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## RIGHT-OF-WAY PERMITS—WHAT YOU NEED TO KNOW

The City of Plymouth's regulations for public right-of-way use are contained in Section 800 of the City Code, as amended by Ordinance 2004-20 (adopted September 13, 2004.) This summary of the key ordinance requirements, and other Engineering Division guidelines that apply to right-of-way users and permittees, is provided as a convenience. For complete information, please refer to the City Code or contact the Engineering Division.

### Key Rights-of-Way Ordinance Provisions Excerpts of City Code Section 800

#### 1. Permit Requirement *(Section 800 Subd. 5.A.)*

Except as otherwise provided in this code, no person may obstruct or excavate any right-of-way or install any facilities, equipment, or improvements above, on, or beneath the surface of any right-of-way in the City or any property owned by the City without first having obtained the appropriate right-of-way permit from the City to do so. It is unlawful to dig up, break, excavate, tunnel, trench, drill, bore, undermine or in any manner break up any street or to make or cause to be made any excavation in or under the surface of any street, or to place, deposit or leave upon any street any earth, excavated material or other substances obstructing or tending to interfere with the free use of the street without an appropriate permit therefor.

#### 2. Supplement permits or permit extension. *(Section 800 Subd. 9)*

- a. No permittee shall obstruct or excavate an area greater than that specified in the permit without first obtaining a new permit or permit extension from the City.
- b. No permittee shall begin its work before the permit start date or, except as provided herein, continue working after the completion date.

#### 3. Installation of underground facilities within public right-of-ways. *(Section 800 Subd.8.)*

- a. Underground facilities shall, where reasonably possible, be installed outside the paved or surface area in areas with the least potential future conflict. If unable to install outside the surfaced area, the installation shall be as close to the edge of the roadway surface as possible to allow access thereto without unnecessarily disturbing paved areas of the roadway.
- b. Public right-of-way alignment and grade shall be maintained.

- c. Fiber facilities shall be buried in a proper conduit and at a depth of no less than three (3) feet deep and no more than four (4) feet; copper facilities below concrete or bituminous paved roadway surfaces shall be buried no less than three (3) feet deep and no more than four (4) feet deep, and all other copper facilities shall be buried no less than thirty (30) inches deep and no more than four (4) feet deep.
- d. All underground facilities which cross streets or hard surfaced driveways shall be bored and installed in conduit when requested by the City. Gas does not need to be installed in conduit.
- e. When required, the permittee shall excavate an observation hole over a City utility to ensure that a City utility is not damaged.
- f. If the project work involves an open cut, the permittee shall install visual tracers eighteen (18) inches over buried facilities. If other construction methods are used, substitute location methods may be used upon approval by the City.
- g. During plowing or trenching of facilities, a warning tape shall be placed at a depth of eighteen (18) inches above copper cables with over two hundred (200) pairs and fiber facilities and a locating wire or conductive shield shall be installed above buried telecommunication facilities, except for di-electric cables.
- h. Restoration of areas disturbed by facilities will include returning the right-of-way to the same condition that existed before excavation as per MN Rules 7819.1100. Subject to this standard, plates 1 to 13, shown in parts 7819.9900 to 7819.9950, indicate maximum limits of restoration methods and area requirements the local government unit can impose when a right-of-way user excavates in the public right-of-way. The local government unit and right-of-way user may agree to a lesser requirement. The right-of-way user is responsible for all of its work done in the public right-of-way, whether by employees, agents, or independent contractors. All levels of restoration include compaction of the materials placed in the excavation of the sub-grade and aggregate base, plus pavement replacement, in kind. All work must be performed according to the City of Plymouth 's specifications and drawings.
- i. All facilities shall be located so as to not interfere with existing and potential future traffic signals and signs.
- j. Unless approved by the Director [of Public Works], all above ground appurtenances shall be located no closer than ten (10) feet to City hydrants, waterline valves, manholes, lift stations, catch basins; not in front of any City or private sign, monument or amenity for facilities or parks; and no closer than two (2) feet from sidewalks and trails.
- k. Underground facilities shall not be installed between a hydrant and an auxiliary valve.
- l. Underground facilities shall not be installed within five (5) feet of hydrants, waterline valves, lift stations, manholes or catch basins unless approved by the Director.
- m. The location and installation of telecommunications facilities shall comply with the National Electric Safety Code, as incorporated by reference in Minnesota Statutes.

