City of Brookfield, Wisconsin

ORDINANCE NO. 2592-20 of the Board of Public Works and Water and Sewer Board

Committee Date: January 14, 2020
Committee Recommendation: January 21, 2020


Public Hearing: Na
Council Date: January 21, 2020
Council Action: Adopted 14-0

The Common Council of the City of Brookfield do ordain as follows:

PART I. Section 12.15.010 is hereby amended to read as follows:

12.15.010 Findings, purpose, and applicability.
In the exercise of its police powers, the city has priority over all other uses of the right-of-way. The purpose of this chapter and Chapters 12.16, 12.17, 12.18, and 12.19 is to provide the city with a process for managing and uniform standards for acting upon requests for the placement of facilities within the right-of-way, City-owned property, and land in which the City has an easement interest consistent with the city's obligation to promote the public health, safety, and welfare; to manage the right-of-way, its property, its utilities, and its structural integrity; and to ensure that the public's use is not obstructed or incommoded by the use of the right-of-way, City-owned property, or land in which the City has an easement interest for placement of facilities. The provisions of this chapter are applicable to any registration, excavation, or facilities placement in the right-of-way, on City-owned property, or land in which the City has an easement interest. All references in this Chapter to "right-of-way" shall also apply to City-owned
property and land in which the City has an easement interest unless specifically noted otherwise. For City-owned property, the terms and provisions of an easement, license agreement, or similar type of agreement between the City and any person may be more stringent than the relevant portions of Title 12 of this Code, but cannot be less stringent unless the Common Council finds that a less stringent agreement is in the City’s best interests and does not conflict with the provisions of this section; the terms of any such agreement shall prevail in the event of any conflict with the Code provisions.

PART II. Section 12.15.070 is hereby amended to read as follows:

12.15.070 Restoration.
In the event that a person removes or is required to remove a facility and/or relocate a facility from the right-of-way pursuant to Section 12.15.060, or a person causes damage due to his/her activities in the right-of-way related to facilities, towers, or utility poles, the person must restore the right-of-way to its prior condition in accordance with city specifications. If the person fails to make the restoration required by this section, the city or its designee may perform the restoration and bill the facility owner or operator, registrant, or permittee for the costs of removal. All costs shall be paid within thirty (30) days of the date of invoice.

PART III. Section 12.17.020 is hereby amended to read as follows:

12.17.020 Purpose.
In the exercise of its police powers, the city has priority over all other uses of the right-of-way. The purpose of this chapter is to provide the city with a process for managing and uniform standards for acting upon requests for the placement of wireless telecommunications facilities within the right-of-way, City-owned property, and land in which the City has an easement interest consistent with the city’s obligation to promote the public health, safety, and welfare; to manage the right-of-way, its property, and utilities; and to ensure that the public’s use is not obstructed or incommode by the use of the right-of-way, City property, and land in which the City has an easement interest for the placement of wireless telecommunications facilities. The city recognizes the importance of wireless telecommunications facilities to provide high-quality communications and internet access services to residents and businesses within the city. The city also recognizes its obligation to comply with applicable federal and state laws regarding the placement of wireless telecommunications facilities in the right-of-way including, without limitation, the Telecommunications Act of 1996 (47 USC 151 et seq.), Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012, Section 182.017, Wisconsin Statutes,
Section 196.58, Wisconsin Statutes, and Sections 66.0404(4e) and 66.0414, Wisconsin Statutes, and this chapter shall be interpreted consistent with those provisions.

PART IV. Section 12.17.030.A is hereby amended to read as follows:

12.17.030 Scope.
A. Applicability. Unless exempted by subsection (B) of this section, every person who wishes to place a wireless telecommunications facility in the right-of-way, on City-owned property, or land in which the City has an easement interest or modify an existing wireless telecommunications facility in the right-of-way, on City-owned property, or land in which the City has an easement interest must obtain a wireless permit under this chapter. For City-owned property, a person who wishes to place a wireless telecommunications facility on a portion of the land not located in the right-of-way shall enter into a license agreement, easement agreement, or similar type of agreement with the City before applying for a permit. The terms and provisions of such agreement may be more stringent than the relevant portions of Title 12 of this Code, but cannot be less stringent unless the Common Council finds that a less stringent agreement is in the City’s best interests and does not conflict with Section 12.15.010 of this Code; the terms of any such agreement shall prevail in the event of any conflict with the Code provisions. All references in this Chapter to “right-of-way” shall also apply to City-owned property and land in which the City has an easement interest unless specifically noted otherwise.

