

ORDINANCE NO. 2010-04

AN ORDINANCE AMENDING CITY CODE SECTION 1120
REGARDING ADMINISTRATION
AND REGULATION OF PUBLIC RIGHTS-OF-WAY

The City of Minnetonka Ordains:

Section 1. The Minnetonka city code is amended by repealing existing section 1120, a copy of which is attached as Exhibit A, and by adding a new section 1120 to read as follows:

SECTION 1120. RIGHT-OF-WAY MANAGEMENT

1120.005. 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 enacts this section to impose reasonable regulation on the placement and maintenance of facilities within the city's rights-of-way and is intended to complement the regulatory roles of state and federal agencies. This section requires persons excavating and obstructing the rights-of-way to bear financial responsibility for their work and to reimburse the city for its out-of-pocket and projected costs.

This section must be interpreted consistently with Minnesota statutes sections 237.162, 237.163, 237.79, 237.81, and 238.086 (the "Act") and the other laws governing applicable rights of the city and users of the rights-of-way. This section must also be interpreted consistent with Minnesota rules 7819.0050 — 7819.9950 where possible. To the extent any provision of this section cannot be interpreted consistently with the Minnesota rules, the interpretation most consistent with the Act and other applicable statutory and case law is intended. This section may 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.

1120.010. Election to Manage Public Rights-of-Way.

Pursuant to the authority granted to the city under state and federal law, the city elects under the Act to manage rights-of-way under its jurisdiction and to regulate excavations and obstructions within public rights-of-way.

1120.015. Definitions. The following definitions apply in this section of this code:

The ~~stricken~~ language is deleted; the underlined language is inserted.

1. “Abandoned facility” means: a facility no longer in service or physically disconnected from a portion of an 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.

2. “Applicant” means a person requesting permission to excavate or obstruct a right-of-way.

3. “City” means the city of Minnetonka, Minnesota. For purposes of section 1120.130, “city” also includes its elected officials, officers, employees and agents.

4 “Congested right-of-way” means 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 Minnesota Statutes, section 216D.04, subd. 3, over a continuous length in excess of 500 feet.

5 “Construction performance bond” means any of the following forms of security provided at permittee’s option:

- a. Individual project bond, including a “license and permit” bond;
- b. Cash deposit;
- c. Security of a form listed or approved under Minnesota Statutes, section 15.73, subdivision 2;
- d. Letter of credit, in a form acceptable to the city;
- e. Self-insurance, in a form acceptable to the city;
- f. 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.

6 “Degradation” means 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 the right-of-way earlier than would be required if the excavation or disturbance did not occur.

7 “Degradation cost” 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 Minnesota rules parts 7819.9900 to 7819.9950.

8. “Degradation fee” means 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.

9. “Delay penalty” means the penalty imposed as a result of unreasonable delays in right-of-way excavation, obstruction, patching, or restoration.

10. “Director” means the city’s director of engineering, or his or her designee.

11. “Emergency” means a condition that (a) immediately endangers the life, health, or safety of persons, (b) causes an immediate threat of significant loss or damage to property, or (c) requires immediate repair or replacement in order to restore service to a customer.

12. “Equipment” means anything tangible used to install, repair or maintain facilities in a public right-of-way.

13. “Excavate” means to dig into or in any way remove, physically disturb, or penetrate any part of a public right-of-way.

14. “Excavation permit” means a permit that is issued by the city authorizing the permittee to excavate in a public right-of-way as specifically described in the permit.

15. “Extension permit” means a permit that is issued by the city authorizing additional calendar days to an excavation or obstruction permit.

16. “Facility” means anything tangible, including equipment, that is located in the public right-of-way.

17. “Hole” means an excavation in the right-of-way, with the excavation having a length less than the width of the pavement or adjacent pavement.

18. “Local representative” means a person, or designee of such person, authorized by a public right-of-way user to accept service and to act and make decisions for the public right-of-way user regarding matters within the scope of this section.

19. “Management costs” means the actual costs the city incurs in managing its rights-of-way, including the costs associated with registering right-of-way users;

processing excavation and obstruction permits; inspecting project work and restoration projects; maintaining, supporting, protecting, or moving user facilities during right-of-way work; determining the adequacy of right-of-way restoration; enforcing and correcting non-complying project work; mapping of facilities located in the right-of-way; revoking right-of-way permits; performing all other tasks required by this section; and managing matters described in this section. Management costs do not include payment by a telecommunications right-of-way user for the use of the right-of-way, the fees and cost of litigation related to the interpretation of state law or this section, or the city costs related to appeals taken pursuant to this section.

20. “Obstruct” means to place an object or improvement in a public right-of-way, or to take any other action in a public right-of-way, that interferes with the free use of the public right-of-way, including action that causes a visual obstruction.

21. “Obstruction permit” means a permit that is issued by the city authorizing the permittee to obstruct a public right-of-way as specifically described in the permit.

22. “Patch or patching” means a method of roadway surface replacement or restoration that consists of: (a) the compaction of the sub-base and aggregate base; and (b) the replacement, in kind, of the existing roadway surface for a minimum of two feet beyond the edges of the defined excavation in all directions.

23. “Permittee” means a person to whom an excavation or obstruction permit has been issued by the city under this section.

24. “Person” means an individual or entity, however organized, whether natural, corporate, or political.

25. “Project or project work” means any activity, including construction, reconstruction, installation, maintenance, relocation, restoration or replacement of any facility or a public right-of-way in which the facility is located.

26. “Public right-of-way” means 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 public right-of-way does not include the airwaves above a public right-of-way with regard to cellular or other non-wire telecommunications or broadcast service.

27. “Public right-of-way user” means a person or entity that owns or controls a facility that is located, or is sought or intended to be located, in a public right-of-way, including persons who have installation and maintenance responsibilities by contract, lease,

sublease or assignment.

28. "Restore or restoration" means the process, including patching, by which a public right-of-way and surrounding area, including pavement and foundation, is returned to the same condition that existed before any project work.

29. "Restoration cost" means the amount of money paid to the city by a permittee to meet restoration requirements in this section, in accordance with state rules.

