\$160.00 plus sales tax
Additional Days of Tournament (Each)		\$160.00 plus sales tax
Adult Softball/Baseball League Fees (Annual)		
Teams Playing 2 Times a Week		\$287.00 plus sales tax

2023 OFFICIAL CITY FEE SCHEDULE		
(Adopted 10/2/23 - Effective 10/2/23)		
		2023 Fee (In Dollars)
Teams Playing 1 Time a Week		\$241.00 plus sales tax
Fall League Teams (starting after Labor Day) 2 Times a Week		\$172.00 plus sales tax
Fall League Teams (starting after Labor Day) 1 Time a Week		\$86.00 plus sales tax
Youth Ball Team Fees (Annual)		
Teams Playing 2 Times a Week		\$144.00 plus sales tax
Teams Playing 1 Time a Week		\$121.00 plus sales tax
POLICE SERVICE CHARGES:		
Police Reports (incident print-out 1 to 100 pages)		\$0.25 per page
Copies of Audio and Visual media (media storage device may be CD, DVD, USB Flash Drive)		\$20.00 per media storage device
Computer Research, or copies over 100 pages	Charged on a case by case basis with actual costs determined for searching, retrieving, and making, certifying, compiling and electronically making copies of the data or the data itself.	
Police Accident Reports		\$0.25 per page
Police Officer with Vehicle		\$105.00/hr
Police Officer without Vehicle		\$90.00/hr
Police Reserve Officer with Vehicle		\$28.00/hr
Police Reserve Officer without Vehicle		\$18.00/hr
Fine for Public Use of Cannabis		\$100.00
BUILDING PERMITS:		
Building Permit	Fee Schedule - MN Statute 326B.153 + 0.05% + State Surcharge	
Common Home Improvements	(Fixed valuation fees)	
Re-roofing		\$110.00 + State Surcharge
Re-siding		\$110.00 + State Surcharge
Windows (Total Replacement - Sash Replacement Only is Exempt)		\$110.00 + State Surcharge
Front Door or Patio Door Replacement Only		\$44.00 + State Surcharge
Lower level finish		\$170.00 + State Surcharge
Swimming pool (above ground)		\$59.00 + State Surcharge+Planning Site Plan Review
Swimming pool (below ground)		\$360.00 + State Surcharge+Planning Site Plan Review
Deck		\$170.00 + State Surcharge+Planning Site Plan Review
Re-Decking		\$85.00 + State Surcharge
Pergola		\$60.00 + State Surcharge+Planning Site Plan Review
Plan Review		65.05% Building Permit Fee
Repetitive Plan Review		32.55% Building Permit Fee
Plumbing Permits		
Industrial, commercial, multi-residential		1.55% of valuation (\$75.00 min. + State Surcharge)
Residential - New construction (single/two family)		\$147.00 + State Surcharge
Residential - Bathroom finish		\$65.00 + State Surcharge
Residential - Lawn sprinkler		\$65.00 + State Surcharge
Residential - Water softener		\$65.00 + State Surcharge

2023 OFFICIAL CITY FEE SCHEDULE		
(Adopted 10/2/23 - Effective 10/2/23)		
		2023 Fee (In Dollars)
Residential - Water Heater		\$65.00 + State Surcharge
Repetitive Plan Review		
Residential - Miscellaneous		\$55.00 + State Surcharge
Mechanical Permits		
Industrial, commercial, multi-residential		1.55% of valuation (\$75.00 min. + State Surcharge)
Residential - HVAC system (single/two family)		\$147.00 + State Surcharge
Residential - Factory fireplace		\$65.00 + State Surcharge
Residential - Furnace replacement		\$65.00 + State Surcharge
Residential - Air conditioning		\$65.00 + State Surcharge
Residential - Garage heater		\$65.00 + State Surcharge
Residential - Air exchanger		\$65.00 + State Surcharge
Residential - Miscellaneous		\$65.00 + State Surcharge
Erosion Control, Turf Establishment and Tree Escrow (Residential)		\$1,650 (unused portion returned after warranty period)
Erosion Control, Turf Establishment and Landscaping Escrow (Commercial)		\$3,300 per acre (unused portion returned after warranty period)
Work without Permit		Double Permit Fee
Temporary Structures (more than 30 but less than 180 days)		\$82.00 per season
Demolition Permit		\$80.00 plus escrow on case by case basis as deemed needed
Move-In house pre-inspection		\$250.00 plus mileage if outside City Limits
Move-In accessory structure pre-inspection		\$100 plus mileage if outside City Limits
Lead certification verification fee		\$5.00
Other Inspection Fees		
A re-inspection fee may be assessed for each re-inspection when such portion of work for which inspection is called is not complete or when corrections called for are not made. Re-inspection fees may be assessed when the inspection record card is not readily available, approved plans are not readily available, failure to provide access on the the date for which the inspection is requested, or for deviating from plans requiring approval from the Building Official		
a. Inspection outside of normal business hours (minimum charge - 2 hrs)		\$82.00 per hour*
b. Re-Inspection fees assessed		\$82.00 per hour*
c. Inspection for which no fee is specifically indicated (minimum charge 1 hour)		\$82.00 per hour*
(minimum charge 1 hour)		\$82.00 per hour*
e. Use of outside consultants for plan checking and inspection, or both		Actual cost**
* Or the total hourly cost to jurisdiction, whichever is greatest. The cost shall include supervision, overhead, hourly wages and fringe benefits of the employee involved.		
** Actual cost includes administrative and overhead costs		
Planning Survey/Site Plan Review for commercial structures (non-refundable)		\$100 per hour
Planning Survey/Site Plan Review for New dwellings (non-refundable)		\$100.00
Planning Survey/Site Plan Review for Decks, additions and similar projects		\$50.00
Engineering Survey/Site Plan/Grading Plan Review by City Engineer		Actual Costs

