



# CITY OF MANKATO

## ANNUAL REGISTRATION FOR RIGHT-OF-WAY EXCAVATORS

DATE: \_\_\_\_\_

COMPANY NAME \_\_\_\_\_

ADDRESS \_\_\_\_\_

CITY \_\_\_\_\_ STATE \_\_\_\_\_ ZIP CODE \_\_\_\_\_

EMAIL ADDRESS: \_\_\_\_\_

TELEPHONE NUMBER \_\_\_\_\_ FAX NUMBER \_\_\_\_\_

GOPHER ONE-CALL REGISTRATION NUMBER \_\_\_\_\_

DOES THIS COMPANY HOLD A FRANCHISE WITH THE CITY?  Yes  No

### COMPANY CONTACT PERSON

NAME \_\_\_\_\_

ADDRESS \_\_\_\_\_

CITY \_\_\_\_\_ STATE \_\_\_\_\_ ZIP CODE \_\_\_\_\_

EMAIL ADDRESS: \_\_\_\_\_

TELEPHONE NUMBER \_\_\_\_\_ FAX NUMBER \_\_\_\_\_

TWENTY FOUR HOUR EMERGENCY NUMBER \_\_\_\_\_

CERTIFICATE OF INSURANCE ATTACHED?  Yes  No

SIGNED BY \_\_\_\_\_

JOB TITLE: \_\_\_\_\_

SIGNED FOR: \_\_\_\_\_

### ACKNOWLEDGMENT OF INDEMNIFICATION

*THE APPLICANT HEREBY ACKNOWLEDGES THE INDEMNIFICATION PROVIDED BY SUBD. 19 OF SECTION 6.06 OF THE CITY CODE. NOTE: THIS ACKNOWLEDGMENT NEED NOT BE PROVIDED BY A COMPANY HOLDING A FRANCHISE WITH THE CITY.*

SIGNED BY \_\_\_\_\_

JOB TITLE: \_\_\_\_\_

SIGNED FOR: \_\_\_\_\_

### REQUIRED ENCLOSURES:

CERTIFICATE OF INSURANCE  \$5000 SURETY BOND  \$100 REGISTRATION FEE

**Mankato City Code - Excavations**  
Chapter 6 Streets and Sidewalks Generally  
Section 6.06 Right-of-Way Management  
Subsection 4.0 Registration

**4.000: Annual Registration Required.** No person shall construct, install, repair, remove, relocate or perform any work within any right-of-way without first being registered pursuant to this subsection. Such registration shall be made on an application form provided by the City and shall be accompanied by the registration fee provided by Council resolution. A service or utility service operating under a franchise with the City shall register pursuant to this subsection but need not provide the registration information required by subsection B of this subsection if such information has been submitted pursuant to the franchise agreement. A person who pays a franchise fee to the City in accordance with a franchise agreement shall be exempt from payment of a registration fee.

**4.000: Registration Information.** The registrant shall provide the following at the time of registration and shall promptly notify the City of changes in such information: (1) Registrant's name, address, telephone number, facsimile number and Gopher One-Call registration certificate number if required by State law. (2) Name, address, telephone number, and facsimile number of the person responsible for fulfilling the obligations of the registrant. (3) **A Certificate of Insurance from a company licensed to do business in the State of Minnesota providing coverage in the following amounts.** (a) **GENERAL LIABILITY: Public Liability, including premises, products and complete operations. Bodily Injury Liability: \$1,000,000 each person \$3,000,000 each occurrence. Property Damage Liability: \$3,000,000 each occurrence. Bodily Injury and Property and Damage Combined: \$3,000,000 single limit.** (b) **COMPREHENSIVE: Automobile Liability Insurance, including owned, non-owned and hired vehicles. Bodily Injury Liability: \$1,000,000 each person \$3,000,000 each occurrence. Property Damage Liability: \$3,000,000 each occurrence. In lieu of 1) & 2) Bodily Injury and Property Damage Combined: \$3,000,000 single limit.** Such certificate shall verify that the registrant is insured against claims for personal injury, including death, as well as claims for property damage arising out of the (i) use and occupancy of the right-of-way by the registrant, its officers, agents, employees and permittees, and (ii) placement and use of equipment or facilities 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 equipment and collapse of property. Such certificate shall also indicate the registrant's insurance is the primary coverage, shall name 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. Such certificate shall require that the City be notified 30 days prior to cancellation or nonrenewal of the policy. (4) 24 hour emergency number. (5) An acknowledgment by the registrant of the indemnification pursuant to Subd. 19(B) of this Code. (6) Such other information the City may require. Exceptions. The following are not subject to the requirements of this subsection. (1) Persons planting or maintaining boulevard plantings or gardens. (2) Persons erecting fences, installing driveways, sidewalks, curb and gutter, or parking lots. (3) Persons engaged in snow removal activities. (4) Federal, State, County, and City agencies. (5) Persons acting as agents, contractors or subcontractors for a registrant who has properly registered in accordance with this subsection.

