

**CITY OF MOUNTAIN LAKE, MN**

**ORDINANCE #3-19**

**AN ORDINANCE OF THE CITY OF MOUNTAIN LAKE AMENDING CHAPTER 12:  
RIGHT-OF-WAY MANAGEMENT**

The City Council of the City of Mountain Lake ordains that Section 1.04, Section 1.05 Subd. 2, Section 1.05 Subd. 3, Section 1.05 Subd. 4, and Section 1.18 of Chapter 12 of the Mountain Lake City Code include the following additions and amendments as follows:

Added language is *italicized*.

**Sec. 1.04. Permit Applications.**

- v. Indicating comprehensive liability coverage, automobile liability coverage, workers' compensation and umbrella coverage established by the city in amounts sufficient to protect the city and the public and to carry out the purposes and policies of this chapter:

	<i>Public Liability, including premises, products and complete operations</i>
<i>GENERAL LIABILITY</i>	<i>Bodily Injury Liability \$1,000,000 each person, \$2,000,000 each occurrence</i>
	<i>Property Damage Liability \$3,000,000 each occurrence</i>
	<i>In lieu of (1) and (2) Bodily Injury and Property Damage Combined \$2,000,000 single limit</i>
	<i>Automobile Liability Insurance, including owned, non-owned and hired vehicles</i>
<i>COMPREHENSIVE:</i>	<i>Bodily Injury Liability \$1,000,000 each person, \$2,000,000 each occurrence</i>
	<i>Property Damage Liability \$2,000,000 each occurrence</i>
	<i>In lieu of (1) and (2) Bodily Injury and Property Damage Combined \$2,000,000 single limit</i>

**Sec. 1.05. Issuance of Permit; Conditions.**

**Subd. 2. Permit Conditions Generally.** The city may impose reasonable conditions upon the issuance of the permit and the performance of the applicant thereunder to protect the health, safety, and welfare or when necessary to protect the right of way and its current use. In addition, a permittee shall comply with all requirements of local, state, and federal laws, including but not limited to Minnesota Statutes Section 216D.01 - .09 (Gopher One Call Excavation Notice System) and Minnesota Rules, Chapter 7560. *All permits issued and all registrations made under this Section shall be subject to the following requirements:*

- A. *All permits issued under this Section or a copy of the permit shall be conspicuously displayed*

*or otherwise available at all times at the indicated project work site and shall be available for inspection immediately upon request by the city administrator or his/her designee.*

*B. If the obstruction or excavation of the public right-of-way begins later or ends sooner than the dates specified in the permit, the permittee shall promptly notify the city administrator.*

*C. Installation, placement, location, and relocation of equipment and facilities shall comply with all federal, state and local laws.*

*D. Public right-of-way restoration shall be in accordance with the restoration regulations set forth in this Section.*

*E. Installation of all underground utilities shall be in accordance with the underground utilities regulations set forth in this Section and all other applicable federal, state and local laws.*

*F. Precautions shall be taken as are necessary to avoid creating unsafe or unsanitary conditions and a permittee shall not obstruct a public right-of-way, except as expressly authorized by the permit, so as to hinder the natural free and clear passage of water through the gutters or other waterways. Personal vehicles of those doing work in the public right-of-way may not be parked within or next to a permit area, unless parked in conformance with City parking regulations. The loading or unloading of trucks must be done solely within the defined permit area unless specifically authorized by the permit.*

*G. Project operations and work shall be conducted in a manner so as to insure the least obstruction to and interference with present and continued use of the public right-of-way.*

*H. Precautions shall be taken to assure the safety of the general public, employees, invitees and those who require access to abutting property, including appropriate signage.*

*I. The permittee shall notify abutting property owners with a 48-hour written notice prior to commencement of any project work that may disrupt the use of and access to the abutting property.*

*J. The permittee involved in underground projects shall register with Gopher State One Call and comply with the requirements thereof.*

*K. The permittee shall comply with the Uniform Traffic Manual for Traffic Control at all times during any project work and shall protect and identify excavations and work operations with barricade flags in the daylight hours and by warning lights at dusk and night.*

*L. The permittee shall comply with all conditions of the permit.*

*M. When any trail or drive has been cut, the appropriate signage must be kept in place and maintained until restoration is complete.*

*N. The permittee shall provide proper trench protection as required by O.S.H.A. to prevent any cave-in; injury to property or persons; or enlargement of the excavation.*

*O. Excavations, trenches and jacking pits off the roadway surface area or adjacent to the roadway or curbing shall be sheathed and braced. When unattended, all excavations, trenches and jacking pits shall be protected to prevent surface drainage.*

*P. The permittee shall protect the root growth of significant trees and shrubbery located within the public right-of-way and adjacent thereto.*

*Q. The permittee shall coordinate project work and installation of facilities in co-locations involving other public right-of-way users.*