2023 OFFICIAL CITY FEE SCHEDULE		
(Adopted 10/2/23 - Effective 10/2/23)		
		2023 Fee (In Dollars)
	Refunds	No more than 80% of the permit fee will be refunded. Requests must be in writing within 180 days of date permit is applied for. No refunds for plan review fees.
FIRE INSPECTION FEES:		
	Fire protection equipment (Sprinkler Systems, etc.)	Fee Schedule - MN Statute 326B.153 + 0.05% + State Surcharge
	Flammable/Combustible Liquid Storage	\$115.00 for first tank and \$82.00 for each additional tank
	Flammable/Combustible Liquid Storage Install Plan Review	\$88.00 per tank
	Plan Review	65.05% of permit fee
	Daycare/Childcare License Inspection	\$60.00
CONNECTION PERMIT CHARGES:		
	Sewer Connection Charge (Total)	\$7,150 per REU
	Trunk Fund at 17%	\$1,215.50
	WWTF Fund at 83%	\$5,934.50
	Water Connection Charge	
	Residential - single family - 1" line	\$1,800.00
	Residential - townhouse unit (75% of REU)	\$1,350.00
	Commercial / Industrial / Institutional	\$1,800.00 per REU
(Based on Met. Council Service Availablity Charge Manual)		
	Water Meters	
	3/4" meter and equipment	\$315.00 and is subject to change per vendor pricing
	1" meter and equipment	\$425.00 and is subject to change per vendor pricing
	1-1/2" meter and equipment	\$1080.00 and is subject to change per vendor pricing
	2" meter and equipment	\$1120.00 and is subject to change per vendor pricing
	3" meter and equipment	To be quoted at time of purchase
	4" meter and equipment	To be quoted at time of purchase
	Pressure Reducer Valve	\$112.00 and is subject to change per vendor pricing
DEVELOPMENT FEES:		
	Park Dedication Fee	
	Land Dedication Requirement	
	Land Requirement	Commercial/Industrial Per Capita Share: 282 sq. ft. per employee
		Residential Per Capita Share: 815 sq. ft. per resident
	Building Permit Fee	.25% of value of residential dwelling unit*
		*applicable only to residential lots platted prior to April 25, 2010
	Fee in Lieu of Land Based on Land Requirement	Fair Market Value of the Buildable Unplatted Land x Land Requirement
	Water Area Access Charge	\$2814.00/ac.
	Emergency Warning Siren Area Charge	\$165/ac