30. "Service lateral" means an underground facility that is used to transmit, distribute, or furnish gas, electricity, communications, water, steam, cooling or heating services, or other utility service 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 or drainage from a customer's premises.

31. "Trench" means an excavation in the public right-of-way having a length that is equal to or greater than the width of the roadway or sections of roadway where the work is occurring.

1120.020. Other Requirements.

1. Franchises/Leases. In addition to the requirements of this section, the city may require a public utility or cable operator who has or seeks to have facilities located in a public right-of-way to obtain a franchise, and may require other users of the public right-of-way to obtain a lease, if allowed by state law.

2. Wireless Telecommunications. In addition to the requirements of this section, a wireless telecommunications provider is subject to section 300.34 of this code.

1120.025. Administration. The director is the principal city official responsible for the administration of this section. The director may delegate any or all of the duties.

1120.030. Registration Requirement.

1. Registration. Each public right-of-way user must register with the city. Registration will be deemed complete upon the public right-of-way user submitting to the city a completed registration form furnished by the city and paying the registration fee. A right-of-way user is required to update its registration within 60 days after any change of the information contained in a current registration statement. Registration must be renewed annually.

2. Registration Prior to Work. No person may construct, install, repair, remove,

relocate, perform any work on, or use any facilities in any public right-of-way without first being registered with the city.

3. Exceptions. Persons engaged in the following activities are not deemed to use or occupy the right-of-way, and are not governed by this section, but may be governed by other city code sections, such as section 300.15, subd. 9(e):

- a. planting or maintaining boulevard plantings in the right-of-way between their property and the street curb;
- b. installing private driveways that are allowed by driveway permits issued under section 1105 of the city code, sidewalks, curb and gutter, or parking lots;
- c. installing above-ground private improvements such as private streets on undeveloped right-of-way that are only for the benefit of adjacent or nearby property, which is governed by section 1125 of this code;
- d. installing mail boxes or publicly-owned bus stop benches and shelters;
- e. installing irrigation systems or pet containment systems;
- f. engaging in snow removal activities; or
- g. undertaking activities on behalf of federal, state, county, or city agencies.

4. Gopher One Call. Nothing in this section relieves a person from complying with the provisions of Minnesota statutes, chapter 216D, gopher one call law.

5. Requirements. A registrant is required to comply with the applicable provisions of this section.

1120.035. Registration Information.

1 Information Required. The registrant must provide the following at the time of registration and must promptly notify the city of changes in such information:

- a. registrant's name, address, telephone number, facsimile number and gopher one-call registration certificate number if required by state law;
- b. name, address, telephone number, email address, and facsimile number of the person responsible for fulfilling the obligations of the registrant;

- c. a certificate of insurance or self-insurance verifying the coverage required in this section;
 - d. 24-hour emergency number;
 - e. an acknowledgement by the registrant of the indemnification pursuant to section 1120.130; and
 - f. such other information as the director may require.
2. Notice of Changes. The registrant must keep all of the information listed above current at all times by providing the revised information to the city within 15 days following the date on which the registrant has knowledge of any change.
3. Transfer of Ownership or Interest. Within 30 days after a public right-of-way registrant transfers, sells, or otherwise conveys ownership or interest in facilities to another person, the registered public right-of-way user must notify the city of the date of the conveyance and the name of the transferee. Within 60 days after the conveyance a new registration fee must be paid.

1120.040. Reporting Obligations.

1. Operations. If requested by the director, each registrant must, 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. The plan must be submitted using a format designated by the city and must contain the information determined by the city to be necessary to facilitate the coordination and reduction in the frequency of excavations and obstructions of rights-of-way. The plan must include, at a minimum, the locations and the estimated beginning and ending dates of all projects to be commenced during the next calendar year.
2. Additional Next-Year Projects. Notwithstanding the foregoing, the city will not deny an application for a right-of-way permit for failure to include a project in a plan submitted to the city if the registrant has used commercially reasonable efforts to anticipate and plan for the project.

1120.045. Permit Requirements.

1. Permit Required. Except as otherwise provided in this code, no person may obstruct or excavate any right-of-way without first having obtained the appropriate right-of-way permit from the city to do so. A public right-of-way user that owns or controls a facility within a public right-of-way, or any portion of it, on [insert the effective date of this

section] and that subsequently excavates or otherwise obstructs a public right-of-way, or any portion of it, must first obtain a permit as required under this section. An obstruction permit is not required if a person already possesses a valid excavation permit for the same project.

2. Routine Obstruction and Excavation. Routine excavations and obstructions are permitted without separate notice and separate compensation for such projects. Projects that do not involve excavation of paved surface and that last less than a continuous eight hour period in duration between 7 a.m. and 7 p.m. Monday through Friday, excluding holidays, may, in the director's discretion, be considered routine obstruction and excavation and include by way of example, switching, replacing fuses, replacing transformers, placing line guards, animal protection, leak surveys, anode installations and inspections, or to repair facilities due to public damage or accident.

1120.050. Permit Applications. Applications for a permit must be completed by the public right-of-way user. An application for a permit must be on a form furnished by the city and completed and submitted to the city with the following information:

a. the applicant's name, gopher one-call registration certificate number, the city's registration number, street address, e-mail address, telephone number, and facsimile telephone number;

b. the local representative's name, street address, e-mail address, telephone number, facsimile telephone number, and current information regarding how to contact the local representative in an emergency;

c. the name, street address and telephone number of the person(s) or entities, other than the applicant, to perform the project work or any portion of it;

d. a certificate of insurance or self-insurance verifying the coverage required in this section;

e. two copies of scaled drawings, or other drawings meeting requirements established by the director, showing:

1) the location and area of the proposed project and the location of all known existing and proposed facilities owned or operated by the applicant;

2) the proposed location of the facility within the right-of-way and scaled dimensions of the facility from an existing physical topographic feature (such as "back of curb", "edge of bituminous road");

3) all existing physical topographic features (trees, shrubs, culverts, driveways, fences, street signs) and all municipal utilities that lie within ten feet of the proposed facility location;

4) the location of any public streets, alleys, sidewalks, or trails that will be disrupted by the work; and

5) the location of any public streets, alleys, sidewalks, or trails that will be temporarily closed to traffic or obstructed by the work;

f. a description of methods to be used for restoration of streets or boulevards;

g. payment of money due the city for:

1) permit fees;

2) construction performance bond if required by the director;

3) prior obstructions or excavations; and

4) 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;

g. payment of disputed amounts due the city by posting security or depositing in an escrow account an amount equal to at least 100% of the amount owing; and

h. posting an additional or larger construction performance bond for additional facilities when applicant requests a utility permit to install additional facilities and the city deems the existing construction performance bond inadequate under applicable standards.