#### **4. Conditions of Permit (Section 800 Subd. 6)**

- a. All permits issued under this Section or a copy of the permit shall be conspicuously displayed or otherwise available at all times at the indicated project work site and shall be available for inspection immediately upon request by the Director or his/her designee.
- b. If the obstruction or excavation of the public right-of-way begins later or ends sooner than the dates specified in the permit, the permittee shall promptly notify the Director.
- c. Installation, placement, location, and relocation of equipment and facilities shall comply with all federal, state and local laws.
- d. Public right-of-way restoration shall be in accordance with the restoration regulations set forth in this Section.
- e. Installation of all underground utilities shall be in accordance with the underground utilities regulations set forth in this Section and all other applicable federal, state and local laws.
- f. Precautions shall be taken as necessary to avoid creating unsafe or unsanitary conditions, and a permittee shall not obstruct a public right-of-way, except as expressly authorized by the permit, so as to hinder the natural free and clear passage of water through the gutters or other waterways. Personal vehicles of those doing work in the public 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.
- g. Project operations and work shall be conducted in a manner so as to insure the least obstruction to and interference with present and continued use of the public right-of-way.
- h. Precautions including appropriate signage shall be taken to assure the safety of the general public, employees, invitees and those who require access to abutting property.
- i. The permittee shall notify abutting property owners with a 48-hour written notice prior to commencement of any project work that may disrupt the use of and access to the abutting property.
- j. The permittee involved in underground projects shall register with Gopher State One Call and comply with the requirements thereof.
- k. The permittee shall comply with the Uniform Traffic Manual for Traffic Control at all times during any project work and shall protect and identify excavations and work operations with barricade flags in the daylight hours and by warning lights at dusk and night.
- l. The permittee shall comply with all conditions of the permit.
- m. When any trail or drive has been cut, the appropriate signage must be kept in place and maintained until restoration is complete.
- n. The permittee shall provide proper trench protection as required by O.S.H.A. to prevent any cave-in; injury to property or persons; or enlargement of the excavation.

- o. Excavations, trenches and jacking pits off the roadway surface area or adjacent to the roadway or curbing shall be sheathed and braced. When unattended, all excavations, trenches and jacking pits shall be protected to prevent surface drainage.
- p. The permittee shall protect the root growth of significant trees as defined in Chapter 5 of the City Code and shrubbery located within the public right-of-way and adjacent thereto. The permittee shall protect sprinkler systems, pet containment systems, and sod located adjacent to the public right-of-way.
- q. The permittee shall coordinate project work and installation of facilities in co-locations involving other public right-of-way users.
- r. The permittee shall maintain access to all properties and cross streets during project work, including emergency vehicle access.
- s. The permittee shall physically locate property lines abutting the project work. The permittee shall replace, with the services of a Minnesota-licensed surveyor, any property corners or monuments disturbed as a result of the project.
- t. The permittee shall complete restoration of the public right-of-way in conformance with this Section.
- u. No permittee, or any agent, subcontractor or employee thereof, shall use lugs (steel tracks) on any roadway surfaces.
- v. The permittee shall remove daily all dirt or debris from sidewalks, trails, public and private roadway surfaces and curbs and gutters during project work.
- w. The permittee shall obtain all other necessary permits, licenses and approvals, pay all required fees therefor and comply with all requirements of local, state and federal laws.
- x. The permittee shall not do any work outside the project area as specified in the permit.

**5. Public Right of Way Restoration** (*Section 800 Subd. 12*)

- a. Timing. All project work under a permit shall be completed within the dates specified in the permit unless the project work could not be completed due to circumstances beyond permittee's control, including seasonal weather prohibitions or inclement weather. An extension permit at no charge will be issued by the City for these circumstances.
- b. Restoration costs. The permittee shall restore the public right-of-way and assume all costs therefor unless otherwise agreed upon. The right-of-way user shall remain responsible for replacing and compacting the sub-grade and aggregate base material in the excavation. The City, at its option, may choose to perform its own restoration including any paving. If the City performs the restoration pursuant to this paragraph, the permittee shall pay to the City all costs thereof within thirty (30) days of billing. If following such restoration, the roadway surface, boulevard, sidewalk, curb or related infrastructure settles due to permittee's improper back-filling; the permittee shall, at its option, either correct the defect or pay to the City all costs associated with

correcting the defective work within thirty (30) days of billing. If the permittee restores the public right-of-way, the City may require, and the permittee shall provide at the time of application for the permit, a City specified type of security, in accordance with PUC rules, to cover the cost of repair and restoration. If within twenty-four (24) months after completion of restoration of the right-of-way, the Director determines the right-of-way has been properly restored, the posted security will be released.