PART V. Subsections 12.17.060.A. and D are hereby amended to read as follows:

12.17.060 Application.
A. Format. The applicant must submit its application electronically in a searchable, portable document format or other format approved by the City, as well as any amendments or supplements to the application or responses to requests for information regarding an application, to the city engineer. An application is not complete until the city engineer receives a properly formatted application.

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D. Fees. Applicant must provide an application fee, as calculated by the city engineer, which shall include all costs reasonably incurred in reviewing the application, including costs incurred in retaining outside consultants, and an inspection deposit for the cost of inspecting the work. Additionally, if the applicant or permittee seeks to attach a facility to a city-owned structure, the
applicant or permittee shall pay an annual fee of two hundred fifty dollars ($250.00) per facility that is located in the City right-of-way, but not City-owned land.

PART VI. Subsection 12.17.070.D is hereby amended to read as follows:

12.17.070 General standards.

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D. Standard Wireless Permit Conditions. All wireless permits under this chapter are issued subject to the following minimum conditions:

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2. Term. A wireless permit shall be valid in perpetuity from the date of issuance unless revoked pursuant to Section 12.17.080(D) or surrendered.

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14. Certificate of Insurance. A certificate of insurance with the following minimum insurance limits:

   a. Commercial General Liability Insurance. One million dollars ($1,000,000.00) per each occurrence, one million dollars ($1,000,000.00) personal and advertising injury, two million dollars ($2,000,000.00) products and completed operations, and two million dollars ($2,000,000.00) general aggregate – all written on an occurrence basis.

   b. Business Automobile Liability Insurance. One million dollars ($1,000,000.00) combined single limit, written on an occurrence basis, for “any auto.”

   c. Worker’s Compensation Insurance. Coverage as required by the state of Wisconsin and employers’ liability insurance with a minimum limit of one hundred thousand dollars ($100,000.00) each accident, five hundred thousand dollars ($500,000.00) disease policy, and one hundred thousand dollars ($100,000.00) disease each employee.

   d. Umbrella Liability Insurance. Five million dollars ($5,000,000.00) each occurrence and five million dollars ($5,000,000.00) general aggregate; the self-insured retention cannot exceed ten thousand dollars ($10,000.00).
PART VII. Subsection 12.17.090.B is hereby amended to read as follows:

12.17.090 Removal and failure to obtain permit.

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B. Removal and Costs. Upon revocation or surrender of the permit, the facility must be removed within thirty (30) days of receipt of written notice from the city. All costs incurred by the city in connection with the revocation, removal, storage of removed facilities, and right-of-way restoration shall be paid by the person whose permit was revoked or surrendered.

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PART VIII. The title of Chapter 12.18 is hereby amended to read and Section 12.18.020 is hereby amended to read as follows:

Chapter 12.18

EXCAVATION IN THE CITY RIGHT-OF-WAY

12.18.020 Excavation permits.

A. Excavation Permit Required. Except as otherwise provided in this chapter or elsewhere in this code, no person shall excavate any right-of-way, City-owned property, or land in which the City has an easement interest without first having obtained an excavation permit from the city engineer. For City-owned property, a person who wishes to excavate on a portion of the land not located in the right-of-way shall enter into an easement, entry agreement pursuant to Section 2.80.010 of the Code, license agreement, or similar type of agreement with the City before applying for a permit. The terms and provisions of such agreement may be more stringent than the relevant portions of Title 12 of this Code, but cannot be less stringent unless the Common Council finds that a less stringent agreement is in the City’s best interests and does not conflict with Section 12.15.010 of this Code; the terms of any such agreement shall prevail in the event of any conflict with the Code provisions. All references in this Chapter to “right-of-way” shall
also apply to City-owned property and land in which the City has an easement interest unless specifically noted otherwise. No permit shall be required when the excavation is part of a project or work subject to an executed development agreement or subdivider’s agreement with the City.