1120.055. Permit Fees.

1. Establishment. Permit fees will be established to recover the city management costs and, when applicable, restoration costs. The permit fees are specified in section 710.005 of the city code. No permit fee is refundable. No permit fee will be required for an obstruction or excavation permit issued to the city, although the city must be allocated its full portion of the city management costs in calculating the permit fees.

2. Payment Required. No permit will be issued unless the applicable permit fee has been paid.

3. Work Without a Permit. Except as otherwise provided in section 1120.105, a person who obstructs or excavates in the right-of-way before obtaining a permit must pay double the normal fee for the permit.

4. Application to Franchises and Leases. Unless otherwise agreed in a franchise, permit fees to cover management costs may be charged separately from and in addition to the franchise fees imposed on a right-of-way user in the franchise. In addition, where permitted by state law, the city may require the applicant to obtain a lease and pay a rental fee for use of the right-of-way.

1120.060. Permit Issuance.

1. Issuance. If the applicant has satisfied the requirements of this section and there are no reasons for denial under paragraph 3 below, the city will issue a permit within ten business days after receiving a completed application.

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

3. Denial. The City may deny a permit for any one or more of the following reasons:

a. The applicant failed to meet the requirements and conditions of this section;

b. The applicant failed to register pursuant to this section;

c. The street surface was constructed or reconstructed at the proposed location within the preceding five years, unless the director determines that no other locations are feasible or when necessitated by emergency;

d. The applicant is subject to revocation of a prior permit issued pursuant to this section;

e. The proposed schedule for the work would conflict or interfere with an exhibition, celebration, festival or other similar event;

f. The right-of-way would become unduly congested due to the proposed facilities and equipment when combined with other uses in the right-of-way;

g. The time schedule for the project conflicts with scheduled public improvement of the public right-of-way;

h. Businesses or residences in the vicinity will be unreasonably disrupted;

i. The applicant failed to meet a reasonable schedule to participate in a mandated joint trench operation with other applicants, and the additional work will unreasonably disrupt the restored right-of-way, businesses or residences;

j. The proposed project violates a provision of this code;

k. Environmental or seasonal conditions are unreasonable for the work; or

l. The proposed project is adverse to the public health, safety and welfare, by interfering with the safety and convenience of ordinary travel over the public right-of-way, or endangers the public right-of-way and its users, as reasonably determined by the city based on relevant factors that may include:

1) the extent of public right-of-way area available;

2) the competing public service demands for the particular proposed space in the public right-of-way;

3) the availability of other feasible locations in the public right-of-way or in other public rights-of-way for the facility(s) of the permit applicant;

4) the applicability of an ordinance or other regulation that affects the location of a facility in the public right-of-way;

5) the applicant's prior lack of compliance with the terms and conditions of its franchise, this section or other applicable ordinances and regulations;

6) the condition and age of the public right-of-way and the city's scheduled reconstruction of it; or

7) the costs of disruption to the public and damage to the public right-of-way balanced against the benefits to the public served by an expansion into additional parts of the public right-of-way.

4. Appeal. The applicant may appeal a denial to the city council by submitting a written request to the director. The city council may affirm, reverse or modify the director's decision.

1120.065. Joint Applications.

1. Joint Applications. The director may require registrants to jointly apply for permits to excavate or obstruct the right-of-way at the same place and time. Registrants may also voluntarily choose to jointly apply for a permit for the same place and time. Only one permit will be issued for a joint application.

2. Fees. One permit fee will be charged for a joint application. Applicants must agree among themselves as to the portion each will pay and indicate this on the application.

1120.070. Supplementary Applications and Notifications.

1. Limitation on Area. A right-of-way permit is valid only for the area of the right-of-way specified in the permit. No permittee may do any work outside the area specified in the permit. A permittee who determines that an area greater than that specified in the permit needs to be obstructed or excavated must before working in that greater area (a) make application for a permit extension and pay any additional fees required and (b) receive a new permit or permit extension.

2. Limitation on Dates. A right-of-way permit is valid only for the dates specified in the permit. No permittee may begin work before the permit start date or continue working after the end date. Except in the case of verbal extensions, 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. Except when an extension permit has been granted, a permittee that has failed to complete the project work within the required time period under the initial permit, must obtain a new permit and pay the full permit fee.

3. Supplementary Notifications. If the obstruction or excavation of the right-of-way begins later or ends sooner than the date given on the permit, permittee must notify the city by supplementary application of the accurate information as soon as this information is known.

1120.075. Revocation of Permits.

1. Grounds for Revocation. The city may revoke a permit issued under this section on any one or more of the following grounds:

a. breach of a material provision or condition of the permit or city code;

- b. material misrepresentation in the application for a permit;
- c. failure to maintain the required bonds or other security and insurance;
- d. failure to complete the project work within the time specified in the permit unless the failure to complete work is due to reasons beyond the permittee's control;
- e. failure in a timely manner to correct work that does not conform to applicable standards, conditions, federal, state or local laws; or
- f. evasion of any material provision of the public right-of-way permit, perpetration of any fraud or deceit upon the city, or an attempt to do either of the foregoing.