- c. Standards. All restoration shall be in accordance with the standards and materials specified by the City. The City shall maintain written procedures and standards for public right-of-way restoration, which shall comply with PUC standards. Subject to PUC rules, the City shall have the authority to prescribe additional restoration procedures and standards on a case-by-case basis based on the following considerations:
  - 1) The number, size, depth and duration of the excavation, disruption or damage to the public right-of-way;
  - 2) The traffic volume carried by the public right-of-way;
  - 3) The character of the neighborhood surrounding the public right-of-way;
  - 4) The pre-project condition of the public right-of-way;
  - 5) The remaining life expectancy of the public right-of-way due to the project;
  - 6) The costs of the restoration method in relation to the prevention of an accelerated depreciation of the public right-of-way that could result due to the project work in the public right-of-way; and
  - 7) The likelihood that the particular restoration method would be effective in slowing the depreciation of the public right-of-way that would otherwise occur.
- d. Duty to correct defects. The permittee shall guarantee the restoration of the public right-of-way for twenty-four (24) months following its completion (twelve (12) months for turf establishment). During the 24-month period, the permittee shall, upon written notification from the City, correct all non-complying restoration work, using the method required by the City. The correction work shall be completed within ten (10) calendar days of the receipt of the notice from the City, not including days during which work cannot be done due to circumstances constituting force majeure or of unseasonable or inclement weather.
- e. As Built drawings. The permittee shall, if not already provided through another filing made within one year of completion of the project, annually submit to the City "as-built" drawings in a format usable by the City, as per State Statutes, incorporating project work and restoration.

### **Safety Requirements for Rights-of-Way Permittees**

1. Traffic shall be allowed to pass and to be protected at all times. If it is not possible to allow traffic to pass, a detour must be pre-approved by the Department of Public Works. Notification must be in writing 3 working days prior to commencement.
2. Traffic control devices shall be in accordance to the most recent version Minnesota Manual on Uniform Traffic Control Devices (MMUTCD). When a trail or roadway/drive has been cut, appropriate signage must be kept in place and maintained until restoration is complete.
3. Excavations must be shored or sheeted, as required by O.S.H.A., when necessary to prevent undermining of roadways, trailways, utilities, or for safety reasons. Stock piling of excavated material shall not occur within the public-right-of-way without proper traffic control. Location of stock piling must be identified in the permit application.
4. Guys or stays shall not be attached to trees on right-of-way or private property nor obstruct roadways, sidewalks, trails, driveways, etc. without written permission.
5. Flaggers and/or warning lights at night shall be furnished by permittee whenever the work being done creates a hazard either to the traffic using roadway or the personnel engaged in the construction, or when directed to do so by the City.

#### **Operations Requirements for Rights-of Way Permittees**

1. Provisions and Specifications – These general provisions, specifications and Standard **Plate number STRT-2 and SPP-1 (attached)** shall be considered as forming an integral part of each and every permit issued for operations within Plymouth. The work authorized by this permit shall be done at such time and in such manner as shall be consistent with the safety of the public and shall conform to all requirements and standards of the City. If at any time it shall be found by the City that the work is not being or has not been properly performed, the permittee, upon being notified by the City, shall immediately take the necessary steps, at his own expense, to place the work in condition to conform to said requirements or standards.
2. Execution – The permittee shall use diligence in the execution of the work authorized under this permit in order not to endanger the public or unnecessarily obstruct travel along any road or right of way. Operations shall be so conducted as to permit safe and free travel over the roads and trailways at all times within the limits of the work herein prescribed. All safety measures for the free movement of traffic shall be provided by the permittee at his own cost.
3. Quality of Work – Finished surface, base and sub-base of all disturbed surfaces upon completion of work shall be at least equal to or better than current City specs for similar construction. New surfaces must match existing roads or trail-ways. **Hard surfaces shall be replaced within 48 hours upon completion of backfill.**
4. Drainage – All waterways and overland drainage shall remain operative.
5. Pole anchors – Pole anchors, anchors, braces or other construction may be permitted within right-of-way or easements and must be approved on a case-by-case basis.
6. Crossing Trails – Vehicles or equipment traversing roads or trailway surfaces shall not utilize studded or chained tires, caterpillar traction, or any other form of traction that will result in damage to the surface.

7. Clean Up – Street and trailways shall be cleaned at the end of each workday and affected rights-of-ways shall be cleaned after construction is completed and left in a neat and presentable condition. Any sediment or debris from improvement shall be removed from sanitary or storm sewer systems, including drainage swales and ponds, as needed.
8. Erosion Control – Proper erosion control shall be established and maintained throughout construction and restoration. If erosion does occur the permittee shall be held responsible for all cleaning costs, property damage, and the cost of installation of permanent or temporary erosion control measures.
9. Trees and Vegetation – Burning or discing operations and/or the use of chemicals to control or destroy trees, brush and other vegetation is prohibited without prior approval from the City.
10. Replacement of Sod – Wherever topsoil and sod are disturbed, they **shall be replaced and maintained a minimum of 30 days**. Any turf that fails to be established shall be replaced and satisfactorily re-established. **Restoration of boulevards shall include a minimum of 4" of topsoil.**