ORDINANCE NO. 197

AN ORDINANCE OF THE CITY OF SCANDIA, WASHINGTON COUNTY, MINNESOTA, ELECTING TO MANAGE ITS RIGHT OF WAYS, ESTABLISHING THE PURPOSES AND ADMINISTRATION THEREOF, AND REPEALING CERTAIN EXISTING ORDINANCES

Section 1. The City Council of the City of Scandia, Washington County, Minnesota hereby ordains:

ARTICLE ONE
General Right-of-Way Management

Sec. 1.01. Purpose and Intent.

To provide for the health, safety, and welfare of the citizens of the City of Scandia, and to ensure the integrity of its streets and the appropriate use of its rights of way, the City strives to keep its rights of way in a state of good repair and free from unnecessary encumbrances.

Accordingly, the City hereby enacts this new Ordinance relating to right-of-way permits and administration. This Ordinance imposes reasonable regulations on the placement and maintenance of facilities and equipment currently within the City's rights of way or to be placed therein at some future time. It is intended to complement the regulatory roles of governmental agencies separate from the City. Under this Ordinance, persons excavating and obstructing the City's rights of way will bear financial responsibility for their work. Finally, this Ordinance provides for recovery of out-of-pocket and projected costs from persons using the City's rights of way.

This Ordinance shall be interpreted consistently with 1997 Session Laws, Chapter 123, substantially codified in Minn. Stat. §§ 237.16, 237.162, 237.163, 237.79, 237.81, and 238.086 (the "Act") and 2017 Minn. Laws, ch. 94, art. 9, amending certain portions of the Act, and the other laws governing applicable rights of the City and right-of-way users. This Ordinance shall also be interpreted consistent with Minn. R. 7819.0050–7819.9950 and Minn. R., ch. 7560 where possible. To the extent any provision of this Ordinance cannot be interpreted consistently with the aforementioned Minnesota Rules, that interpretation most consistent with the Act and other applicable statutory and case law is intended. This Ordinance shall not be interpreted to limit the regulatory and police powers of the City to adopt and enforce general ordinances necessary to protect the health, safety, and welfare of the public.

Sec. 1.02. Election to Manage the Public Rights of Way.

Pursuant to the authority granted to the City under state and federal statutory, administrative and common law, the City hereby elects, pursuant to Section 237.163, subd. 2(b) of the Act, to manage rights of way within its jurisdiction.

Sec. 1.03. Definitions.

The following definitions apply in this Ordinance. References hereafter to "sections" are, unless otherwise specified, references to sections in this Ordinance. Defined terms remain defined

terms, whether or not capitalized.

Subd. 1. Abandoned Facility. A facility no longer in service or physically disconnected from another discrete portion of the 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, unless 60 days pass after a written notice is delivered from the City to the right-of-way user, inquiring as to whether the facility is abandoned, and no response is received from the right-of-way user.

Subd. 2. Act. Minnesota Statutes, Sections 237.16, 237.162, 237.163, 237.79, 237.81, and 238.086, as amended.

Subd. 3. City. The City of Scandia, Minnesota, its elected officials, officers, employees, or agents.

Subd. 4. Collocate or Collocation. To install, mount, maintain, modify, operate, or replace a small wireless facility on, under, within, or adjacent to an existing wireless support structure or utility pole that is owned privately or by the City or other governmental unit.

Subd. 5. Collocation Agreement. The Small Wireless Facility Collocation and Lease Agreement, utilized by the City in compliance with Section 237.163, subd. 3a(f) of the Act.

Subd. 6. Commission. The State of Minnesota Public Utilities Commission.

Subd. 7. Construction Security. Any of the following forms of security provided at permittee's option:

(i) Cash deposit;

(ii) Security of a form listed or approved under Minn. Stat. § 15.73, subd. 3;

(iii) Irrevocable Letter of Credit, in a form acceptable to the City, with automatic renewal provisions;

(iv) Self-insurance, in a form acceptable to the City; or

(v) 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.

Subd. 8. Degradation. A decrease in the useful life of the right of way caused by excavation in or disturbance of the right of way, resulting in the need to reconstruct such right of way earlier than would be required if the excavation or disturbance did not occur.

Subd. 9. Degradation Cost. Subject to Minn. R. 7819.1100, means the cost to achieve a level of restoration, as determined by the City at the time the permit is issued, not to exceed the maximum restoration as set forth in Minn. R., parts 7819.9900 to 7819.9950.

Subd. 10. Degradation Fee. The estimated fee established at the time of permitting by the

City to recover costs associated with the decrease in the useful life of the right of way caused by the excavation, and which equals the Degradation Cost.

Subd. 11. Delay Penalty. The penalty imposed as a result of unreasonable delays in right-of-way excavation, obstruction, patching, or restoration as established by permit.

Subd. 12. Department. The department of public works of the City.

Subd. 13. Director. The director of the department of public works of the City, or her or his designee.

Subd. 14. Emergency. A condition that (1) poses a danger to life, health, or of a significant loss of property; or (2) requires immediate repair or replacement of facilities in order to restore service to a customer.

Subd. 15. Equipment. Any tangible asset used to install, repair, or maintain facilities in any right of way.

Subd. 16. Excavate. To dig into or in any way remove or physically disturb or penetrate any part of a right of way.

Subd. 17. Excavation Permit. The permit which, pursuant to this Ordinance, must be obtained before a Person may excavate in a right of way. An Excavation Permit allows the holder to excavate that part of the right of way described in such permit.

Subd. 18. Excavation Permit Fee. Money paid to the City by a registrant to cover the costs as provided in Section 1.12 of this Ordinance.

Subd. 19. Facility or Facilities. Any tangible asset in the right of way required to provide a service.

Subd. 20. Five-year Capital Improvement Plan. Shows projects adopted by the City for construction within the next five years.

Subd. 21. Local Representative. A local person or persons, or designee of such person or persons, authorized by a registrant to accept service and to make decisions for that registrant regarding all matters within the scope of this Ordinance.