B. Area and Dates Specified. The excavation permit shall specify the completion date for the work and the area of the work. No permittee may perform any work or excavate outside the area or dates specified in the permit, except as provided herein. No person shall excavate the right-of-way or maintain an excavation in the right-of-way beyond the date or area specified in the excavation permit without first having obtained an extension from the city engineer. A permittee shall request an extension before the expiration of the initial permit. The city engineer has the sole discretion to determine whether an extension should be granted.

PART IX. Subsections 12.18.020.C and 12.17.030.B.1 are hereby repealed.

PART X. Subsection 12.18.040.B is hereby repealed.

PART XI. Subsection 12.18.040.C and D are hereby amended to read as follows:

12.18.040 Permit fees.
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C. Payment of Permit Fees. No permit shall be issued until payment of applicable fees and deposits is received. If the cost of inspection exceeds the inspection deposit amount, the applicant or permittee shall pay the difference within 30 days of demand or be subject to penalty or revocation of the permit.

D. Refundability. Administrative and degradation fees are nonrefundable. The City shall deduct inspection fees from the inspection deposit; any remaining deposit shall be returned after the City completes its final inspection. The restoration deposit shall be held until the city approves the restoration of the right-of-way and may be held until the expiration of the guarantee period as set forth in Section 12.18.050(C).

PART XII. Subsection 12.18.060.A is hereby amended to read as follows:

12.18.060 Inspection.
A. Standards. The permittee shall perform all work, install, maintain, or remove all facilities in the right-of-way, and connect any utilities according to city specifications and/or in accordance with the conditions specified in the permit.
PART XIII. Subsection 12.18.070.A is hereby amended to read as follows:

12.18.070 Other obligations.
A. Compliance with Other Laws. Obtaining an excavation permit in the right-of-way does not relieve a permittee of its duty to obtain all other necessary permits, licenses, and authority and to pay all fees required by any city, county, state, or federal rules, laws, or regulations. A permittee shall comply with all requirements of local, state, and federal laws. A permittee shall perform all work in conformance with all applicable 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.

PART XIV. Subsection 12.19.020.A is hereby amended and Paragraph 12.19.020.B.4 is hereby created to read as follows:

A. Applicability. No person shall place or modify facilities in a right-of-way, on City-owned property, or land in which the City has an easement interest without first having obtained a facilities placement permit. For City-owned property, a person who wishes to place a facility on a portion of the land not located in the right-of-way shall enter into a license agreement, easement agreement, or similar type of agreement with the City before applying for a permit. The terms and provisions of such agreement may be more or less stringent than the relevant portions of Title 12 of this Code and shall prevail in the event of any conflict with the Code provisions. All references in this Chapter to “right-of-way” shall also apply to City-owned property and land in which the City has an easement interest unless specifically noted otherwise.

B. Exemption. The provisions of this chapter do not apply to the following:

4. When the facility placement is part of a project or work subject to an executed development agreement or subdivider’s agreement with the City.

PART XV. Subsection 12.19.040.C is hereby amended to read as follows:
### 12.19.040 Application.

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C. Fees. Applicant must provide an application fee, as calculated by the city engineer, which shall include all costs reasonably incurred in reviewing the application, including costs incurred in retaining outside consultants, and an inspection deposit for the cost of inspecting the work. Additionally, if the applicant or permittee seeks to attach a facility to a city-owned structure, the applicant or permittee shall pay an annual fee of two hundred fifty dollars ($250.00) per facility that is located in the City right-of-way, but not City-owned land.

PART XVI. Subsection 12.19.060.D is hereby amended to read as follows:

### 12.19.060 General standards.

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D. Standard Facilities Permit Conditions. All facilities permits under this chapter are issued subject to the following minimum conditions:

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2. Term. A facilities permit shall be valid in perpetuity from the date of issuance unless revoked pursuant to Section 12.17.080(D) or surrendered.