**4.000: Term.** Registrations issued pursuant to this Section shall expire on December 1 of each calendar year.

**5.000: Permit Required, Bond; Exceptions.** No person shall excavate, dig, tunnel, trench, or install any facilities, equipment or improvements above, on, or beneath the surface of any right-of-way in the City or any property owned by the City without first obtaining a permit pursuant to this subsection.

**5.000: Application; Fee.** An application for a Permit shall be made on forms provided by the City and shall be accompanied by the fees set forth by Council resolution which are established to reimburse the City for City costs. If the work is to be performed by an agent, contractor or subcontractor on behalf of a registrant, such application shall be signed by the registrant.

The application shall also be accompanied by the following:

- (1) Scaled drawings showing the location of all facilities and improvements proposed by the applicant.
- (2) A description of the methods that will be used for installation.
- (3) A proposed schedule for all work.
- (4) The location of any public streets, sidewalks or alleys that will be temporarily closed to traffic during the work.
- (5) The location of any public streets, sidewalks or alleys that will be disrupted by the work.
- (6) A description of methods for restoring any public improvements disrupted by the work.
- (7) Any other information reasonably required by the City Engineer.

**5.000: Security (BONDING).** For companies not operating under a franchise with the City, a surety bond, letter of credit or cash deposit in the amount determined by the City Engineer or City Manager but not less than \$5,000, shall be required from each applicant. A surety bond shall be from a corporate surety authorized to do business in the State. Security required pursuant to this subsection B shall be conditioned that the holder will perform the work in accordance with this Section and applicable regulations, will pay to the City any costs incurred by the City in performing work pursuant to this Section; and will indemnify and save the City and its officers, agents and employees harmless against any and all claims, judgment or other costs arising from any excavation and other work covered by the permit or for which the City, Council or any City officer may be liable by reason of any accident or injury to persons or property through the fault of the permit holder, either in improperly guarding the excavation

or for any other injury resulting from the negligence of the permit holder. The bond, letter of credit or cash deposit shall be released by the City upon completion of the work and compliance with all conditions imposed by the permit. For permits allowing excavations within public streets, such bond, letter of credit or cash deposit shall be held for a period of 36 months to guaranty the adequacy of all restoration work.

**5.000: Permit Issuance; Conditions.** The City Engineer or City Manager shall grant a permit upon finding the work will comply with applicable sections of this Code. The permit shall be kept on the site of the work while it is in progress, in the custody of the individual in charge of the work. The permit shall be exhibited upon request made by any City official or police officer. The City Engineer or City Manager may impose reasonable conditions upon the issuance of the permit and the performance of the applicant thereunder to protect the public health, safety and welfare, to ensure the structural integrity of the right-of-way, to protect the property and safety of other users of the right-of-way, and to minimize the disruption and inconvenience to the traveling public. No permit shall be issued to anyone who has failed to register in accordance with Subd. 4 of this Code.

**5.000: Exceptions.** No permit shall be required for the following: (1) Landscaping work permitted by the City pursuant to site improvement agreements. (2) Driveways, sidewalks, curb and gutter and other facilities permitted by the City pursuant to site improvement agreements. (3) Snow removal activities.

**6.000: Diligence in Performing Work.** Work shall progress in an expeditious manner as reasonably permitted by weather conditions until completion in order to avoid unnecessary inconvenience to traffic. In the event that the work is not performed in accordance with applicable regulations pertaining to excavations and utility connections, or the work is not done in an expeditious manner, or shall cease or be abandoned without due cause, the City may, after 48 hour notice to the permit holder, correct the work and fill the excavation or repair the street. The entire cost of such work shall be paid by the permit holder upon demand made by the City. The financial guarantees made per Subd. 5(B) of this Code may be used by the City to reimburse itself for the City's incurred costs including its private engineering consulting fees and attorney fees to complete the work under this section.