Subd. 22. Management Costs. The actual costs the City incurs in managing its rights of way, including such costs as those associated with registering registrants; issuing, processing, and verifying right-of-way or small-wireless-facility permit applications; inspecting job sites and restoration projects; maintaining, supporting, protecting, or moving user facilities during right-of-way work; determining the adequacy of right-of-way restoration; restoring work inadequately performed after providing notice and the opportunity to correct the work; and revoking right-of-way or small-wireless-facility permits. Management costs do not include payment by a telecommunications right-of-way user for the use of the right-of-way, unreasonable fees of a third-

party contractor used by the City including fees tied to or based on customer counts, access lines, or revenues generated by the right of way for the City, the fees and cost of litigation relating to the interpretation of the Act; or any ordinance enacted under those sections, or the City fees and costs related to appeals taken pursuant to Section 1.30 of this Ordinance.

Subd. 23. Micro wireless facility. A small wireless facility that is no longer than 24 inches long, 15 inches wide, and 12 inches high, and whose exterior antenna, if any, is no longer than 11 inches.

Subd. 24. Obstruct. To place any tangible object in a right of way so as to hinder free and open passage over that or any part of the right of way.

Subd. 25. Obstruction Permit. The permit which, pursuant to this Ordinance, must be obtained before a person may obstruct a right of way, allowing the holder to hinder free and open passage over the specified portion of that right of way, for the duration specified therein.

Subd. 26. Obstruction Permit Fee. Money paid to the City by a permittee to cover the costs as provided in Section 1.12 of this Ordinance.

Subd. 27. Patch or Patching. A method of pavement replacement that is temporary in nature. A patch consists of (1) the compaction of the subbase and aggregate base, and (2) the replacement, in kind, of the existing pavement for a minimum of two feet beyond the edges of the excavation in all directions. A patch is considered full restoration only when the pavement is included in the City's capital improvement plan.

Subd. 28. Pavement. Any type of improved surface that is within the public right of way and that is paved or otherwise constructed with bituminous, concrete, aggregate, or gravel.

Subd. 29. Permit. Has the meaning given "right-of-way permit" in Section 237.162, subd. 7 of the Act.

Subd. 30. Permittee. Any person to whom a permit to excavate or obstruct a right of way has been granted by the City under this Ordinance.

Subd. 31. Person. An individual or entity subject to the laws and rules of the State of Minnesota, however organized, whether public or private, whether domestic or foreign, whether for profit or nonprofit, and whether natural, corporate, or political.

Subd. 32. Probation. The status of a person that has not complied with the conditions of this Ordinance.

Subd. 33. Probationary Period. One year from the date that a person has been notified in writing that they have been put on probation.

Subd. 34. Registrant. Any person who (1) has or seeks to have its equipment or facilities located in any right of way regulated by this Ordinance, or (2) in any way occupies or uses, or

seeks to occupy or use, the right of way or place its facilities or equipment in the right of way.

Subd. 35. Restore or Restoration. The process by which an excavated right of way and surrounding area, including pavement and foundation, is returned to the same condition and life expectancy that existed before excavation.

Subd. 36. Restoration Cost. The amount of money paid to the City by a permittee to achieve the level of restoration according to Commission rules.

Subd. 37. Right of way or Public Right of way. The area on, below, or above a public roadway, highway, street, cartway, bicycle lane, or public sidewalk in which the City has an interest, including other dedicated rights of way for travel purposes and utility easements of the City. A right of way does not include the airwaves above a right of way with regard to cellular or other non-wire telecommunications or broadcast service.

Subd. 38. Right-of-way Permit. Either the excavation permit, obstruction permit, or small-wireless-facilities permit, or any combination thereof, depending on the context, required by this Ordinance.

Subd. 39. Right-of-way User. (1) A "telecommunications right-of-way user," as defined in Section 237.162, subd. 4 of the Act, or (2) a person owning or controlling a facility in the right of way that is used or intended to be used for providing a service, and who has a right under law, franchise, contract, license, or ordinance to use the public right of way.

Subd. 40. Service. Includes: (1) those services provided by a public utility, as defined in Minn. Stat. 216B.02, subds. 4 and 6; (2) services of a telecommunications right-of-way user, including transporting of voice or data information; (3) services of a cable communications system, as defined in Minn. Stat. ch. 238; (4) natural gas or electric energy or telecommunications services provided by the City; (5) services provided by a cooperative electric association organized under Minn. Stat., ch. 308A; and (6) water and sewer services, including service laterals, steam, cooling, or heating services.

Subd. 41. Service Lateral. An underground facility that is used to transmit, distribute or furnish 'gas, electricity, communications, or water from a common source to an end-use customer. A service lateral is also an underground facility that is used in the removal of wastewater from a customer's premises.

Subd. 42. Small Wireless Facility. A wireless facility that meets both of the following qualifications:

(i) each antenna is located inside an enclosure of no more than six (6) cubic feet in volume or could fit within such an enclosure; and

(ii) all other wireless equipment associated with the small wireless facility, provided such equipment is, in aggregate, no more than twenty-eight (28) cubic feet in volume, not including electric meters, concealment elements, telecommunications demarcation boxes, battery backup power systems, grounding equipment, power transfer switches, cutoff switches, cable, conduit,

vertical cable runs for the connection of power and other services, and any equipment concealed from public view within or behind an existing structure or concealment.

Subd. 43. Small-Wireless-Facility Permit. The permit which, pursuant to this Ordinance, must be obtained before a person may install, place, maintain, or operate a small wireless facility in a public right of way to provide wireless service. A small-wireless-facility permit allows the holder to conduct such activities in that part of the right-of-way described in such permit. A small-wireless-facility permit does not authorize (1) providing any service other than a wireless service, or (2) installation, placement, maintenance, or operation of a wireline backhaul facility in the right of way.

Subd. 44. Small-Wireless-Facility Permit Fee. Money paid to the City by a permittee to cover the costs as provided in Section 1.12 of this Ordinance.

Subd. 45. Supplementary Application. An application made to the City to excavate or obstruct more of the right of way than allowed in, or to extend or supply additional information to, a permit that has already been submitted or issued.

Subd. 46. Telecommunications Right-of-way User. A person owning or controlling a facility in the right of way, or seeking to own or control a facility in the right of way that is used or is intended to be used for providing wireless service, or transporting telecommunication or other voice or data information. For purposes of this Ordinance, a cable communication system defined and regulated under Minn. Stat. ch. 238, as amended, and telecommunication activities related to providing natural gas or electric energy services, a public utility as defined in Minn. Stat. § 216B.02, as amended, a municipality, a municipal gas or power agency organized under Minn. Stat. chs. 453 and 453A, as amended, or a cooperative electric association organized under Minn. Stat. ch. 308A, are not telecommunications right-of-way users for purposes of this Ordinance except to the extent such entity is offering wireless service.