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12. Certificate of Insurance. A certificate of insurance with the following minimum insurance limits:

a. Commercial general liability insurance: one million dollars ($1,000,000.00) per each occurrence, one million dollars ($1,000,000.00) personal and advertising injury, two million dollars ($2,000,000.00) products and completed operations, and two million dollars ($2,000,000.00) general aggregate—all written on an occurrence basis.

b. Business automobile liability insurance: one million dollars ($1,000,000.00) combined single limit, written on an occurrence basis, for “any auto.”
c. Worker’s compensation insurance: coverage as required by the state of Wisconsin and employers’ liability insurance with a minimum limit of one hundred thousand dollars ($100,000.00) each accident, five hundred thousand dollars ($500,000.00) disease policy, and one hundred thousand dollars ($100,000.00) disease each employee.

d. Umbrella liability insurance: five million dollars ($5,000,000.00) each occurrence and five million dollars ($5,000,000.00) general aggregate; the self-insured retention cannot exceed ten thousand dollars ($10,000.00).

e. A request for waiver from the requirements of this subsection shall be made in writing to the City Engineer. The city engineer may grant a waiver request if the city attorney and director of finance and administration or their designees conclude that the applicant’s insurance adequately protects the City from risk and liability.

PART XVII. Subsection 12.19.070.B is hereby amended to read as follows:

12.19.070 Removal and failure to obtain permit.

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B. Removal and Costs. Upon revocation or surrender of the permit, the facility must be removed within thirty (30) days of receipt of written notice from the city. All costs incurred by the city in connection with the revocation, removal, storage of removed facilities, and right-of-way restoration shall be paid by the person whose permit was revoked or surrendered.

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PART XVIII. Subsections 15.04.310.B, is hereby amended and 15.04.310.C and D are hereby created to read as follows:

15.04.310 Razing of buildings.

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B. Razing by Owner. No person shall raze or otherwise demolish any building or structure or any portion thereof unless a permit therefor shall first be obtained from the director. Applications for such permit shall be on forms provided by the director and shall be accompanied by the fee prescribed in Section 15.04.780. The director shall have the authority, as a condition to granting such permit, to require additional items (including, without limitation, such insurance and/or
bond as the director deems appropriate) and safeguards as he/she determines to be necessary or appropriate to carry out the provisions of this section.

C. Utilities.

1. Definitions. For the purposes of this subsection, “abandonment” or “abandon” means, in the case of a sanitary sewer lateral, excavating and detaching the lateral on a property at the City’s sewer main or other approved method as determined by the City Engineer; in the case of a water service lateral, excavating and detaching the lateral on a property at the City’s public water main or other approved method as determined by the City Engineer.

For the purposes of this subsection, “disconnect” or “disconnection” means, in the case of a sanitary sewer lateral, terminating the lateral on the property from the City’s sewer main at the property or easement boundary line with a temporary water tight cap; in the case of a water service lateral, excavating and detaching the lateral on the property at the property line/curb stop, or another location at the City’s discretion, to ensure that an air gap sufficient to prevent cross-connection and contamination is present.

2. The owner of the building or structure to be razed or his/her agent shall notify all utilities having service connections within the building or structure such as water, electric, gas, sewer and other connections in accordance with all applicable regulations of such utilities. The owner shall abandon sanitary sewer and water service laterals unless the owner intends to reuse the sanitary sewer or water service laterals for a new building or structure and has the building plans for the new building or structure filed with the City at the time of the raze permit application. The owner shall secure an excavation permit and plumbing permit issued under Chapter 12.18 and Section 15.12.070 of this Code to abandon or disconnect sewer and water services and shall complete such abandonment or disconnection per the specifications of the city engineer and plumbing inspector. All disconnections of sanitary sewer laterals shall require the owner to submit a visual recording of the lateral to the city engineer and plumbing inspector for inspection.

3. A permit to demolish or raze a building or structure shall not be issued until it is ascertained that service connections and appurtenant equipment, such as meters and regulators, have been removed, abandoned, disconnected, visually recorded, and/or sealed and plugged in a safe manner. With the city engineer and director’s approval, the director may issue a raze permit prior to the visual recording of a sewer lateral if the owner signs an agreement to submit the visual recording to the City within six months, complete all necessary repairs within 90 days of receiving notice to repair, posts a letter of credit or cash deposit with the City in an amount to visually record and facilitate any necessary repairs or removal as determined by the city engineer, and grants the City a temporary easement to perform the visual recording, removal, and/or securing of the sewer lateral and sewer main per the specifications of the city engineer and plumbing inspector in the event the owner fails to complete such work. The city attorney shall approve any letter of credit and easement.
D. Excavations shall be filled with structural fill to match lot grade within five days of removal of the structure. Any such excavation shall be protected with such fences, barriers and/or lights as the director may deem necessary.