**7.000: Standards During Construction or Installation.** The permit holder shall comply with the following standards when engaging in the work:

- A. Take such precautions as are necessary to avoid creating unsanitary conditions. Observe and comply with all laws, rules and regulations of the State and City.
- B. Conduct the operations and perform the work in a manner as to ensure the least obstruction and interference to traffic.
- C. Take adequate precautions to ensure the safety of the general public and those who require access to abutting property.
- D. If required by the City Engineer, notify adjoining property owners prior to the commencement of work which may disrupt the use of and access to such adjoining properties.
- E. In all cases where construction work interferes with the normal use of the construction area, provide for closing the construction area to traffic or to afford it restricted use of the area and comply with MUTCD traffic safety signing requirements.
- F. Exercise precaution at all times for the protection of persons, including employees and property.
- G. Protect and identify excavations and work operations with barricade flags, and if required, by flagmen in the daytime, and by warning lights at night.
- H. Provide proper trench protection as required by O.S.H.A. when necessary and depending upon the type of soil, in order to prevent cave-ins endangering life or tending to enlarge the excavation.
- I. Protect the root growth of trees and shrubbery.
- J. Installation of pipe (utility conductors) under Portland Cement Concrete, asphalt concrete, or other high-type bituminous pavements shall be done by jacking, auguring or tunneling as directed by the Engineer unless otherwise authorized. HDPE sleeving shall be an acceptable casing or sleeving material for telecommunications installations.
- K. When removing pavement of Portland Cement Concrete, asphalt concrete or high-type built-up bituminous surfacing, the pavement shall be removed on each side of the trench or excavation a distance of nine inches beyond the trench width and length in order to provide a shoulder and solid foundation for the surface restoration.
- L. To obtain a straight edge and neat-appearing opening in pavement surfaces, the following procedure is required:
  - (1) Portland Cement Concrete Pavement - The surface shall be saw-cut to 1/2 the thickness of the concrete, and the concrete broken out by sledge or pneumatic hammer chisel.
  - (2) Asphalt Concrete - The surface shall be cut full depth by pneumatic hammer chisel.
- M. Excavations, trenches and jacking pits off the roadway or adjacent to the roadway or curbing shall be sheathed and braced depending upon location and soil stability, and as directed by the City.
- N. Excavations, trenches and jacking pits shall be protected when unattended to prevent entrance of surface drainage.
- O. All backfilling must be placed in six inch layers at optimum moisture and compacted with the objective of attaining 100% of AASHTO density. Compaction shall be accomplished with hand, pneumatic or vibrating compactors as appropriate.

- P. Backfill material shall be Class 5, or better at the judgment of the City Engineer. Backfilling with the material from the excavation may be permitted provided such material is granular in nature and acceptable to the City Engineer.
- Q. Compacted backfill shall be brought to street grade and crowned at the center not more than one inch. Backfill procedures shall provide for no settlements. Settlements which occur within a three-year warranty period shall be repaired in a timely manner. The City may authorize another contractor to make the repair if it is not done in a timely manner. Reimbursement will be made to the City for all repair costs.
- R. Street and pedestrian traffic shall be maintained throughout construction unless provided otherwise by the permit.
- S. No lugs damaging to roadway surfaces may be used.
- T. Dirt or debris must be periodically removed during construction.
- U. Other reasonable standards and requirements of the City Engineer.

#### **8.000: Repair and Restoration.**

**8.000: Schedule.** The work to be done under the permit, and the repair 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 extraordinary circumstances beyond the control of the permit holder, when work was prohibited as unseasonal or unreasonable or when extended by the City Engineer. In addition to repairing its own work, the permit holder must restore the general area of the work, and the surrounding areas, including the paving and its foundations, to the condition that existed before the commencement of the work but only to the extent the permit holder disturbed such surrounding areas.

**8.000: General Standards.** The permit holder shall perform repairs and restoration according to the standards and with the materials specified by City Engineer. The City Engineer shall have the authority to prescribe the manner and extent of the restoration, and may do so in written procedures of general application or on a case-by-case basis. In exercising this authority, the City Engineer shall be guided by the following standards and considerations: (1) The number, size, depth and duration of the excavations, disruptions or damage to the right-of-way; (2) The traffic volume carried by the right-of-way, the character of the neighborhood surrounding the right-of-way; (3) The pre-excavation condition of the right-of-way, the remaining life-expectancy of the right-of-way affected by the excavation; (4) Whether the relative cost of the method of restoration to the permit holder is in reasonable balance with the prevention of an accelerated depreciation of the right-of-way that would otherwise result from the excavation, disturbance or damage to the right-of-way; and (5) The likelihood that the particular method of restoration would be effective in slowing the depreciation of the right-of-way that would otherwise take place.