Subd. 47. Trench. An excavation in the pavement, with the excavation having a length equal to or greater than the width of the pavement.

Subd. 48. Utility Pole. A pole that is used in whole or in part to facilitate telecommunications or electric service.

Subd. 49. Wireless Facility. Equipment at a fixed location that enables the provision of wireless services between user equipment and a wireless service network, including equipment associated with wireless service, a radio transceiver, antenna, coaxial or fiber-optic cable, regular and backup power supplies, and a small wireless facility, but not including wireless support structures, wireline backhaul facilities, or cables between utility poles or wireless support structures, that are not otherwise immediately adjacent to and directly associated with a specific antenna.

Subd. 50. Wireless Service. Any service using licensed or unlicensed wireless spectrum, including the use of Wi-Fi, whether at a fixed location or by means of a mobile device, that is provided using wireless facilities. Wireless service does not include services regulated under Title VI of the Communications Act of 1934, as amended, including cable service.

Subd. 51. Wireless Support Structure. A new or existing structure in a right of way designed to support or capable of supporting small wireless facilities, as reasonably determined by the City.

Subd. 52. Wireline Backhaul Facility. A facility used to transport communications data by wire from a wireless facility to a communications network.

Sec. 1.04. Administration.

The City Administrator is the principal City official responsible for the administration of the public right of way, its permits, and the ordinances related thereto. The City Administrator may delegate any or all of the duties hereunder.

Sec. 1.05. Registration and Right-of-way Occupancy; General Prohibitions.

Subd. 1. Registration Prior to Work. No person may construct, install, repair, remove, relocate, or perform any other work on, or use any facilities or any part thereof, in any right of way without first being registered with the City.

Subd. 2. General Prohibitions. It shall be unlawful to install any tree, shrubbery, landscape feature, irrigation facility, fence, electronic pet containment system (also known as an invisible fence), or any similar feature in the public right-of-way.

Sec. 1.06. Registration Information.

Subd. 1. Information Required. The information provided to the City at the time of registration shall include, but not be limited to:

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

(ii) The name, address, and email address, if applicable, and telephone and facsimile numbers of a local representative. The local representative or designee shall be available at all times. Current information regarding how to contact the local representative in an emergency shall be provided at the time of registration.

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

(a) Verifying that an insurance policy has been issued to the registrant by an insurance company licensed to do business in the state of Minnesota, or a form of self-insurance acceptable to the City;

(b) Verifying that the registrant is insured against claims for personal injury, including death, as well as claims for property damage arising out of the (1) use and occupancy of the right of way by the registrant, its officers, agents, employees, and permittees, and (2) placement and use of facilities and equipment in the right of way by the registrant, its officers, agents, employees, and permittees, including, but not limited to, protection against liability arising from completed operations, damage of underground

facilities, and collapse of property;

(c) Naming the City as an additional insured as to whom the coverages required herein are in force and applicable and for whom defense will be provided as to all such coverages;

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

(e) Indicating comprehensive liability coverage, automobile liability coverage, workers' compensation and umbrella coverage established by the City in amounts sufficient to protect the City and the public and to carry out the purposes and policies of this Ordinance. Such amounts shall be no less than the current maximum tort liability amounts applicable to municipalities in Minn. Stat. §466.04, as amended.

(f) The City requires a copy of the actual insurance policies.

(g) If the registrant is a corporation, a copy of the corporate certificate that has been recorded and certified to by the Minnesota Secretary of State.

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

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

Sec. 1.07. Reporting Obligations.

Subd. 1. Operations. Each registrant shall, at the time of registration and by December 1 of each year, file a construction and major maintenance plan for all facilities with the City. Such plan shall be submitted using a format designated by the City and shall contain the information determined by the City to be necessary to facilitate the coordination and reduction in the frequency of excavations and obstructions of rights of way.

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

(i) The locations and the estimated beginning and ending dates of all projects to be commenced during the next calendar year (in this section, a "next-year project"); and

(ii) To the extent known, the tentative locations and estimated beginning and ending dates for all projects contemplated for the five years following the next calendar year (in this section, a "five-year project").

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

By January 1 of each year, the City will have available for inspection a composite list of all projects of which the City has been informed of the annual plans. All registrants are responsible for keeping themselves informed of the current status of this list.

Thereafter, by February 1 of each year, each registrant may change any project in its list of next-year projects, and must notify the City and all other registrants of all such changes in said list.

Subd. 2. Additional Next-Year Projects. Notwithstanding the foregoing, the City will not deny an application for a right-of-way permit for failure to include a project in a plan submitted to the City if the registrant has used commercially reasonable efforts to anticipate and plan for the project.

Sec. 1.08. Permit Requirement.

Subd. 1. Permit Required. Except as otherwise provided in this Ordinance, no person may obstruct or excavate any right of way, or install or place facilities in the right of way, without first having obtained the appropriate right-of-way permit from the City to do so.

(i) *Excavation Permit.* An excavation permit is required by a registrant to excavate that part of the right of way described in such permit and to hinder free and open passage over the specified portion of the right of way by placing facilities described therein, to the extent and for the duration specified therein.

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

(iii) *Small-Wireless-Facility Permit.* A small-wireless-facility permit is required by a registrant to erect or install a wireless support structure, to collocate a small wireless facility, or to otherwise install a small wireless facility in the specified portion or the right of way, to the extent specified therein, provided that such permit shall remain in effect for the length of time the facility is in use, unless lawfully revoked. No small-wireless-facility permit is required to solely conduct: (1) routine maintenance of a small wireless facility; (2) replacement of a small wireless facility with a new facility that is substantially similar or smaller in size, weight, height, and wind or structural loading than the small wireless facility being replaced; or (3) installation, placement, maintenance, operation, or replacement of micro wireless facilities that are suspended on cables strung between existing utility poles in compliance with national safety codes, however, a service provider is required to make written notice of such activities to the City if the micro wireless facility work will obstruct a public right of way. A small-wireless-facility permit is required for the work specified in this paragraph, in addition to the requirement that the Registrant also possess an excavation permit or an obstruction permit.