2. Notice. If the director determines that the basis for revocation exists, the director may initiate revocation of the permit. If the violation is related to non-complying project work, the director must notify the permittee of the actions necessary to remedy the violation and the date by which the correction must be completed, which must be a reasonable period of time. The director may impose additional or revised conditions on the permit to mitigate or remedy the violation. If correction of the non-complying work is not completed within the required time or if another basis for revocation exists, the director must provide written notice to the permittee of the basis for revocation and the date of the revocation hearing before the city council under subdivision 3 below. The notice must be given to the permittee at least 10 days before the date of the revocation hearing.

3. Hearing before City Council. A revocation hearing must be held before the city council on the date specified in the notice. The purpose for the hearing will be to determine whether any of the grounds for revocation exist. No suspension or revocation may take effect until the permittee has been afforded a hearing as provided in this section.

4. Revocation Costs. If a permit is revoked, the permittee must reimburse the city for its reasonable costs (including restoration costs) incurred in connection with the revocation.

1120.080. County or State Rights-of-Way. A public right-of-way user who is required to obtain a county or state permit for excavation or obstruction in a county or state right-of-way within the city must provide notification of the proposed activity to the director within one week after obtaining the permit but no less than 48 hours before the activity would begin.

1120.085. Conditions of Permit and Registration. All permittees and all registrants are subject to the following requirements:

1. A permittee must comply with all conditions of the permit.
2. All permits issued under this section or a copy of the permit must be conspicuously displayed or otherwise available at all times at the project work site and must be available for inspection immediately upon request by the director or his/her designee.
3. The permittee must promptly notify the director if the obstruction or excavation of the public right-of-way begins later or ends sooner than the dates specified in the permit.
4. Installation, placement, location, and relocation of facilities must comply with all federal, state and local laws.
5. Public right-of-way restoration must be in accordance with the restoration regulations set forth in this section.
6. Installation of all underground utilities must be in accordance with the underground utilities regulations set forth in this section and all other applicable federal, state and local laws.
7. A permittee or registrant must not obstruct a public right-of-way and must not hinder the natural free and clear passage of water through the gutters or other waterways, except as expressly authorized by the permit. Project operations and work must be conducted in a manner to ensure the least obstruction to and interference with present and continued use of the public right-of-way.
8. 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.
9. Reasonable precautions must be taken as necessary to avoid creating unsafe or unsanitary conditions. Precautions including appropriate signage must be taken to ensure the safety of the general public, employees, invitees and those who require access to abutting property.
10. The permittee must maintain access to all properties and cross streets during project work, including emergency vehicle access.

11. The permittee must provide 48-hour written notice, using the standard city form, to abutting property owners before commencement of any project work that may disrupt the use of and access to the abutting property. Written notification is not required for routine obstruction and excavation projects described in section 1120.045, Subd. 3.
12. A permittee involved in underground projects must register with gopher state one call and comply with its requirements.
13. The permittee must comply with the state's uniform traffic manual for traffic control at all times during any project work and must protect and identify excavations and work operations with barricade flags in the daylight hours and by warning lights at dusk and night.
14. When a trail or drive has been cut, the appropriate signs must be kept in place and maintained until restoration is complete.
15. The permittee must provide proper trench protection as required by federal and state occupational safety regulations to prevent any cave-in, injury to property or persons, or enlargement of the excavation.
16. Excavations, trenches and jacking pits off the roadway surface area or adjacent to the roadway or curbing must be sheathed and braced. When unattended, all excavations, trenches and jacking pits must be protected to prevent surface drainage from entering the excavation, trench, or jacking pit.
17. The permittee must protect the root growth of significant trees as defined in section 300 of the city code and shrubbery located within the public right-of-way and adjacent to it. The permittee must protect sprinkler systems, pet containment systems, and sod located adjacent to the public right-of-way. The permittee must also comply with other protective conditions that may be added as deemed necessary by the director.
18. The permittee must coordinate project work and installation of facilities in co-locations involving other public right-of-way users.
19. The permittee must physically locate property lines abutting the project work. The permittee must replace, with the services of a Minnesota-licensed surveyor, any property corners or monuments disturbed as a result of the project.
20. The permittee must complete restoration of the public right-of-way in conformance with this section.

21. No permittee, or its agent, subcontractor or employee, may use lugs (steel tracks) on any roadway surfaces.

22. The permittee must daily remove all dirt or debris from sidewalks, trails, public and private roadway surfaces, curbs and gutters during project work.

23. The permittee must obtain all other necessary permits, licenses and approvals, and comply with all requirements of local, state and federal laws.

24. The permittee must not do any work outside the project area as specified in the permit.

1120.090. Installation of Underground Facilities. The permittee must comply with the following requirements when installing underground facilities:

1. Underground facilities must, where reasonably possible, be installed outside the paved or improved area, in places with the least potential for future conflict. If unable to install outside the paved or improved area, the installation must be as close to the edge of the roadway surface as possible to allow access to the facilities without unnecessarily disturbing paved areas of the roadway.

2. Public right-of-way alignment and grade must be maintained.

3. Fiber facilities must be buried in a proper conduit and at a depth of no less than three feet and no more than four feet; copper facilities below concrete or bituminous paved roadway surfaces must be buried at a depth of no less than three feet and no more than four feet, and all other copper facilities must be buried at a depth of no less than 30 inches and no more than four feet.

4. Except for gas, all underground facilities that cross streets or hard surfaced driveways must be bored and installed in conduit when requested by the city.

5. When required, the permittee must excavate an observation hole over a city utility to ensure that a city utility is not damaged.

6. If the project work involves an open cut, the permittee must install visual tracers 18 inches over buried facilities. If other construction methods are used, alternative location methods may be used upon approval by the city.

7. During plowing or trenching of facilities, a warning tape must be placed at a depth of 18 inches above copper cables with over 200 pairs and fiber facilities, and a locating wire or conductive shield must be installed above buried telecommunication

facilities, except for di-electric cables.

8. Restoration of areas disturbed by facilities must include returning the right-of-way to the same condition that existed before excavation in accordance with Minnesota rules, which indicate maximum limits of restoration methods and area requirements that the city can impose. The city 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. Restoration must 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 's specifications and drawings. Installation of service laterals must be performed in accordance with Minnesota rules and this section.