*R. The permittee shall maintain access to all properties and cross streets during project work, including emergency vehicle access.*

*S. The permittee shall physically locate property lines abutting the project work. The permittee shall replace, with the services of a Minnesota-licensed surveyor, any property corners or monuments disturbed as a result of the project.*

*T. The permittee shall complete restoration of the public right-of-way in conformance with this Section.*

*U. No permittee, or any agent, subcontractor or employee thereof, shall use lugs (steel tracks) on any roadway surfaces.*

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

*W. The permittee shall obtain all other necessary permits, licenses and approvals, pay all required fees therefore and comply with all requirements of local, state and federal laws.*

*X. The permittee shall not do any work outside the project area as specified in the permit.*

*Y. The permittee shall screen all aboveground facilities and make reasonable accommodations for decorative enclosures, support structures or signs, as required by the director of public works, to be aesthetically compatible with existing streetscape and the ornamental design or theme of the immediate area. Screening methods shall include the use of shrubs, trees and/or with landscape rock or installation using stealth or camouflaged forms of the facility. The director may also impose reasonable restocking, replacement, or relocation requirements when a new support structure is placed in a public right-of-way. No equipment or facilities shall visibly or physically block or in any manner interfere with any existing streetscape, ornamental structures or displays, or other amenities located within the city's right of way.*

*Z. Any facility collocated on a city-owned support structure shall be of a color and design so to match the color, design and pattern of the existing support structure(s) and any replacement structures after the issuance of the permit. Any new support structure, and any facility located thereon, erected within a city-owned right of way shall be of a color and design so to match the color, design and pattern of existing structures (e.g. light/lampposts) and any replacement structures after the issuance of the permit.*

*AA. Small wireless facilities shall be subject to the regulations set forth in Minnesota Statutes, Ch. 237, if not otherwise set forth herein.*

*BB. The city may impose other reasonable conditions to protect the public health, safety and welfare or, when necessary, to protect the right of way and its current and future use.*

**Subd. 3. Additional Small Wireless Facility Conditions.** In addition to subdivision 2, the

erection or installation of a wireless support structure, or the collocation of a small wireless facility, shall be subject to the following conditions:

(d) Where an applicant proposes to install a new wireless support structure in the right-of-way, the city may impose separation requirements between such support structures and any existing wireless support structure or other facilities in and around the right-of-way. *Notwithstanding, there shall be no less than 600 linear feet between each support structure on which a small wireless facility(s) is located.*

(h) *No more than three (3) small wireless facilities shall be collocated on a single support structure.*

#### **Subd. 4. Payment of Rent.**

(a) For collocations of small wireless facilities, the city can, either in its permit or in a standard collocation agreement, require annual rental payments for the small wireless collocations of up to:

- a. ~~\$150~~ \$270.00 per year for rent to collocate on the city structure.
- b. \$25 per year for maintenance associated with the collocation.
- c. A monthly fee for electrical service as follows:
  - i. \$73 per radio node less than or equal to 100 maximum watts;
  - ii. \$182 per radio node over 100 maximum watts; or
  - iii. The actual cost of electricity if the actual cost exceeds the foregoing
- d. *The application fee for collocation or new support structures within City property shall be established by City Council ordinance (\$100).*

#### **Sec. 1.18. Abandoned Facilities.**

~~**Removal of Abandoned Facilities.** Any person who has abandoned facilities in any right-of-way shall remove them from that right-of-way if required in conjunction with other right-of-way repair, excavation, or construction, unless the city waives this requirement.~~

- a. *Notification. The permittee shall notify the City when facilities are, abandoned. The permittee shall submit to the city administrator a plan for the removal of the abandoned equipment or facility. The city administrator may require the permittee to post a bond in an amount sufficient to reimburse the City for reasonably anticipated costs to be incurred in removing the equipment and facilities if the permittee user fails to do so.*
- b. *Removal of abandoned facilities. The permittee shall notify the City when facilities are to be abandoned. The permittee that has abandoned facilities in the right-of-way shall remove them from that right-of-way if required in conjunction with other right-of-way repair, excavation or construction, at right-of-way user's expense, unless the City waives this requirement. The permittee that has abandoned facilities in the right-of-way shall continue to comply with and complete a "locate" and map/mark the location of the abandoned facility upon all locate requests/orders as required by Minnesota law. When the permittee fails to complete a locate of an abandoned facility when requested or upon issuance of a locate order and such failure results in a city project to be delayed, the permittee shall pay for the City's costs, claims and damages, including the loss of*

*revenue of its project contractors, for forced delay on project due to failure to locate and map abandoned facilities as required herein.*

Passed by the City Council of Mountain Lake, Minnesota this 21<sup>st</sup> day of May, 2019.

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Mike Nelson, Mayor

Attest:

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Michael Schulte, City Administrator