(iv) *Conditional use permit.* A conditional use permit is required to install a new wireless support structure for the siting of a small wireless facility in a right of way in a district that is zoned for single-family residential use or agricultural use (i.e., as of the effective date of

this Ordinance, AP, AG-C, GR, VN) or within a historic district established by federal or state law or by this Ordinance as of the date of application for a small wireless facility permit.

Subd. 2. Permit Extensions. No person may excavate or obstruct the right of way beyond the date or dates specified in the applicable permit unless (1) such person makes a supplementary application for another right-of-way permit before the expiration of the initial permit, and (2) a new permit or permit extension is granted.

Subd. 3. Delay Penalty. In accordance with Minn. Rule 7819.1000 subp. 3 and notwithstanding subd. 2 of this Section, the City shall establish and impose a delay penalty for unreasonable delays in right-of-way excavation, obstruction, patching, or restoration. The delay penalty shall be established from time to time by City Council resolution. A delay penalty will not be imposed if the delay in completion is due to circumstances beyond the control of the registrant, including without limitation inclement weather, acts of God, or civil strife.

Subd. 4. Permit Display. Permits issued under this Ordinance shall be conspicuously displayed or otherwise available at all times at the indicated work site and shall be available for inspection by the City.

Sec. 1.09. Permit Applications.

Application for all permits described in this Ordinance must be made to the City. Right-of-way permit applications shall contain, and will be considered complete only upon compliance with the requirements of the following provisions:

(i) Registration with the City pursuant to this Ordinance.

(ii) Submission of a completed permit application form, including all required attachments, and scaled drawings showing the location and area of the proposed work underlying the permit and the location of all known existing and proposed facilities.

(iii) Payment of money due to the City for:

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

(b) prior obstructions or excavations, before issuance of the permit;

(c) any undisputed loss, damage, or expense suffered by the City because of the registrant's prior excavations or obstructions of the rights of way or any emergency actions taken by the City; and

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

(iv) Payment of disputed amounts due to the City by posting security or depositing in an escrow account an amount equal to at least 110 percent of the amount owing, which shall be determined by the City.

(v) Posting an additional or larger construction security for additional facilities when

registrant requests an excavation permit to install additional facilities and the City deems the existing construction security inadequate under applicable standards.

Sec. 1.10. Issuance of Permit; Conditions.

Subd. 1. Permit Issuance. If the registrant has satisfied the requirements of this Ordinance, the City shall issue:

(i) a small-wireless-facility permit within ninety (90) days;

(ii) all other right-of-way permits within ten (10) business days.

Subd. 2. Conditions. The City may impose reasonable conditions upon the issuance of the permit and the performance of the registrant thereunder to protect the health, safety, and welfare or when necessary to protect the right of way and its current use. In addition, a permittee shall comply with all requirements of local, state, and federal laws, including but not limited to Minn. Stat. §§ 216D.01 - .09 (Excavation Notice System) and Minn. R., ch. 7560, each as amended.

Subd. 3. Small Wireless Facility Conditions. In addition to subdivision 2, the erection or installation of a wireless support structure, the collocation of a small wireless facility, or other installation of a small wireless facility in the right of way, shall be subject to the following conditions:

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

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

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

(iv) Where a registrant proposes to install a new wireless support structure in the right of way, the City may impose reasonable separation requirements between such structure and any existing wireless support structure or other facilities in and around the right of way.

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

(vi) Where a registrant proposes to replace a wireless support structure, the City may

impose reasonable restocking, replacement, or relocation requirements on the replacement of such structure.

(vii) Where a registrant proposes to install a small wireless facility in a single-family residential (i.e., as of the effective date of this Ordinance, AP, AG-C, GR, VN) or historic zoned district (as may later be established by this Ordinance or by applicable state or federal law or regulation), the City will require a conditional use permit.

Subd. 4. Small-Wireless-Facility Agreement. A small-wireless-facility permit shall only be issued after the registrant has executed a Collocation Agreement with the City. The Collocation Agreement may require payment of the following:

(i) Up to $150 per year for rent to collocate on a wireless support structure owned by the City.

(ii) $25 per year for maintenance associated with the collocation.

(iii) If the registrant/permittee obtains electrical service through the City, a monthly fee for electrical service as follows:

(a) $73 per radio node less than or equal to 100 maximum watts;

(b) $182 per radio node over 100 maximum watts; or

(c) The actual costs of electricity, if the actual costs exceed the foregoing.

The Collocation Agreement shall be in addition to, and not in lieu of, the required small-wireless-facility permit, provided, however, that the registrant shall not be additionally required to obtain a license or franchise in order to collocate. Issuance of a small-wireless-facility permit does not supersede, alter or affect any existing agreement between the City and the registrant established by the effective date of this Ordinance.

Sec. 1.11. Action on Small Wireless Facility Permit Applications.

Subd. 1. Deadline for Action. The City shall approve or deny a small-wireless-facility permit application within 90 days after filing of such application. The small-wireless-facility permit shall be deemed approved if the City fails to approve or deny the application within the 90-day review period.

Subd. 2. Consolidated Applications. A registrant may file a consolidated small-wireless-facility permit application addressing the proposed collocation of up to 15 small wireless facilities, or a greater number if agreed to by the City, provided that all small wireless facilities in the application:

(i) are located within a two-mile radius;

(ii) consist of substantially similar equipment; and

(iii) are to be placed on similar types of wireless support structures.

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

Subd. 3. Tolling of Deadline. The 90-day deadline for action on a small-wireless-facility permit application may be tolled if:

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

(ii) The registrant fails to submit all required documents or information and the City provides written notice of incompleteness, with specificity as to the missing information, to the registrant within 30 days of receipt of the application. Upon submission of additional documents or information, the City shall have ten days to notify the registrant in writing of any still missing information.

(iii) The City and a small wireless facility registrant agree in writing to toll the review period.

Sec. 1.12. Permit Fees.

Subd. 1. Excavation Permit Fee. The City shall impose an excavation permit fee, as may be set forth in the City's annual fee schedule, in an amount sufficient to recover the following costs:

(i) City management costs;

(ii) degradation costs, if applicable.

Subd. 2. Obstruction Permit Fee. The City shall impose an obstruction permit fee, as may be set forth in the City's annual fee schedule, in an amount sufficient to recover the City management costs.

Subd 3. Small Wireless Facility Permit Fee. The City shall impose a small wireless facility permit fee, as may be set forth in the City's annual fee schedule, in an amount sufficient to recover:

(i) City management costs; and;

(ii) City engineering and construction costs (if any) associated with collocation of small wireless facilities.