9. All facilities must be located so as to not interfere with existing and potential future traffic signals and signs.

10. Unless approved by the director, all above ground appurtenances must be located no closer than ten feet from city hydrants, waterline valves, manholes, lift stations, and catch basins; not in front of any city or private sign, monument or amenity for facilities or parks; and no closer than two feet from sidewalks and trails.

11. Underground facilities must not be installed within five feet of hydrants, waterline valves, lift stations, manholes or catch basins, unless approved by the director.

12. Underground facilities must not be installed between a hydrant and an auxiliary valve.

13. The location and installation of telecommunications facilities must comply with the national electric safety code, as incorporated by reference in Minnesota statutes.

14. Permittees employing trenchless excavation methods, including horizontal directional drilling, must follow all requirements set forth in Minnesota statutes and rules, and must use potholing or open cutting in order to determine the precise location of marked underground utilities before excavating. In addition, permittees employing trenchless excavation methods must not install facilities at a depth greater than four feet below grade, unless specifically approved by the director.

1120.095. Public Right-of-Way Restoration.

1. Timing. All project work under a permit must be completed within the dates specified in the permit unless the project work could not be completed due to circumstances beyond the permittee's control, including seasonal weather prohibitions

or inclement weather. An extension permit will be issued at no charge for those circumstances.

2. Restoration Costs. The permittee is responsible for all costs of restoring the public right-of-way unless otherwise agreed.

a. Permittee Restoration. If the city determines that the permittee must conduct the required restoration work, the city may require, and the permittee must provide at the time of application for the permit, a construction performance bond in an amount reasonably estimated by the director to restore the right-of-way to the condition that existed before the excavation. The city may require that the bond also include reasonable, directly related costs that the director estimates will be incurred if the permittee fails to perform under the bond. Litigation costs and attorney fees are not direct costs to be included in calculating the amount of the bond. A surety bond must be from a corporate surety authorized to do business in the state. Security required pursuant to this section must require that the holder will perform the work in accordance with this section and applicable permits, will pay to the city any costs incurred by the city in performing work pursuant to this section, and will indemnify and save the city and its officers, agents and employees harmless pursuant to the city code. For permits allowing excavations within public right-of-way, the construction performance bond must be valid for a period of 24 months to guaranty the adequacy of all restoration work. When 24 months have passed after completion of restoration, the city may release the posted security if the director determines that the right-of-way has been properly restored.

b. City Restoration. Instead of having the permittee do the restoration, the city may at its option choose to perform the restoration itself. If the city performs the restoration, the permittee must pay to the city all of the restoration costs within 30 days after billing. If, following such restoration, the pavement settles or otherwise fails for reasons not caused by city's failure to properly restore, the permittee must pay to the city, within 30 days of billing, all costs associated with correcting the defective work.

c. Degradation Fee in Lieu of Restoration. In lieu of restoration costs, the city may allow a permittee to pay a degradation fee. In that case, however, the permittee must still replace and compact the subgrade and aggregate base material in the excavation, and the degradation fee will not include the cost to accomplish these responsibilities.

3. Standards. All restoration must be in accordance with the written standards and materials specified by the city, which must comply with state standards. Subject to state rules, the city may prescribe additional restoration procedures and standards on a case-

by-case basis based on the following considerations:

- a. the number, size, depth and duration of the excavation, disruption or damage to the public right-of-way;
- b. the traffic volume carried by the public right-of-way;
- c. the character of the neighborhood surrounding the public right-of-way;
- d. the pre-project condition of the public right-of-way;
- e. the remaining life expectancy of the public right-of-way due to the project;
- f. 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
- g. the likelihood that the particular restoration method would be effective in slowing the depreciation of the public right-of-way that would otherwise occur.

4. Duty to Correct Defects. The permittee must guarantee the restoration of the public right-of-way for 24 months following its completion and for 12 months for plantings and turf establishment. During the guarantee period, the permittee must, upon written notification from the city, correct all non-complying restoration work, using the method required by the city. Unless otherwise agreed to by the director, this work must be commenced within two days after receipt of the notice from the city and must be completed within 14 days of commencement of work, not including days during which work cannot be done because of circumstances beyond the permittee's control.

5. Failure to Restore. If the permittee fails to restore the right-of-way in the manner and to the condition required by the city, or fails to satisfactorily and timely complete all restoration required by the city, the city must notify the permittee in writing of the specific alleged failure or failures and must allow the permittee five days from receipt of said written notice to cure said failure or failures, unless otherwise extended by the director. In the event the permittee fails to cure, the city may at its option perform the necessary work, and permittee must pay to the city, within 30 days of billing, the cost of restoring the right-of-way. If permittee fails to pay as required, the city, in addition to other remedies provided by law, may exercise its rights under the construction performance bond.

1120.100. Inspection.

1. Site Inspection. The permittee must make the project work site available to the director for inspection at reasonable times during the execution and upon completion of the project work.
2. Authority of Director.
 - a. The director may order the immediate cessation or modification of any project work that poses a serious immediate threat to the life, health, safety or welfare of the public.
 - b. The director may order the permittee to correct any project work to comply with the terms of the permit or other applicable standards, conditions, or laws. The order must state the violation and the correction work that is required. If the violation is a "substantial breach" as defined in state law, the order must state that failure to correct the violation will be cause for revocation of the permit after a specified period determined by the director. The permittee must present proof to the director that the violation has been corrected within the time period set forth by the director in the order. The proof must be provided no later than the next business day following the day of completion. If the proof has not been presented within the required time, the director may initiate revocation of the permit.
 - c. The director may order the permittee to pay for any cost the city incurred for a project that posed a serious immediate threat to the life, health, safety or welfare of the public.
3. Notice of Completion. The permittee must sign and submit to the city a certificate of project completion stating the completion date, identification of the installer and designer of record, and certifying that the project work was completed in accordance with the applicable requirements. The project completion date is the date the notice is received by the city. Projects are subject to delay penalties until notification is received.