2023 OFFICIAL CITY FEE SCHEDULE		
(Adopted 10/2/23 - Effective 10/2/23)		
		2023 Fee (In Dollars)
Sidewalk Fee		\$55 per lot
Street Seal Coating Fee		\$1.49 per square yard
Municipal Electric Development Fees (costs subject to change per material pricing)		
Development Electric Service Install and Material Cost		At cost plus 15%
Street Lights (NPUC Standard Light)		\$1,850/light
Street Lights Other than NPUC Standard (All Fixtures Require NPUC Approval)		At-Cost Plus 15%
Street Light Wire and Conduit		\$2.25/ft
Road Crossing Conduit Pricing - Based on 4" PVC		\$9.00/ft
Road Crossing Conduit Pricing - Other than 4" PVC		At-Cost Plus 15%
Winter Construction Frost Charges (November 1st through April 15th)		Additional \$5.00/ft
Winter Construction Equipment Charges (November 1st through April 15th)		\$150.00/per piece of equipment
MISCELLANEOUS		
Memorial plaques		
5" x 8" engraved tree plaque		\$83.00 or actual cost
4" x 6" engraved metal bench plaque		\$.40 per letter or actual cost
Wooden Post for Plaques		\$75.00 or actual cost
Memorial trees		\$300.00 or actual cost
Memorial benches		
6' metal coated		\$490.00 or actual cost
MUNICIPAL FINANCING APPLICATION FEES:		
Tax Increment Financing Application Fee (plus city expenses)		\$1,200.00
Tax Abatement (plus city expenses)		\$1,200.00
Tax Exempt Financing		\$1,200.00
*All costs incurred by the City for TIF, Abatement, and Tax Exempt Financing applications will be billed seperately. Such costs include, but are not limited to, costs for legal, fiscal, and staff time.		
UTILITY BILLING RATES:		
WATER:		
Water (Base) Rates		
5/8" or 3/4" meter		\$16.10/billing cycle
1" meter		\$16.81/billing cycle
1 1/2" meter		\$16.96/billing cycle
2" compound meter		\$37.17/billing cycle
3" compound meter		\$42.46/billing cycle
4" compound meter		\$62.83/billing cycle
6" compound meter		\$93.66/billing cycle
Multi-Dwelling Units (with one water meter)		(70% of base residential fee) \$11.27/monthly per unit
Water Rate		\$4.39/1,000 gallons
Bulk Water Charge		\$7.50/1,000 gallons

2023 OFFICIAL CITY FEE SCHEDULE	
(Adopted 10/2/23 - Effective 10/2/23)	
	2023 Fee (In Dollars)
Bulk Water Loading Charge	\$35.00/load
Pool fill metered from Fire Hydrant	\$75.00 meter set up fee/water charge \$7.50/1,000 gallons
Water Conservation Violation Fines	
First Day	\$50/day
Each Additional Day	\$100/day
Minnesota Department of Health Water Service Connection Fee	\$.81/Month Subject to change per Minnesota Department of Health
SANITARY:	
Sanitary Sewer Rate	\$10.73 base rate + \$15.86/1,000 gallons
STORM:	
Storm Sewer Rate	
Base Rate (Used in the formula for storm sewer charges: Base Rate x Acres x REF)	\$16.39
ELECTRIC:	
Electric Rates	
Residential	\$15.82 customer charge & \$0.1306/kWh
Commercial	\$30.85 customer charge & \$0.1261/kWh
Small Industrial	\$66.04 customer charge; \$13.17/kW Demand & \$0.0721/kWh
Industrial	\$66.04 customer charge; \$13.50/kW Demand & \$0.0721/kWh
Large Industrial	\$66.04 customer charge; \$16.61/kW Demand & \$0.0721/kWh
Interruptible	\$30.86 customer charge & \$0.0917/kWh
Street Lights Service	\$11.07 customer charge & \$0.1440/kWh
Street Light Rental - Residential LED Light Fixture on 23' Fiberglass Pole	\$21.72/month
Street Light Rental - Commercial LED Light Fixture on 35' Fiberglass Pole	\$30.23/month
Security Lights - Rental	\$12.11/month
City Street Light (LED less than 100 watt)	\$12.11/month
City Street Light (LED 100 watt or more)	\$15.62/month
Peak Alert Rate (Customer Owned Generation)	
Customer Charge	\$136.60/month
Demand Charge	\$3.18/kW
Energy Charge	\$0.0779/kWh
Off Peak	
Summer Energy Charge (June through September)	\$0.0807/kW
Winter Energy Charge (October through May)	\$0.0682/kW
Off Peak Load Control Credit	\$5.00/monthly (non-metered)
Residential Solar Reimbursement Under 40kW	\$0.1306/kWh
Car Charging (Time of Use)	
10pm - 10am	\$0.0806/kWh
10am - 10pm	\$0.2274/kWh
Energy Cost Adjustment (ECA)	Based on additional charge or credit of wholesale energy / kWh
Residential Electric Service Install Fees (costs subject to change per material pricing)	
200 Amp Residential Underground Service - Up to 100' In Length	1,600.00 (includes 200A Disconnect)