Subd. 4. Conditional Use Permit Fee. The City shall impose a conditional use permit fee,

as may be set forth in the City's annual fee schedule, in an amount sufficient to recover the City management costs.

Subd. 5. Payment of Permit Fees. No excavation permit, obstruction permit, or small-wireless-facility permit shall be issued without payment of the corresponding permit fees.

Subd. 6. Non Refundable. Permit fees that were paid for a permit that the City has revoked for a breach as stated in Section 1.22 are not refundable.

Subd. 7. Application to Franchises. Unless otherwise agreed to in a franchise agreement, management costs may be charged separately from and in addition to the franchise fees imposed on a right-of-way user in the franchise agreement.

Sec. 1.13. Right-of-way Patching and Restoration.

Subd. 1. Timing. The work to be done under an excavation permit, and the patching and restoration of the right of way as required herein, must be completed within the dates specified in the permit, increased by as many days as work could not be done because of circumstances beyond the control of the permittee or when work was prohibited as unseasonable or unreasonable under Section 1.16.

Subd. 2. Patch and Restoration. A Permittee shall patch its own work. The City may choose either to have the permittee restore the right of way or to restore the right of way itself after the work is completed.

(i) *City Restoration.* If the City restores the right of way, the permittee shall pay the costs thereof within thirty (30) days of billing. If, following such restoration, the pavement settles due to permittee's improper backfilling, the permittee shall pay to the City, within thirty (30) days of billing, all costs associated with correcting the defective work.

(ii) *Permittee Restoration.* If the permittee restores the right of way, it shall at the time of application for an excavation permit post construction security in accordance with the provisions of this Ordinance.

(iii) *Degradation Fee in Lieu of Restoration.* In lieu of right-of-way restoration, a right-of-way user may elect to pay a degradation fee. However, the right-of-way user shall remain responsible for patching and the degradation fee shall not include the cost to accomplish these responsibilities.

Subd. 3. Standards. The permittee shall perform excavation, backfilling, patching, and restoration according to the standards and with the materials specified by the City and shall comply with Minn. Rule 7819.1100.

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

City, not including days during which work cannot be done because of circumstances constituting force majeure or days when work is prohibited as unseasonable or unreasonable under Section 1.16.

Subd. 5. Failure to Restore. If the permittee fails to restore the right of way in the manner and to the condition required by the City, or fails to satisfactorily and timely complete all restoration required by the City, the City at its option may do such work. In that event the permittee shall pay to the City, within thirty (30) days of billing, the actual cost of restoring the right of way. If the permittee fails to pay as required, the City may exercise its rights under the construction security.

Sec. 1.14. Joint Applications.

Subd. 1. No joint application. Registrants may not jointly apply for any kind of right-of-way permits.

Subd. 2. Shared fees. Registrants who apply for permits for the same obstruction or excavation, which the City does not perform, may share in the payment of the obstruction or excavation permit fee. In order to obtain a joint permit, registrants must agree among themselves as to the portion each will pay and indicate the same on their applications.

Subd. 3. With City projects. Registrants who join in a scheduled obstruction or excavation performed by the City, whether or not it is a joint application by two or more registrants or a single application, are not required to pay the excavation or obstruction and degradation portions of the permit fee, but a permit is still required to provide the City with details regarding the project.

Sec. 1.15. Supplementary Applications.

Subd. 1. Limitation on Area. A right-of-way permit is valid only for the area of the right of way specified in the permit. No permittee may do any work outside the area specified in the permit, except as provided herein. Any permittee which determines that an area greater than that specified in the permit must be obstructed or excavated must before working in that greater area must (1) apply for a supplementary application and pay any additional fees required thereby, and (2) be granted a new or amended permit or permit extension.

Subd. 2. Limitation on Dates. A right-of-way permit is valid only for the dates specified in the permit. No permittee may begin its work before the permit start date or, except as provided herein, continue working after the end date. If a permittee 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 or amended permit or an extension of the old permit before working after the end date of the previous permit.

Sec. 1.16. Other Obligations.

Subd. 1. Compliance with Other Laws. Obtaining a right-of-way permit does not relieve a permittee of its duty to obtain all other necessary permits, licenses, and authority and to pay all fees required by the City pursuant to its current fee schedule, or other applicable rule, law or regulation. A permittee shall comply with all requirements of local, state and federal laws, including but not limited to Minn. Stat. §§ 216D.01-.09 (Excavation Notice System) and Minn.

R., ch. 7560. A permittee shall perform all work in conformance with all applicable ordinances, codes, and established rules and regulations, and is responsible for all work done in the right of way pursuant to its permit, regardless of who does the work.

Subd. 2. Prohibited Work. Except in an emergency, and with the approval of the City, no right-of-way obstruction or excavation may be done when seasonally prohibited or when conditions are unreasonable for such work.

Subd. 3. Interference with Right of way. A permittee shall not so obstruct a right of way that the natural free and clear passage of water through the gutters, ditches or other waterways shall be interfered with. Private vehicles of those doing work in the right of way may not be parked within or next to an area covered by a permit, 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.

Subd. 4. Trenchless excavation. As a condition of all applicable permits, permittees employing trenchless excavation methods, including but not limited to Horizontal Directional Drilling, shall follow all requirements set forth in Minn. Stat. ch. 216D and Minn. R., ch. 7560 and shall require potholing or open cutting over existing underground utilities before excavating, as determined by the Director.

Sec. 1.17. Denial of Permit.

Subd. 1. Reasons for Denial. The City may deny a permit for failure to meet the requirements and conditions of this Ordinance or if the City determines that the denial is necessary to protect the health, safety, and welfare of the public or when necessary to protect the right of way and its current use.

Subd. 2. Procedural Requirements. The denial of a permit must be made in writing and must document the basis for the denial. The City must notify the registrant in writing within ten (10) business days of the decision to deny a permit. If an application is denied, the registrant may cure the deficiencies identified by the City and resubmit its application. If the application is resubmitted within 30 days of receipt of the notice of denial, no additional application fee shall be imposed. The City must approve or deny the resubmitted application within 30 days after submission.

Sec. 1.18. Installation Requirements.