1120.105. Work Done Without a Permit.

1. Emergency Work by Owner. All persons with facilities in the public right-of-way must immediately notify the director of any event regarding its facilities that it reasonably considers an emergency. Notification to gopher state one call regarding an emergency situation does not fulfill this requirement. The owner of the facilities may proceed to take whatever actions are necessary to respond to the emergency, but must apply for the necessary permits, pay the associated fees, and fulfill all requirements as set forth in this section within two business days after the occurrence of the emergency.
2. Emergency Work by City. If the city becomes aware of an emergency regarding

facilities in the public right-of-way, the city will attempt to contact the local representative for the owner of each facility affected, or potentially affected by the emergency. The city may take whatever action it deems reasonably necessary to respond to the emergency, the cost of which must be paid by the owner of the facility that caused the emergency.

3. Non-Emergency Situations. Except when there is an emergency and the person complies with the notice provisions of paragraph 1, a person who obstructs or excavates a right-of-way without first obtaining the necessary permit must subsequently obtain a permit, pay double the normal fee for the permit, pay double all the other fees required by the city 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 section.

1120.110. Mapping Data.

1. Information Required. Each registrant and permittee must provide "as built" mapping information in accordance with state rules and in a format acceptable to the city, providing the following:

a. the location of all of its underground and above ground facilities and their appurtenances in the public right-of-way, identified by:

1) offsets from property lines, distances from the centerline of the public right-of-way and from curb lines and other reference points as requested by the city; or

2) coordinates derived from the coordinate system being used by the city; and

3) approximate depth of facilities;

b. the type, quantity and size of the facilities;

c. a dimensional description of aboveground appurtenances;

d. a legend explaining symbols, characters, abbreviations, scale and other data shown on the map;

e. the information in subparagraphs a - d also for restoration work; and

f. the information in subparagraphs a - d also for abandoned facilities that remain in place.

2. Submittal Requirements.

a. Within six months after [insert the effective date of this section], all public right-of-way users that own or control facilities within public rights-of-way within the city on that date must submit the detailed mapping including restoration data in accordance with this section for all facilities located within the public right- of-way. Following initial mapping, all right-of-way users must by April 1st of every year submit either (1) detailed mapping for all new facilities and restoration located within public rights-of-way in the city during the preceding calendar year, or (2) certification that no new facilities and restoration were installed.

b. At the request of any public right-of-way user, information required by the city that qualifies as "trade secret" data under Minnesota law will be protected accordingly.

3. Service Laterals. The holder of a permit for the installation or repair of service laterals, other than minor repairs as defined in Minnesota rules, must establish the horizontal locations of installed service laterals and, when the director reasonably requires it, the vertical locations of service laterals. Permittees or their subcontractors must submit this information to the director in a form reasonably satisfactory to the director within 30 days after completion of the work. 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 the denial of future permits to the offending permittee or its subcontractors.

1120.115. Undergrounding.

1. Purpose. The purpose of this section is to promote the health, safety and general welfare of the public and is intended to foster (a) safe travel over the right-of-way, (b) safety around homes and buildings where overhead services are connected and (c) orderly development in the city. Location and relocation, installation and reinstallation of facilities in the right-of-way or other public ground must be made in accordance with this section and is intended to be enforced consistently with state and federal law regulating right-of-way users.

2. Undergrounding of Facilities. Facilities newly installed, constructed or otherwise placed in the public right-of-way or in other public property held for public use must be located and maintained underground pursuant to the terms and conditions of this section and in accordance with applicable construction standards, subject to the exceptions below. Above-ground installation, construction, modification, or replacement of meters, gauges, transformers, street lighting, pad mount switches, capacitor banks,

re-closers and service connection pedestals are allowed.

3. Undergrounding of Permanent Replacement, Relocated or Reconstructed Facilities. If the city finds that one or more of the purposes set forth in subdivision 1 of this section would be promoted, the city may require a permanent replacement, relocation or reconstruction of a facility to be located and maintained underground, with due regard for seasonal working conditions. For purposes of this subdivision, reconstruction means any substantial repair of, or any improvement to, existing facilities. Undergrounding may be required whether a replacement, relocation or reconstruction is initiated by the right-of-way user owning or operating the facilities, or by the city in connection with (a) the present or future use by the city or other local government unit of the right-of-way or other public ground for a public project, (b) the public health or safety, or (c) the safety and convenience of travel over the right-of-way. Subject to subdivision 4 below, all relocations from previously placed underground facilities must be to another underground location.

4. Exceptions to Undergrounding. The following exceptions to the strict application of this section will be allowed upon the conditions stated:

a. Technical/Economic Feasibility; Promotion of Policy. Above-ground installation, construction, or placement of facilities will be allowed in residential, commercial and industrial areas where the council finds that:

1) Underground placement would place an undue financial burden upon the landowner, ratepayers, or right-of-way user or would deprive the landowner of the preservation and enjoyment of substantial property rights;

2) Underground placement is impractical or not technically feasible due to topographical, subsoil or other existing conditions that adversely affect underground facilities placement; or

3) The right-of-way user clearly and convincingly demonstrates that none of the purposes under subdivision 1 would be advanced by underground placement of facilities on the project in question, or the city determines on its own review that undergrounding is not warranted based on the circumstances of the proposed undergrounding.

b. Temporary Service. Above-ground installation, construction, or placement of temporary service lines will only be allowed:

1) during new construction of any project for a period not to exceed three months;

The ~~stricken~~ language is deleted; the underlined language is inserted.

2) during an emergency in order to safeguard lives or property within the city; or

3) for a period of not more than seven months when soil conditions make excavation impractical.

5. Developer Responsibility. All owners, platters, or developers are responsible for complying with the requirements of this section, and before final approval of any plat or development plan, must submit to the director written instruments from the appropriate right-of-way users showing that all necessary arrangements for installation of such facilities have been made.

