

CHAPTER 113: TELECOMMUNICATIONS

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' 113.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CITY ADMINISTRATOR. The City Administrator or designated representative.

COMPANY. A natural or corporate person, business association, political subdivision, public or private agency of any kind, its successors and assigns, who or which seeks or is required to construct, install, operate, repair, maintain, remove, or relocate facilities in the city.

FACILITIES. Telecommunications equipment of any kind, including but not limited to audio, video, paging, facsimile, or similar service, not governed by M.S. Ch. 238, as it may be amended from time to time, including all trunks, lines, circuits, physical connections, switching equipment, wireless communication equipment of all kinds, and any necessary appurtenances owned, leased, or operated by a company on, over, in, under, across, or along public ground.

PUBLIC GROUND. Highways, roads, streets, alleys, public ways, utility easements, and public grounds in the city.
(Ord. 245, passed 9-5-1995)

' 113.02 PERMIT PROCEDURE.

A company may not construct, install, repair, remove, or relocate facilities, or any part thereof, in, on, over, under, or along public ground without first obtaining a permit from the city.
(Ord. 245, passed 9-5-1995) Penalty, see ' 10.99

' 113.03 RESTORATION AND RELOCATION.

(A) *Restoration.*

- (1) Upon completion of the work, the company must restore the general area of the

work, including paving and its foundations, to the same condition that existed prior to commencement of the work and must exercise reasonable care to maintain the same condition for 2 years thereafter. The work must be completed as promptly as weather permits.

(2) If the company does not promptly perform and complete the work, remove all dirt, rubbish, equipment, and material, and restore the public ground to the same condition, the city may put it in the same condition at the expense of the company. The company must, upon demand, pay to the city the direct and indirect cost of the work done for or performed by the city, including but not limited to the city's administrative costs. To recover its costs, the city will first draw on the security posted by the company and then recover the balance of the costs incurred from the company directly by written demand. This remedy is in addition to any other remedies available to the city.

(B) *Company initiated relocation.* The company must give the city written notice prior to a company initiated relocation of facilities. A company initiated relocation must be at the company's expense and must be approved by the city, the approval not to be unreasonably withheld.

(C) *City required relocation.* The company must promptly and at its own expense, with due regard for seasonal working conditions, permanently relocate its facilities whenever the city requires the relocation.

(D) *Relocation where public ground vacated.* The vacation of public ground does not deprive the company of the right to operate and maintain its facilities in the city. If the vacation proceedings are initiated by the company, the company must pay the relocation costs. If the vacation proceedings are initiated by the city or other persons, the company must pay the relocation costs unless otherwise agreed to by the city, company, and other persons.

(Ord. 245, passed 9-5-1995) Penalty, see ' 10.99

' 113.04 COMPANY DEFAULT.

(A) *Notice.* If the company is in default in the performance of the work authorized by the permit, including but not limited to restoration requirements, for more than 30 days after receiving written notice from the city of the default, the city may terminate the rights of the company under the permit. The notice of default must be in writing and specify the provisions of the permit under which the default is claimed and state the grounds of the claim. The notice must be served on the company by personally and other state and the federal law, including prompt compliance with the requirements of the Gopher State One Call program, M.S. Ch. 216D, as it may be amended from time to time.

(B) *Location.*

(1) The facilities must be placed in a location agreed to by the city. The company shall give the city 45-days' advanced written notice of the company's proposed location of facilities within the public ground.

(2) No later than 45 days after the city's receipt of the company's written notice, the city will notify the company in writing of the city's acceptance or rejection of the proposed location. If the city rejects the company's proposed location, the city shall propose alternative locations. The city does not waive or forfeit its right to reject the location of facilities by failure to respond within the 45 days.

(C) *Emergency work.* A company may open and disturb the surface of public ground without a permit where an emergency exists requiring the immediate repair of its facilities. In that event, the company must request a permit not later than the second working day thereafter and comply with the applicable conditions of the permit. In no event may the company undertake an activity which will result in the closing of a street or alley without prior notification to the city.