PART XIX. Section 15.12.120 is hereby repealed and recreated to read as follows:

15.12.120 Abandonment of sewer and water connections.

A. Definitions. For the purposes of this subsection, “abandonment” or “abandon” means, in the case of a sanitary sewer lateral, excavating and capping the lateral on a property at the property boundary line and filling the remainder of the lateral to the sewer main with grout or another material approved by the City; in the case of a water service lateral, excavating and detaching the lateral on a property at the City’s public water main.

For the purposes of this subsection, “disconnect” or “disconnection” means, in the case of a sanitary sewer lateral, terminating the lateral on the property from the City’s sewer main at the property or easement boundary line with a temporary water tight cap; in the case of a water service lateral, excavating and detaching the lateral on the property at the property line/curb stop, or another location at the City’s discretion, to ensure that an air gap sufficient to prevent cross-connection and contamination is present.

B. Any person, firm or corporation demolishing or moving a building or structure that is served by a sewer or water or both shall engage a licensed plumber under a permit to properly abandon or disconnect the building sewer or water or both. The plumbing permit shall be obtained before the permit to demolish or move the building is issued. The city engineer may determine the means and methods of abandonment or disconnection and is not limited to the means and methods listed in subsection A. above, and the permittee shall comply with the city engineer’s determination.

PART XX. Sections 13.08.030, 13.08.040, and 13.08.050 are hereby created to read as follows:

13.08.030 Definitions. The following definitions apply in this chapter:

“City” means the city of Brookfield.

“City engineer” means the city engineer or his or her designee.

“City inspector” means any person authorized by the city engineer to carry out inspections related to the provisions of this chapter.
“Connect” or “connection” means attaching a sanitary sewer lateral, water service lateral, or sump pump discharge pipe to a City-owned utility.

“Person” means any person, firm, entity, organization, or corporation. “Person” does not include the city or any contractor doing work in the right-of-way for the city.

“Right-of-way” means the surface of and the space above and below the entire width of an improved or unimproved public roadway, highway, street, bicycle lane, landscape terrace, shoulder, side slope, and public sidewalk over which the City of Brookfield, Waukesha County, or the State of Wisconsin exercises any rights of management and control or in which the City of Brookfield, Waukesha County, or the State of Wisconsin has an interest.

13.08.040 Administration.

A. Administrator. The city engineer is responsible for administering this chapter.

B. Powers. As part of the administration of this chapter, the city engineer may:

1. Interpret the provisions of this chapter.

2. Develop forms and procedures for submission of applications for permits consistent with this chapter.

3. Collect any fee, deposit, and/or cost required by this chapter.

4. Require, as a condition of completeness of any application, notice to members of the public that may be affected by the connection that is the subject of the permit application.

5. Establish deadlines for submission of information related to an application and extend or shorten deadlines where appropriate and consistent with state and federal laws and regulations.

6. Issue notices of incompleteness or requests for information in connection with any permit application.

7. Select and retain an independent consultant with expertise in utilities to review any issue that involves specialized or expert knowledge in connection with any permit application.

8. Coordinate and consult with other city staff, committees, and governing bodies to ensure timely action on all other required permits under this code.
9. Subject to appeal as provided in Section 13.08.050.F, determine whether to grant, grant subject to conditions, or deny an application.

10. Take such other steps as may be required to timely act upon permit applications, including issuing written decisions and entering into agreements to mutually extend the time for action on an application.

11. Set a permit’s duration, extend such duration at an applicant or permittee’s request, and deny any extension of duration.

13.08.050 Connection permits.

A. Permit required. No person shall connect to a City-owned utility without having first obtained a connection permit under this section.

1. Exemptions. A permit is not required if:
   a. the connection occurs at the curb stop or service valve; or
   b. When the facility placement is part of a project or work subject to an executed development agreement or subdivider’s agreement with the City.