1120.120. General Public Right-of-Way Regulations.

1. Relocation and Temporary Relocation for Construction of Facilities. A public right-of-way user must at its own expense permanently remove and relocate any facility in the public right-of-way when it is necessary to prevent interference in connection with: (a) a present or future city use of the public right-of-way for a public project; (b) the public health or safety; or (c) the safety and convenience of travel over the public right-of-way including temporary relocation for construction. The work must be done promptly, with due regard to seasonal working conditions. The relocation cannot be merely for the convenience of the city. The public right-of-way user must restore any public rights-of-way in accordance with this section. A right-of-way user is not required to remove or relocate its facilities from a right-of-way that has been vacated in favor of a non-governmental entity unless and until the reasonable costs to do so are first paid to the right-of-way user.

a. Relocation Notification Procedure. The director will notify the facility owner at least three months in advance of the need to relocate existing facilities so the owner can determine if relocation or replacement is required and plan any required work. The city will provide the date work will start on the city's project, and if different, provide the date by which the relocation must be completed. To the extent technically feasible and limited by seasonal constraints, all facilities must be relocated within one month or in a time frame determined by the director. The director may allow a different schedule if it does not interfere with the city's project. The facility owner must diligently work to relocate the facilities within the above schedule.

b. Delay to City Project. If the owner fails to meet the relocation schedule due to circumstances within the owner's control, the city may charge the owner for all costs incurred by the city because the relocation is not completed in the scheduled timeframe.

c.. Joint Trenching. All facilities must be placed in appropriate portions of right-of-way so as to cause minimum conflict with other underground facilities. When technically appropriate and no safety hazards are created, all utilities must be installed, constructed or placed within the same trench. Notwithstanding the foregoing, gas and electric lines must be placed in conformance with state rules governing safety standards.

2. Corridors. The city may assign specific corridors within the public right-of-way, or a portion of it, for each type of facility. If those corridors have been established, all permits issued by the city involving the installation or replacement of facilities must designate the proper corridor for the facility. This subdivision is not intended to establish "high density corridors." Any owner that has existing facilities in the right-of-way in a position at variance with the established corridors may remain at that location until the city requires relocation to the corridor pursuant to authority granted under state law.

3. Limitation of Space. To protect the health, safety, and welfare of the city or the integrity of the public right-of-way and its current use, the city may prohibit or limit the placement of facilities from a particular right-of-way. This decision will be based on a consideration of the public interest, the public's needs for the particular utility service, the condition of the public right-of-way, the time of year with respect to essential utilities, the protection of existing facilities in the public right-of-way, and future plans for public improvements and development projects that have been determined to be in the public interest.

4. Damage to Other Facilities. Every public right-of-way user is responsible for the cost of repairing any facility it damages. This provision is intended to include costs for damages to boulevard amenities placed by adjacent property owners, such as sprinkler systems.

5. Pre-excavation Location. Before the start date of any right-of-way excavation, each owner who has facilities in the area to be excavated must mark the horizontal placement of all those facilities, to the extent technically feasible. To the extent its records contain such information, each registrant must provide information regarding the approximate vertical location of its facilities to excavators upon request. Nothing in this subsection is meant to limit the rights, duties and obligations of the facility owners or excavators as set forth in state law.

6. City Activity. When the city does work in the right-of-way in its governmental right-of-way management function and finds it necessary to maintain, support, or move an owner's facilities to carry out the work without damaging owner's facilities, the city must notify the local representative as early as is reasonably possible. The city costs

associated therewith will be billed to that owner and must be paid within 30 days after the date of billing.

7. Diligence in Performing Work; Delay Penalty. Work must progress in an expeditious manner until completion in order to avoid unnecessary inconvenience. If the work is not done in an expeditious manner, or is abandoned without due cause, the city may, after 72 hour notice to the permit holder, complete or correct the work. The entire cost of such work must be paid by the permit holder upon demand made by the city. In accordance with Minnesota Rule 7819.1000 subp. 3, the city may establish and impose a delay penalty for unreasonable delays in right-of-way excavation, obstruction, patching, or restoration. The delay penalty will be established from time to time by city council resolution. A delay penalty will not be imposed for delays due to circumstances beyond the control of the permittee, such as inclement weather, civil strife, or acts of God.

1120.125. Public Right-of-Way Vacation.

1. Reservation of Right. If the city vacates a public right-of-way that contains the facilities of a public right-of-way user and the vacation does not require the relocation of the facilities, the city must reserve, for itself and the public right-of-way user, the right to install, maintain and operate facilities in the vacated public right-of-way and to enter upon the public right-of-way at any time for the purpose of reconstruction, inspecting, maintaining or repairing the facilities.

2. Relocation of facilities. If the vacation requires the relocation of the public right-of-way user's facility, and the vacation proceedings are initiated by the public right-of-way user or the city for a public project, the public right-of-way user must pay the relocation costs. If the vacation proceedings are initiated by a person or persons other than the public right-of-way user or the city, the initiating person or persons must pay the relocation costs.

1120.130. Indemnification and Liability.

1. Limitation of Liability. Issuance of a public right-of-way permit does not impose any liability on the city for (a) injuries to persons, damage to property or loss of service claims by parties other than the permittee or the city, or (b) claims or penalties resulting from the installation, presence, maintenance or operation of facilities by registrants or permittees or activities of registrants or permittees.

2. Indemnification. A registrant or permittee must indemnify and defend the city, its officials, employees and agents to the maximum extent that is allowed under Minnesota

Rule 7819.1250.1120.135. Abandoned Facilities.

1. Notification. A public right-of-way user must notify the city when facilities are abandoned. If an abandoned facility remains, the user must comply with section 1120.110, subd. 1(f).

2. Removal of Abandoned Facilities. A right-of-way user that has abandoned facilities in a right-of-way must 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 city.

1120.140. Appeal. A public right-of-way user that: (1) has been denied registration, (2) has been denied a permit, (3) has had a permit revoked, (4) believes the relocation cost or city required relocation is unreasonable, (5) believes that the fees imposed are invalid or unreasonable, or (6) disputes a determination of the director, may have the matter reviewed by the city council upon written request. The city council must consider the appeal at the next reasonably available meeting. The decision by the city council must be in writing and supported by written findings establishing the reasonableness of the decision.