The excavation, backfilling, patching and restoration, and all other work performed in the right of way shall be done in conformance with Minn. R. 7819.1100 and 7819.5000 (for telecommunications) and other applicable local requirements, in so far as they are not inconsistent with Sections 237.162 and 237.163 of the Act. Installation of service laterals shall be performed in accordance with Minn. R., ch 7560 and this Ordinance. Service lateral installation is further subject to those requirements and conditions set forth by the City in the applicable permits and agreements referenced in Section 1.23, subd. 2, of this Ordinance.

Sec. 1.19. Inspection.

Subd. 1. Notice of Completion. When the work under any permit hereunder is completed,

the permittee shall furnish a completion certificate in accordance with Minn. Rule 7819.1300. "As built" drawings are required to be completed by the permittee and distributed to the City within six (6) months of completion of the work.

Subd. 2. Site Inspection. The Permittee shall make the work site available to the City and to all others as authorized by law for inspection at all reasonable times during the construction of and upon completion of the work.

Subd 3. Authority of Department Inspector.

(i) At the time of inspection, the Department Inspector may order the immediate cessation of any work which poses a serious threat to the life, health, safety, or well-being of the public.

(ii) The Department Inspector may issue an order to the permittee for any work that does not conform to the terms of the permit or other applicable standards, conditions, ordinances or codes. The order shall state that failure to correct the violation will be cause for revocation of the permit. Within ten (10) days after issuance of the order, the permittee shall present proof to the Director or the City Engineer, as the case may be, that the violation has been corrected. If such proof has not been presented within the required time, the Director or the City Engineer, as the case may be, may revoke the permit pursuant to Sec. 1.22 of this Ordinance.

Sec. 1.20. Work Done Without a Permit.

Subd. 1. Emergency Situations. Each registrant shall immediately notify the Director of any event regarding its facilities that it considers to be an emergency. The registrant may proceed to take whatever actions are necessary to respond to the emergency. Excavators' notification to Gopher State One Call regarding an emergency situation does not fulfill this requirement. Within two (2) business days after the occurrence of the emergency, the registrant shall apply for the necessary permits, pay the fees associated therewith, and fulfill the rest of the requirements necessary to bring itself into compliance with this Ordinance for the actions it took in response to the emergency.

If the City becomes aware of an emergency regarding a registrant's facilities, the City will attempt to contact the local representative of each registrant affected, or potentially affected, by the emergency. In any event, the City may take whatever action it deems necessary to respond to the emergency, the cost of which shall be borne by the registrant whose facilities occasioned the emergency. The City shall not be liable for any action or inaction taken under this paragraph.

Subd. 2. Non-Emergency Situations. Except in an emergency, any person who, without first having obtained the necessary permit, obstructs or excavates a right of way must subsequently obtain a permit and, as a penalty, pay double the normal fee for said permit, pay double all the other fees required by this Ordinance, 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 Ordinance.

Sec. 1.21. Supplementary Notification.

If the obstruction or excavation of the right of way begins later or ends sooner than the date

given on the permit, the permittee shall notify the City of the most accurate and up-to-date information as soon as this information is known.

Sec. 1.22. Revocation of Permits.

Subd. 1. Substantial Breach. The City reserves its right, as provided herein, to revoke any right-of-way permit without a fee refund, if there is a substantial breach of the terms and conditions of any statute, ordinance, rule or regulation, or any material condition of the permit or relevant agreement. A substantial breach by a permittee shall include, but shall not be limited to, the following:

(i) The violation of any material provision of the right-of-way permit.

(ii) An evasion or attempt to evade any material provision of the right-of-way permit, or the perpetration or attempt to perpetrate any fraud or deceit upon the City or its citizens.

(iii) Any material misrepresentation of fact in the application for a right-of-way permit.

(iv) The failure to complete the work in a timely manner, unless a permit extension is obtained or unless the failure to complete work is due to reasons beyond the permittee's control.

(v) The failure to correct, in a timely manner, work that does not conform to a condition indicated on an order issued pursuant to Section 1.19 of this Ordinance.

Subd. 2. Written Notice of Breach. If the City determines that a permittee has committed a substantial breach of a term or condition of any statute, ordinance, rule, regulation, or any condition of the permit, the City shall follow the procedural requirements of Section 1.17, subd. 2, of this Ordinance. In addition, the demand shall state that continued violations may be cause for revocation of the permit. A substantial breach, as stated above, will allow the City, at its discretion, to place additional or revised conditions on the permit to mitigate and remedy the breach.

Subd. 3. Response to Notice of Breach. Within two (2) calendar days of receiving notification of the breach, the permittee shall provide the City with a plan, acceptable to the City, that will cure the breach. The permittee's failure to so contact the City, or the permittee's failure to timely submit an acceptable plan, or the permittee's failure to reasonably implement the approved plan, shall be cause for immediate revocation of the permit.

Subd. 4. Reimbursement of City costs. If a permit is revoked, the permittee shall also reimburse the City for the City's reasonable costs, including restoration costs and the costs of collection and reasonable attorneys' fees incurred in connection with such revocation.

Sec. 1.23. Mapping Data.

Subd. 1. Information Required. Each registrant and permittee shall provide mapping information required by the City in accordance with Minn. R. 7819.4000 and 7819.4100. Within ninety (90) days following completion of any work pursuant to a permit, the permittee shall provide the Director accurate maps and drawings certifying the "as-built" location of all equipment installed, owned, and maintained by the permittee. Such maps and drawings shall include the

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

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

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

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

Sec. 1.24. Location and Relocation of Facilities.

Subd. 1. Location. Placement, location, and relocation of facilities must comply with the Act, with other applicable law, and with Minn. R. 7819.3100, 7819.5000, and 7819.5100, to the extent the rules do not limit authority otherwise available to cities.

Subd. 2. Undergrounding. As required by the City's Development Code, Chapter 3, Section 13.14 (Utilities), all facilities in the right of way must be located or relocated and maintained underground. This regulation does not apply to small wireless facilities or micro wireless facilities.

Subd. 3. Limitation of Space. To protect the health, safety, and welfare of the public, or when necessary to protect the right of way and its current use, the City shall have the power to prohibit or limit the placement of new or additional facilities within the right of way. In making such decisions, the City shall strive to the extent possible to accommodate all existing and potential users of the right of way, but shall be guided primarily by considerations of the public interest, the public's needs for the particular utility service, the condition of the right of way, the time of year with respect to essential utilities, the protection of existing facilities in the right of way, and future City plans for public improvements and development projects which have been determined to be in the public interest. The City shall provide written findings to a registrant in connection with the prohibition of new or additional facilities within the right of way.