**8.000: City Restoration.** The permit holder may request that the City restore the right-of-way. If the City agrees to perform the work, the permit holder shall pay the City for repairs made at the established restoration costs. Notwithstanding this section, the City shall have no obligation to honor the permittee's restoration request.

**8.000: Guarantees .** The permit holder shall guarantee its work and shall maintain it for 36 months following its completion. During this thirty-six month period it shall, upon notification from the City Engineer, promptly correct all restoration work to the extent necessary, using the method required by the Engineer.

**9.000: Permit Limitations.** Permits issued pursuant to this Section are valid only for the area of the right-of-way specified in the application and the permit and only for the dates so specified. No work shall be extended beyond the permitted area or dates without a new permit being procured therefor, provided the City Engineer may extend the completion date of the work in accordance with Subd. 8(A) of this Code.

**10.000: Denial of Permit.** The City Engineer may deny a permit due to the following:

- A. Failure to register pursuant to Subd. 4 of this Code.
- B. A proposed excavation within a street or sidewalk surface that has been constructed or reconstructed within the preceding five years unless the City Engineer or City Manager determines that no other locations are feasible or when necessitated by an emergency.
- C. The applicant is subject to revocation of a prior permit issued pursuant to this Section.
- D. The proposed schedule for the work would conflict or interfere with an exhibition, celebration, festival or any other similar event.
- E. The right-of-way would become unduly congested due to the proposed facilities and equipment when combined with other uses in the right-of-way as provided in Subd. 15(C) of this Code.
- F. Businesses or residences in the vicinity will be unreasonably disrupted by the work.
- G. The proposed schedule conflicts with scheduled total or partial reconstruction of the right-of-way.
- H. The applicant fails to comply with the requirements of this Section or other Sections of this Code.

**11.000: Emergency Work.** A registrant may proceed to take whatever actions are necessary to respond to an emergency. Within two 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 Section for the actions it took in response to the emergency. If the City Engineer becomes aware of an emergency, the Engineer shall attempt to contact the local representative of each registrant affected, or potentially affected, by the emergency. In any event, the City Engineer may take whatever action deemed necessary to respond to the emergency, the cost of which shall be borne by the registrant whose facilities or equipment occasioned the emergency.

**12.000: Revocation of Permits.** The City Engineer or City Manager may revoke any permit, without a fee refund, if there is a substantial breach of the terms and conditions of any statute, this Code, rule or regulation, or any condition of the permit which substantial breach shall continue uncured for 10 calendar days after the issuance of a written order of the City Engineer. A substantial breach of a permit holder shall include, but shall not be limited to, the following:

- A. The violation of any material provision of the permit;
- B. An evasion or attempt to evade any material provision of the permit, or the perpetration or attempt to perpetrate any fraud or deceit upon the City or its citizens;
- C. Any material misrepresentation of fact in the application for a permit;
- D. The failure to maintain the required bonds and insurance;
- E. The failure to complete the work in a timely manner; or
- F. The failure to correct a condition indicated on an order issued by the Engineer.

**13.000: Appeal.**

**13.000: Filing of Appeal.** Any person aggrieved by, i) The denial of a permit application, ii) the denial of a registration, iii) the revocation of a permit or, iv) the application of the fee schedule imposed by Subd. 3 of this Code may appeal to the Council by filing a written notice of appeal with the Clerk. Said notice must be filed within 20 days of the action causing the appeal.

**13.000: Notice of Hearing.** The Council shall hear the appeal not later than 30 days after the date the appeal is filed. Notice of the date, time, place, and purpose of the hearing shall be mailed to the appellant not less than 10 days before the date of the hearing.

**13.000: Hearing and Decision.** The Council shall, at such hearing, hear and consider any evidence offered by the appellant, the City Engineer, and anyone else wishing to be heard. After hearing the oral and written views of all interested persons, the Council shall make its decision at the same meeting or at a specified future meeting.

**14.000: Mapping.** Within 120 days following completion of any work pursuant to a permit, the registrant shall provide the City Engineer accurate maps and drawings certifying the "as-built" location of all facilities and equipment installed, owned and maintained by the registrant. Such maps and drawings shall indicate both the horizontal and vertical location of all facilities and equipment and shall be provided in a format consistent with the City's electronic mapping system. Failure to provide maps and drawings in accordance with this subsection shall be grounds for revoking the permit holder's registration.