1120.145. Insurance. All certificate(s) of insurance or self-insurance required under this section must provide that:

a. an insurance policy has been issued to the applicant by an insurance company authorized to do business in the state of Minnesota, or that the applicant has a form of self insurance acceptable to the director;

b. the applicant is insured against claims for personal injury, including death, and property damage arising out of the (1) use and occupancy of the public right-of-way by the permittee, its officers, agents, and employees, and (2) placement and use of facilities and equipment in the public right-of-way by the permittee, its officers, agents, and employees, including protection against liability from completed operations, damage of underground facilities and collapse of property;

c. the city is named as an additional insured for the coverages required under this section;

d. the city must be notified 30 days in advance of cancellation of the policy or material modification of a coverage term; and

e. the following coverages and amounts of coverage are in effect:

GENERAL LIABILITY: public liability, including premises, products and complete operations.

<u>Bodily injury liability</u>	<u>\$1,000,000 each person, and</u>
	<u>\$3,000,000 each occurrence</u>
<u>Property damage liability</u>	<u>\$3,000,000 each occurrence</u>
<u>Bodily injury and property damage</u>	
<u>combined</u>	<u>\$3,000,000 single limit</u>

COMPREHENSIVE: automobile liability insurance, including owned, non-owned and hired vehicles.

<u>Bodily injury liability</u>	<u>\$1,000,000 each person</u>
<u>Property damage liability</u>	<u>\$3,000,000 each occurrence</u>
<u>Bodily injury and property damage</u>	
<u>combined</u>	<u>\$3,000,000 single limit</u>

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

1120.150. 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.

1120.155. Existing Agreements.

The provisions of this section apply to all agreements between the city and another party that allow for an encroachment into public right-of-way and that are in effect on [insert effective date of ordinance]. The agreements will remain in effect, but the provisions of this section will take precedence over any conflicting provisions in an agreement.

1120.160. Erosion Onto Street.

The owner of real property must not allow any dirt, sand, silt, gravel, or other debris from the property to erode upon, or otherwise be deposited on, a public street. A violation of this provision is a public nuisance that may be abated in accordance with the

provisions of section 845 of this code.

Section 2. A violation of this ordinance is subject to the penalties and provisions of Chapter XIII of the city code.

Section 3. This ordinance is effective 30 days after publication of its summary.

Adopted by the city council of the City of Minnetonka, Minnesota, on April 5, 2010.

Terry Schneider, Mayor

ATTEST:

David E. Maeda, City Clerk

ACTION ON THIS ORDINANCE:

Date of introduction: March 8, 2010

Date of adoption: April 5, 2010

Motion for adoption: Allendorf

Seconded by: Greves

Voted in favor of: Allendorf, Ellingson, Greves, Hiller, Schneider, Wagner, Wiersum

Voted against:

Abstained:

Absent:

Ordinance adopted.

Date of publication:

CERTIFIED COPY:

I certify that the foregoing is a correct copy of an ordinance adopted by the city council of the City of Minnetonka, Minnesota, at a meeting held on April 5, 2010.

David E. Maeda, City Clerk

Exhibit A

Deleted Ordinance

~~SECTION 1120. EXCAVATIONS IN STREETS.~~~~1120.005. Permit Required.~~

~~A person, firm or corporation must not excavate within any street or alley in the city without first obtaining a permit from the city engineer. A permit is not required for an excavation that is made under a contract awarded by the city or by workers hired by the city.~~

~~1120.010. Application; Issuance.~~

~~Application for permits must be in writing on forms provided by the city engineer. Permits for excavations will be issued in writing. The permit holder must keep the permit on the site of the work while it is in progress and exhibit it upon request of any city official or police officer.~~

~~1120.015. Permit Requirements.~~

~~The city engineer may prepare regulations with respect to excavations within any street or alley. The purposes of the regulations are to protect the public from injury, to prevent damage to public or private property, and to minimize interference with the public use of the streets. The city engineer may add to or modify these regulations with respect to particular work, as deemed necessary or advisable to achieve those same purposes. These additions or modification must be in writing on or attached to the particular permit.~~

~~1120.020. Fees.~~

~~The applicant must pay the fee established in section 710 for each location covered by a permit. Each transverse excavation, each 300 feet of longitudinal excavation, or a portion of it, and a job covered by a specific work order number, is a separate location. If the city plans to replace the street surface, the charge for this repair will be determined and must be paid at the time the permit is issued.~~

~~1120.025. Street Openings, Requirements.~~

~~The street must be opened in a manner that will cause the least inconvenience to the public and provide for the passage of water along the gutters. The city engineer may~~

~~require tunneling when appropriate. An excavation left open over night must be thoroughly barricaded and properly lighted to protect public safety.~~

~~1120.030. Openings, Frost Protection, Backfill.~~

~~If water mains or service pipes are exposed, measures must be taken to protect them from frost. In refilling openings, all the earth that is removed must be placed back in the trench, except that frozen earth must be replaced with good backfill material. All backfill must be placed in layers of not over six inches and thoroughly compacted to prevent after-settlement. The backfill around a pipe and to an elevation of one foot above the pipe must be free of rock over two inches in size.~~

~~1120.035. Inspection.~~

~~The city must be permitted at all times to inspect the work.~~

~~1120.040. Proceed Without Delay.~~

~~Work must progress in an expeditious manner to avoid unnecessary inconvenience to traffic. If the work is not be performed in accordance with the applicable regulations or is stopped or delayed without due cause, the city of Minnetonka may, after notice in writing to the permit holder, correct or complete the work. In that case, the permit holder must reimburse the city for all of its costs.~~

~~1120.045. Bond.~~

~~A performance bond in the amount of \$2,000.00 may be required from a permit applicant, except a licensed and bonded plumber, or a public utility corporation holding a franchise from the city of Minnetonka. The bond must be conditioned upon performing the work in accordance with applicable regulations and indemnifying and holding harmless the city of Minnetonka from all damage and costs caused by the work.~~

~~1120.050. Added Requirements.~~

~~The provisions of sections 1120.005 through 1120.050 are in addition to all utility connection permits that are required by ordinance or by the regulations of the city engineer.~~