



4646 Dakota Street SE
Prior Lake, MN 55372

**CITY OF PRIOR LAKE
ORDINANCE NO. _____**

AN ORDINANCE AMENDING CITY CODE SUBSECTION 106.600 RELATING TO RIGHT-OF-WAY PERMIT FEES, AMENDING CITY CODE SECTION 707 RELATING TO RIGHT-OF-WAY MANAGEMENT, AND ADOPTING BY REFERENCE CITY CODE SECTION 104, WHICH AMONG OTHER THINGS CONTAINS PENALTY PROVISIONS.

The City Council of the City of Prior Lake, Minnesota ordains:

1. City Code Part 1, Subsection 106.600 is amended by deleting the fees related to Right-of-Way Permits and replacing them with the following:

Right-of-Way Permit and Telecommunication User Registration	
Right-of-Way Permit (waived for companies with franchise agreements with City)	\$250.00
Yearly Registration Fee for Online Program – paid by each applicant with the first Right-of-Way Permit they obtain each year	\$25.00
Delay Penalty	\$100.00 per day
Right-of-Way Security - Boulevards (waived for companies with franchise agreements with City)	\$500.00
Right-of-Way Security - Streets	125% of restoration estimate
Telecommunication User Registration Fee	\$250.00
Failure to Obtain Right-of-Way Permit or Failure to Register	Double the Stated Fee

2. City Code Section 707, Subsection 707.300 is amended by revising the definition of “Director” by deleting the title “Engineering/Inspections Director” and replacing it with the title “Public Works Director”.
3. City Code Section 707, Subsection 707.300 is amended by revising the definition of “Right-of-Way” by: inserting the words “or dedeed” after the word “dedicated”; deleting the word “purposes” after the word “travel”; and deleting the words “easements of the City” and replacing them with the word “purposes”.
4. City Code Section 707, Subsection 707.702 (1) is amended by: deleting the word “or” after the word “install” and replacing it with a comma; and inserting the phrase “, repair, remove or relocate” after the word construct.
5. City Code Section 707, Subsection 707.702 (2) a) is amended by deleting the phrase “permitted at sufferance only” and replacing it with the phrase “allowed only by permission of the Director”.

6. City Code Section 707, Subsection 707.703 (1) i) is amended by deleting the reference to “Subd. 4 C” and replacing it with a reference to “Subsection 707.705 (3)”.
7. City Code Section 707, Subsection 707.710 (2) c) is amended by deleting the phrase “will be considered” and replacing it with the phrase “may be considered by the Director”.
8. City Code Section 707, Subsection 707.710 (2) g) is amended by deleting the word “City” before the word “utility” in the final line.
9. City Code Section 707, Subsections 707.710 (3) b) is amended by deleting the word “poles” and replacing it with the word “structures”.
10. City Code Section 707, Subsection 707.710 (5) b) is amended by deleting the phrase “issued by the City” before the word “involving” in the second sentence.
11. City Code Section 707 is amended by replacing each use of the word “City” with the word “Director” in the following Subsections 707.709; 707.710 (1) l); 707.710 (1) r); 707.710 (2) g); 707.710 (2) k); 707.710 (4); 707.710 (5) b); 707.807; 707.810 (1).
12. City Code Section 707, Subsections 707.712 (1) is amended by deleting the reference to “7819” and replacing it with a reference to “7819.1300”.
13. City Code Section 707, Subsections 707.713 is amended by: deleting the word “or” after the word “installs” and replacing it with a comma; inserting the phrase “, repairs, removes or relocates” after the word constructs; and deleting the phrase “in the right-of-way” after the word “facility”.
14. City Code Section 707, Subsections 707.714 (1) is amended by deleting the phrase “its costs associated with” and replacing it with the phrase “the City’s costs incurred in”.
15. City Code Section 707 is amended by deleting Subsection 707.717 in its entirety and replacing it with the following:

707.717 Indemnification and Liability: By applying for and accepting a right-of-way permit the applicant and permit holder agree to indemnify, defend and hold the City and its employees, contractors, agents, representatives, elected and appointed officials, and consultants harmless from any and all claims, damages, losses, costs and expenses, including attorneys’ fees, arising from, based on, or related to the right-of-way permit or the applicant’s or permit holder’s work within the right-of-way or on the facility all subject to Minnesota Rule 7819.1250.
16. City Code Section 707, Subsection 707.804 is amended by deleting the second sentence and replacing it with the following: “The fee shall be imposed on each registered facility both at the time of application and annually thereafter on January 1 of each year until the facility is removed from the right-of-way.”

17. City Code Section 707, Subsection 707.805 is amended by deleting provision (1) in its entirety and replacing it with the following:
 - (1) Indemnification. By applying for and accepting a registration the applicant and registrant agree to indemnify, defend and hold the City and its employees, contractors, agents, representatives, elected and appointed officials, and consultants harmless from any and all claims, damages, losses, costs and expenses, including attorneys' fees, arising from, based on, or related to the facility, including but not limited to the facility's registration, design, location, installation, maintenance or other matters arising out of or related to the facility within the right-of-way all subject to Minnesota Rule 7819.1250.
18. City Code Section 707, Subsection 707.808 is amended by inserting the word "shall" after the word "registrant".
19. City Code Section 707, Subsection 707.809 (2) is amended by inserting the phrase "or fails to comply with any federal, state or local law, rule or regulation." at the end of the first sentence.
20. City Code Section 707, Subsection 707.811 (1) is amended by inserting a new second sentence to read as follows: "If the structure is owned by the City, a collocation or lease agreement may be required."
21. City Code Section 707, Subsection 707.811 (3) a) is amended by deleting the number "fifteen (15)" and replacing it with the number "ten (10)"
22. City Code Section 707, Subsection 707.811 (3) b) is amended by inserting the text "fifty" in front of the number "50" and placing the number "50" in parentheses.
23. City Code Section 707, Subsection 707.811 (3) c) is amended by replacing the number "seven (7)" with the number "six (6)"; and deleting the phrase "and no one devise shall have a volume greater than three (3) cubic feet".
24. City Code Section 707, Subsection 707.811 (3) is amended by deleting provision g) in its entirety and re-lettering provisions h), i) and j) as g), h) and i) respectively.
25. City Code Section 707, Subsection 707.811 (4) f) is amended by deleting the number "330" and replacing it with the number "three hundred (300)"
26. City Code Section 707, Subsection 707.811 (4) g) is amended by deleting the number "twenty-seven (27)" and replacing it with the number "twenty-eight (28)"
27. City Code Section 707, Subsection 707.902 is amended by inserting the number "707.900" at the end of the sentence after the word "Subsection".
28. City Code Section 707, Subsection 707.903 is amended by deleting provision (1) in its entirety and replacing it with the following:

(1) New structures in the right-of-way shall be Permitted Uses subject to this Section, except that new structures in right-of-way abutting the following zoning districts: rural subdivision residential, low density residential, medium density residential, town center, and transitional town center, shall be Uses Permitted by Condition subject to this Section and City Code Section 1110

29. City Code Section 707, Subsection 707.903 (2) is amended by deleting the number “45” and replacing it with the number “fifty (50)”

30. City Code Section 707, Subsection 707.903 (3) e) is amended by deleting the phrase “in the right-of-way and from the nearest existing telecommunications facility”.

31. City Code Section 104 entitled “General Penalty” is adopted in its entirety by reference, as though repeated verbatim.

32. This Ordinance shall become effective from and after its passage and publication.

Passed by the City Council of the City of Prior Lake this _____ day of _____, 2017.

ATTEST:

Frank Boyles, City Manager

Kirt Briggs, Mayor

Published in the Prior Lake American on the _____ day of _____, 2017.