Sec. 1.25. Pre-Excavation Facilities Location.

In addition to complying with the requirements of Minn. Stat. §§ 216D.01-.09 (Excavation Notice System) before the start date of any right-of-way excavation, each registrant who has facilities or equipment in the area to be excavated shall mark the horizontal and vertical placement

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

Sec. 1.26. Damage to Other Facilities.

When the City does work in the right of way and finds it necessary to maintain, support, or move a registrant's facilities to protect it, the City shall notify the local representative as early as is reasonably possible. The costs associated therewith will be billed to that registrant and must be paid within thirty (30) days from the date of billing. Each registrant shall be responsible for the cost of repairing any facilities in the right of way which it or its facilities damage. Each registrant shall be responsible for the cost of repairing any damage to the facilities of another registrant caused during the City's response to an emergency occasioned by that registrant's facilities.

Sec. 1.27. Right-of-way Vacation.

If the City vacates a right of way that contains the facilities of a registrant, the registrant's rights in the vacated right of way are governed by Minn. R. 7819.3200.

Sec. 1.28. Indemnification and Liability.

By registering with the City, or by accepting a permit under this Ordinance, a registrant or permittee agrees to defend and indemnify the City in accordance with the provisions of Minn. Rule 7819.1250.

Sec. 1.29. Abandoned and Unusable Facilities.

Subd. 1. Discontinued Operations. A registrant who has determined to discontinue all or a portion of its operations in the City must provide information satisfactory to the City that the registrant's obligations for its facilities in the right of way under this Ordinance have been lawfully assumed by another registrant.

Subd. 2. Removal. Any registrant who has abandoned facilities in any right of way shall remove it from that right of way, and must remove the facilities immediately if required in conjunction with other right-of-way repair, excavation, or construction, unless this requirement is waived by the City.

Sec. 1.30. Appeal.

A registrant or a right-of-way user, as the case may be, that: (1) has been denied a permit; (2) has had a permit revoked; (3) believes that the fees imposed by the City are not in conformity with Section 237.163, subd. 6 of the Act; or (4) disputes a determination of the Director regarding Section 1.23, subd. 2, of this Ordinance may have the denial, revocation, fee imposition, or decision reviewed, upon written request, by the City Council. The City Council shall act on a timely written request at its next regularly scheduled meeting, provided the registrant or right-of-way user, as the case may be, has submitted its appeal with sufficient time to include the appeal as a regular agenda item. A decision by the City Council affirming the denial, revocation, or fee imposition will be in writing and supported by written findings establishing the reasonableness of the decision.

Sec. 1.31. Reservation of Regulatory and Police Powers.

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

Sec. 1.32. Severability.

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

ARTICLE TWO
Regulating the Parking of Vehicles

Sec. 2.01. No Parking Zones. For the purposes of this Article, "street" is defined as the entire strip of land traversed by a highway or road in which the public owns the fee title or an easement for roadway purposes. "Vehicle" means every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices used exclusively upon stationary rails or tracks.

It shall be unlawful for any person or organization to cause, allow, permit or suffer any vehicle to be parked on the streets located within the City in areas designated and posted accordingly as no parking zones.

Sec. 2.02. Designated No Parking Zones. The following streets are designated as no parking zones and subject to the regulation of this Article. Additional streets may be designated by the City Council through an amending ordinance:

(i) 185th Street North: an area 300 feet west from Langley Avenue North;

(ii) 188th Street North: an area on the north side of the street consisting of 1,400 feet west of Norell Avenue, and an area on the south side of the street consisting of 900 feet west of Norell Avenue;

(iii) 205th Street North: an area on the south side from the Soo Line Railroad tracks to the Log House Landing boat launch parking area;

(iv) 209th Street North: an area on both sides of the street between Olinda Trail and Oakhill Drive;

(v) 238th Street North: an area on both sides of the street 1,300 feet east from Lofton Avenue North;

(vi) Lake Lane: an area on both sides of the street from Lofton Court to Bone Lake;

(vii) Langley Avenue North: from 185th Street North to Langley Court North;

(viii) Log House Landing: the area on the west side of platted Otis Street;

(ix) Meadowbrook Avenue North: an area on both sides of the street north from State Trunk Highway 97;

(x) Mayberry Avenue North: an area 500 feet east and 500 feet west from the Department of Natural Resources boat ramp;

(xi) Melanie Avenue North: an area on both sides of the street 1,000 feet south from 238th Street North; and

(xii) Norell Avenue: an area on both sides of the street 150 feet south of 188th Street North.

Sec. 2.03. Snow and Ice Removal. Between November 1 and April 30 of each year, on-street parking shall be permitted in the City if the on-street parking does not interfere with the removal of snow or ice from City streets. If a parked vehicle interferes with the removal of snow or ice from a City street, the vehicle shall immediately be removed from the street by its owner. It shall be unlawful to park on any City street when on-street parking interferes with the removal of snow or ice until the snow removal operation is complete on the City street. If a motor vehicle is determined to be in violation of this Section, the City is authorized to issue a citation and cause the motor vehicle to be removed at the owner's expense.

Sec. 2.04. Unobstructed Width. No person shall stop, park, or leave standing any vehicle, whether attended or unattended upon the paved or improved or main traveled part of any street, road or byway located within the City when it is practical to stop, park, or so leave such vehicle off such part of said street, road or byway, but in every event a clear and unobstructed width of at least 20 feet of such part of the highway opposite such standing vehicle shall be left for the free passage of other vehicles and a clear view of such stopped vehicle shall be available from a distance of 200 feet in each direction upon such street.

Sec. 2.05. Recreation Vehicles. Recreation vehicles, as defined in Chapter 1, Section 4 of the Development Code, may not be parked on any public street for more than a period of 24 consecutive hours.

Sec. 2.06. Parking Near Mailboxes. No vehicle shall be left standing or parked on any street of the City within 15 feet of any mailbox, except on a Sunday.

Sec. 2.07. Driveways. All new driveways providing ingress and egress to a parcel that abut a public street maintained by the City shall require a permit. All such permits shall be evaluated by the City and processed pursuant to this Ordinance, the Development Code, and the policies provided for in Article Five of this Ordinance.