2023 OFFICIAL CITY FEE SCHEDULE		
(Adopted 10/2/23 - Effective 10/2/23)		
		2023 Fee (In Dollars)
Additional Charge for 200 Amp Service Installs Over 100'		\$6.00/ft
Winter Frost Charges will be applied November 1st through April 15th		Additional \$5.00/ft
Service Conduit (If Needed)		\$7.00/ft
Residential Service - Over 200 Amp		At-Cost Plus 15%
Other Utility Service Drops (Materials Provided by Service Provider)		\$150.00/service duct
Other Utility Service Drops Winter Installation (November 1st through April 1st)		\$200.00/service duct
Electric Service Connection Charges		
Commercial Electric Service Connection Charge		Billed Per Policy of the New Prague Utilities Commission
UTILITY EQUIPMENT:		
Bucket / Digger Truck		\$125.00/hr
Service Truck		\$65.00/hr
Skid Loader		\$55.00/hr
Tractor Backhoe		\$95.00/hr
Trencher		Quoted Per Foot
Directional Bore		Quoted Per Foot
DEPOSITS:		
Residential Electric		\$150.00
Residential Water		\$50.00
Residential Sanitary Sewer		\$100.00
Small Industrial, Industrial and Large Industrial Electric		2 months estimated consumption based on load & demand w/\$300.00 min
Commercial Electric		2 months estimated consumption based on load & demand w/\$150.00 min
Commercial Water		2 months estimated consumption with a \$100.00 minimum
Commercial Sanitary Sewer		2 months estimated consumption with a \$100.00 minimum
DISCONNECTION/RECONNECTION OF UTILITIES:		
During Work Hours (8:00AM to 4:30PM)		\$35.00 plus sales tax
After Work Hours		\$150.00 plus sales tax
MISCELLANEOUS:		
Fire Hydrant Maintenance (Annual per private hydrant)		\$52.00
Water System Flow Testing		\$155.00
Irrigation Meter Connection/Disconnection Fee		\$67.00
Temporary Service Connection Fee - Residential		200.00
Temporary Service Connection Fee - Commercial		Cost based on type & size of service
Utility Line Worker Labor Rate		\$80.00/hr during normal business hours, \$130.00/hr all other hours
Utility Line Worker Labor Rate for Mutual Aid with other Utilities		\$130/hr all hours
Interest Rate for customer deposits (water and electric)		4.65% and changes based on MN Statute 325E.02 (b)

CITY OF NEW PRAGUE, MINNESOTA

RESOLUTION NO. _____

**A RESOLUTION APPROVING PUBLICATION OF ORDINANCE #342 BY
TITLE AND SUMMARY**

WHEREAS, on October 2nd, 2023 the City Council of the City of New Prague (the “City”) adopted Ordinance No. 342, entitled “AN ORDINANCE AMENDING CHAPTER 93 OF THE CODE OF ORDINANCES TO ADMINISTER AND REGULATE THE PUBLIC RIGHTS OF WAY IN THE PUBLIC INTEREST, AND TO PROVIDE FOR THE ISSUANCE AND REGULATION OF RIGHT-OF-WAY PERMITS”; and

WHEREAS, the ordinance is 26 pages long; and

WHEREAS, Minnesota Statutes, Section 412.191, subdivision 4 allows publication by title and summary in the case of lengthy ordinances; and

NOW, THEREFORE, BE IT RESOLVED,

1. The City Council of the City of New Prague has adopted Ordinance No. 342, entitled “AN ORDINANCE AMENDING CHAPTER 93 OF THE CODE OF ORDINANCES TO ADMINISTER AND REGULATE THE PUBLIC RIGHTS OF WAY IN THE PUBLIC INTEREST, AND TO PROVIDE FOR THE ISSUANCE AND REGULATION OF RIGHT-OF-WAY PERMITS.”
2. That the following summary clearly describes the subject matter of such Ordinance sufficient to clearly inform the public of the intent and effect of the Ordinance:

Ordinance No. 342 amends the existing Right-Of-Way Construction Regulations which exist as Chapter 93.45 of the City Code by renaming it Right-Of-Way Management and updating the language to be consistent with current state law/rules including referencing small wireless facilities which did not exist at the time the previous ordinance was written.
3. The City Administrator is directed to publish the summary contained in paragraph 2 above in lieu of publication of the entire ordinance.
4. A printed copy of Ordinance No. 342 is available for inspection by any person during regular office hours at the New Prague City Hall. An electronic version of such Ordinance shall also be posted on line at the City’s website located at www.ci.new-prague.mn.us.

New Prague City Council:

Duane J. Jirik, Mayor

ATTEST:

Joshua M. Tetzlaff, City Administrator