B. Application.

1. Application Information. An application for a permit shall be filed with the city engineer and shall contain, and will not be considered complete without, unless federal or state regulations require otherwise, the following information:

   a. Applicant’s name, street address, email address, telephone number; and the property owner’s name and street address.

   b. Certificate(s) of insurance compliant with the city’s standards, which are set forth in Section 12.17.070(D)(14).

   c. Execution of an indemnification agreement with the terms set forth in Section 12.17.070(D)(5) and included in the application form prescribed by the city.

   d. Evidence that the applicant has registered with the city under Section 12.16.020 as applicable.
e. Identification in detail of the location of the proposed connection and any affected right-of-way, public utility easements, public trees, the location of all existing and proposed facilities or improvements within the project area, installation details, traffic control plans, proposed project dates, proposed excavations, and an explanation of how the project differs from plans submitted with registration if applicable, along with other details requested by the city engineer.

f. Any other information as requested by the city engineer.

g. The applicant shall indicate if any federal or state rules apply to the processing of the application, citation to the specific rule, and the basis for that conclusion.

h. Applicable permit fees, inspection deposits, security deposits, and costs as set forth in this chapter, unless an exemption applies.

i. Execution of a temporary easement document by the property owner to allow the city to perform the connection per the specifications of the city engineer and plumbing inspector in the event the owner or applicant fails to complete the construction and/or connection.

1. The city attorney shall approve any temporary easement executed pursuant to this chapter.

C. Permit Fees and Deposits.

1. Fee Amount. The permit fee shall be as set forth in Chapter 3.28.010.UU. In addition, the applicant shall pay an inspection deposit in an amount determined by the city engineer to cover the cost of inspection and post a security of a letter of credit or cash deposit with the City in one hundred ten (110) percent of the amount necessary to facilitate the construction and complete the connection per the specifications of the city engineer and plumbing inspector in the event that the owner or applicant fails to complete such work. The city attorney shall approve any letter of credit.

   a. Exemption. If the applicant is another municipality, the municipality shall be exempt from paying the permit fee.
2. Payment of Permit Fees. No permit shall be issued until payment of the permit fee, inspection deposit, and security deposit. If the cost of inspection exceeds the inspection deposit amount, the applicant or permittee shall pay the difference within 30 days of demand or be subject to penalty or revocation of the permit.

3. Refundability. The permit fee is nonrefundable. The City shall deduct inspection fees from the inspection deposit; any remaining deposit shall be returned after the City completes its final inspection.

D. Inspection.

1. Standards. The permittee shall perform all work and connections according to city specifications and/or in accordance with the conditions specified in the permit.

2. Notice of Commencement. The permittee shall notify the city engineer of the commencement date of the work, at least three business days prior to said commencement date. If the excavation of the right-of-way begins later than the date given on the permit, the permittee shall notify the city engineer of the actual commencement date as soon as this information is known.

3. Notice of Completion. When work under any permit issued hereunder is completed, the permittee shall notify the city engineer. The permittee shall certify, on forms provided by the city engineer, either that the work was completed in conformance with the plans and drawings approved by the city engineer when issuing the permit or shall submit as-built plans and drawings and list the ways in which the as-built plans and drawings differ from the approved plans and drawings. If the excavation of the right-of-way ends sooner than the date given on the permit, the permittee shall notify the city engineer of the actual end date as soon as this information is known.

4. Site Inspection. The permittee shall make the work site available to the city inspector and to all others as authorized by law for inspection at all reasonable times during the execution of and upon completion of the work.

5. Authority of City Engineer. At any time, the city engineer may order the immediate cessation of any work that poses a threat to the life, health, safety, or well-being of the public. The city engineer may issue an order to the permittee to correct any work that does not conform to the applicable standards, conditions, or
codes. The order shall state that failure to correct the violation will be cause for revocation of the permit. Within ten business days after issuance of the order, the permittee shall present proof to the city engineer that the violation has been corrected. If such proof has not been presented within the required time, the city engineer may revoke the permit pursuant to Subsection 13.18.050.F.