Sec. 2.08. Violations and Penalties. Any person violating any provision of this Article shall be guilty of a petty misdemeanor and shall, upon conviction thereof, be punished according to law. When any police officer finds a vehicle unattended upon any street or road, where such vehicle

constitutes an obstruction to traffic, such officer is authorized to provide for the removal of such vehicle at the owner's expense.

ARTICLE THREE
Materials on Street, Sidewalk, or Right-of-Way

Sec. 3.01. Materials on Street, Sidewalk, or Right-of-Way.

Subd. 1. Encumbrances. No person shall encumber any street, sidewalk, or right-of-way within the City. No owner, occupant, or person having the care of any building or lot of land, bordering on any street, sidewalk, or right-of-way shall permit it to be encumbered with any object, including but not limited to barrels, boxes, cans, articles, or substances of any kind, so as to interfere with the free and unobstructed use thereof.

Subd. 2. Prohibited Actions. Except for the actions of City employees and contractors carrying out their normal duties, no person shall:

(i) Remove from private property any deposit of snow or ice and place the same upon the improved portion of any right-of-way;

(ii) Dig any holes in any street, sidewalk, or right-of-way without a valid permit required by this Ordinance;

(iii) Remove any earth, gravel, or rock from any street, sidewalk, or right-of-way without a valid permit required by this Ordinance;

(iv) Obstruct any ditch draining any street or drain any noisome materials into any ditch;

(v) Deface, mar, damage, or tamper with any structure, work, material, equipment, tools, signs, markers, signals, paving, guardrails, drains or any other highway appurtenance on or along any street, sidewalk, or right-of-way;

(vi) Remove, injure, displace, or destroy right-of-way markers, or reference or witness monuments, or markers placed to preserve section or quarter-section corners; or

(vii) Drive over, through, or around any barricade, fence, or obstruction erected for the purpose of preventing traffic from passing over a portion of a street or sidewalk that is closed to the public.

ARTICLE FOUR
Seasonal Weight Limit Restrictions on Public Streets

Sec. 4.01. Purpose. The purpose of this Article is to preserve the public streets within the City from damage or destruction by trucks or other heavy-laden vehicles and to reduce the cost and expense to the taxpayers within the City of street maintenance and repair from damage caused by such traffic. The City ordains that axle weight limits are restricted on public City streets to protect

these streets from damage when road and weather conditions warrant in accordance with regulations as provided in Minnesota Statutes, Section 169.87, as amended. These weight restrictions are in effect during the spring thaw season, but streets may be posted for weight restrictions any time that road and weather conditions warrant weight limits to protect streets from damage. "Street" and "vehicle" are defined as in Article Two of this Ordinance.

All public City streets are limited to a five ton axle-per axle weight limit unless otherwise posted.

Sec. 4.02. Procedure. The City Engineer and the Public Works Director, or their designees, may prohibit the operation of vehicles upon any street under the City's jurisdiction or impose weight restrictions on vehicles to be operated on such streets whenever the street, by reason of deterioration, rain, snow or other climatic conditions, could be seriously damaged or destroyed.

Sec. 4.03. Posting of Prohibitions and Restrictions. The City follows Minnesota Department of Transportation (MnDOT) scheduling for imposing and removing spring road weight limit restrictions. As of the effective date of this Ordinance, dates are available at http://dotapp7.dot.state.mn.us/research/seasonal_load_limits/sllindex.asp or by calling (651) 366-5400 or 1-800-723-6543. These dates generally fall between March 1 and May 15 dependent on weather conditions. This prohibition or restriction shall also be effective for such other periods as the City Engineer, Public Works Director, or their designees shall determine are necessary and appropriate. The City shall cause signs to be erected and maintained which indicate the prohibition or restriction on the streets in the manner required by law.

Sec. 4.04. Restrictions with Certain Exceptions. No person, firm, or corporation shall operate, use or drive a motor vehicle or any machinery or instrument, pushed, pulled or driven by a motor vehicle, upon any posted street in violation of the prohibition or restriction. Exceptions to the seasonal load limits in the City are made for emergency response vehicles, school buses, and emergency utility repair vehicles and equipment, as well as for the following:

(i) Utilities. An exemption is allowed for utility companies providing utility service within the City when responding to an emergency. An emergency response shall include but is not limited to power outages, gas leaks, emergency communication, and lines down or severed.

(ii) Other Services. An exemption to posted weight limits is also allowed for septic tank service companies, well drilling and service companies, and companies delivering fuel for heating purposes. An emergency response is limited to septic or sewer system failures posing an imminent threat to public health and safety, well failure resulting in loss of water supply, or lack of heating fuel.

Sec. 4.05. Special Permission for Emergencies. All persons, firms, or corporations requesting an exemption to the posted weight limits for response to an emergency situation must notify the City's Public Works Director. This notification must include a description and location of the emergency, the number and weight of vehicles responding to the emergency, and the route to be used to reach the emergency site. The City reserves the right to request supporting documentation of the nature and location of the emergency. All persons responding to emergency situations shall

limit travel on seasonal weight restricted streets to the minimum distance required to reach the site from the closes road that is not subject to seasonal weight restrictions.

ARTICLE FIVE
Policies and Standards Incorporated into this Ordinance

Sec. 5.01. Incorporated Policies and Standards. The following policies and standards are incorporated into this Ordinance as if fully set forth herein:

(i) Engineering Standards and Detail Specifications, adopted September 20, 2011.
(ii) Snowplowing and Ice Control Policy, adopted February 15, 2011, and amended April 15, 2014 and February 21, 2017.
(iii) Road Right of Way Maintenance Policy, adopted November 15, 2016.

Section 2. The following Ordinances are hereby repealed:

Ordinance No. 113, adopted by the City Council of the City of Scandia on December 16, 2008, which amended Section 1.1 of Ordinance No. 39 and repealed Ordinance No. 42;

Ordinance No. 39, adopted by the Town Board of the Town of New Scandia on December 16, 2008;

Ordinance No. 171, adopted by the City Council of the City of Scandia on April 19, 2016; and

Ordinance No. 178, adopted by the City Council of the City of Scandia on November 15, 2016, which amended Ordinance No. 151.

Section 3. This Ordinance shall be in full force and effect from and after its passage and publication according to law.

Adopted by the City Council of the City of Scandia, Minnesota, this 17th day of April, 2018.

Christine Maefsky, Mayor

ATTEST:

Neil Soltis, City Administrator