(D) *Street improvements, paving, or resurfacing.* The city will give the company written notice of plans for street improvements where permanent paving or resurfacing is involved. The notice must contain:

- (1) The nature and character of the improvements;
- (2) The streets upon which the improvements are to be made;
- (3) The extent of the improvements and the time when the city will start the work; and
- (4) If more than 1 street is involved, the sequence in which the work is to proceed.

(E) *Company protection of facilities.* The company must take reasonable measures to prevent the facilities from causing damage to persons or property. The company must take reasonable measures to protect its facilities from damage that could be inflicted on the facilities by persons, property, or the elements. The company must take specific protective measures when the city performs work near the facilities.

(F) *Prior service connections.* In cases where the city is undertaking the paving or resurfacing of streets and the facilities are located under the street, the company may be required to install service connections prior to the paving or resurfacing, if it is apparent that service will be required during the 5-year period following the paving or resurfacing.
(Ord. 245, passed 9-5-1995)

' 113.05 PUBLIC GROUNDS USE PERMITTING REGULATIONS.

(A) *Application for permit.* Any person desiring to so use public property shall apply for a permit or renewal of a permit a minimum of 2 working days before starting work and must submit detailed plans for street or sidewalk use and pedestrian safety on major projects. This provision or portions thereof may be waived by the City Administrator in the event of an emergency.

(B) *Guarding of obstructions, fences.* Any permittee obstructing any street, alley, sidewalk, or other public property shall keep the obstruction or obstructions properly guarded at all times. From sunset to sunrise, all obstructions must be guarded by a sufficient number of warning lights placed in a manner so that they will give proper warning of the obstruction. The City Administrator may require any permittee obstructing a sidewalk to build adjacent to the obstruction a tight board fence at least 6 feet high, except at street intersections where a 6-foot open board fence shall be built and maintained, and adjacent to each fence shall be built and maintained a temporary walk at least 4 feet in width for the use of the public with a railing along the outside edge of the walk at least 36 inches high. The City Administrator may waive the requirement for a temporary walk when it is determined that a temporary walk is not necessary and that pedestrians can more properly be protected by rerouting them to a walk across the street.

(C) *Derricks and hoists prohibited.* No person shall place or use derricks or hoists of any kind or any portion thereof, including outriggers and pads, upon any sidewalks unless the permit specifically permits the action.

(D) *Lifting.* Whenever any person applies for a permit for the use of a street or sidewalk or portion thereof for the purpose of hoisting or lifting equipment or material over, across, and above the street or sidewalk, he or she shall provide for closing off those portions of the street and/or sidewalk encompassed within the lifting area with suitable barricades, signs, and warning lights and shall provide a 4-foot pedestrian walkway around the lifting area, the walkway to be suitably enclosed on the street side with barricades and warning lights.

(E) *Flaggers.* The City Administrator may direct that flaggers, as described in the Manual on Uniform Traffic Control Devices for Streets and Highways, State of Minnesota, be used to control traffic.

(F) *Notice of traffic closure.* The permittee shall notify the City Administrator when the permit area is closed to pedestrian and vehicular traffic and again when it is open to the traffic.

(G) *Permit revocation.* Any permit issued under this chapter may be revoked at any time by the City Administrator when he or she finds it in the best interest of the City of Olivia.

(H) *Insurance.* The permittee shall obtain liability insurance for both personal injury and property damage in an amount not less than \$1,000,000. The city shall be named as an additional insured under that insurance for the services provided under the permit. The permittee's insurance will be the primary insurance for the city. Permittee shall provide a certificate of insurance on city's approved form which verifies the existence of the required liability insurance coverage as well as worker's compensation coverage.

(I) *Parking prohibited.*

(1) The parking of private vehicles within or adjacent to the permit area is prohibited.

(2) The loading or unloading of truck adjacent to the permit area is prohibited unless

specifically authorized by the permit.

(J) *Double fee.* Should any person or persons begin work of any kind without having first secured the necessary permit therefore, they shall be required to pay double the fee provided for the permit.

(K) *Display of permits.* Permits issued under this chapter by the City Administrator shall be conspicuously displayed at all times for ease of inspection on the indicated work site. (Ord. 245, passed 9-5-1995) Penalty, see ' 10.99