E. Other obligations.

1. Compliance with Other Laws. Obtaining a connection 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 any city, county, state, or federal rules, laws, or regulations. A permittee shall comply with all requirements of local, state, and federal laws, including Waukesha County or State of Wisconsin restoration standards, if applicable. A permittee shall perform all work in conformance with all applicable 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.

2. Prohibited Work. Except in an emergency or with the approval of the city engineer, no connections shall occur when the ground is frozen or when conditions are unreasonable for such work.

F. Revocation or suspension and appeal.

1. The city engineer may refuse to issue a permit or may revoke, suspend, or refuse to extend an existing permit if he or she finds any of the grounds stated below. The city engineer’s decision shall be in writing and shall state the reasons for the action taken.

   a. The applicant or permittee is required by Section 12.16.020 to be registered and has not done so;

   b. The permit application is incomplete unless federal or state regulations provide otherwise;

   c. The applicant or permittee is seeking to perform work that does not meet the standards set forth in one or more provisions of this chapter;
d. Issuance of a permit for the requested date would interfere with an exhibition, celebration, festival, or other city-sponsored or approved event;

e. Misrepresentation of any fact by the applicant or permittee;

f. Prior failure of the applicant or permittee to maintain required deposits or insurance or failure to pay for inspections;

g. Prior failure of the applicant or permittee to complete work within permitted time;

h. The proposed activity is contrary to the public health, safety or welfare;

i. The extent to which space is available in the right-of-way for which the permit is sought;

j. The competing demands for the particular space in the right-of-way;

k. The availability of other usable locations in the right-of-way or in other rights-of-way for the connection of the permittee or applicant;

l. The applicability of ordinances or other regulations of the right-of-way that affect location of connections in the right-of-way;

m. The condition and age of the right-of-way and whether and when it is scheduled for total or partial reconstruction;

n. The director of parks, recreation and forestry or his or her designee has not approved the issuance of the permit pursuant to Section 12.28.050; or

o. The applicant or permittee is otherwise not in full compliance with the requirements of this code or state or federal law.

2. Appeal to Administrative Appeals Board. Any person adversely affected by the decision of the city engineer may appeal that decision to the administrative
appeals board, which may decide the issues de novo, and whose written decision will be the final decision of the city. The city elects not to be governed by Chapter 68, Wisconsin Statutes, in whole for an appeal under this chapter.

3. Deadline to Appeal. Appeals must be filed within ten business days of the written decision of the city engineer.

PART XXI. Subsection 3.28.010.UU is hereby created to read as follows:

Subsection 3.28.010.UU is hereby created to read:
In addition to any inspection fees, the fee for a connection permit shall be seventy-five ($75.00).

PART XXII. Paragraph 12.16.020.A.1 and Subsection 12.16.020.E are hereby created to read and Subsection 12.16.020.C is amended as follows:

12.16.020 Registration for right-of-way occupancy required.
A. Registration. Any person who owns, or will own, including by lease, sublease or assignment, facilities shall register with the city engineer and pay the fee set forth in Section 3.28.010(TT).

1. Exemption. If the applicant or registrant is another municipality, the municipality shall be exempt from paying the permit fee and any renewal fees.

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C. Annual Registration Renewal Required. Each registrant with facilities in the right-of-way shall annually renew its registration and pay the fee set forth in Section 3.28.010(TT) or discontinue and properly abandon its facilities as provided for under Section 12.15.100.

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E. Completeness of Registration. A registration or renewal shall not be complete until the applicant or registrant has submitted all information and paid all registration or renewal fees required by this chapter.
PART XXIII. All ordinances and parts of ordinances contravening the provisions of this ordinance are hereby repealed.

PART XXIV. If any section or portion of this ordinance shall be declared by a court of competent jurisdiction to be invalid, unlawful or unenforceable, such decision shall apply only to the specific section or portion thereof directly specified in the decision, and shall not affect the validity of any other provisions, sections, or portions thereof of the ordinance. The remainder of the ordinance shall remain in full force and effect.

PART XXV. The provisions of this ordinance shall be in full force and effect from and after its passage and publication.

Passed and adopted by the Common Council this 21st day of January, 2020

APPROVED:    ATTESTED:

Steven V. Ponto, Mayor          Kelly Michaels, City Clerk