



Ordinance 23 - ____

An Ordinance Amending Chapter , Section 66-62 , Streets, Sidewalks and Other Public Places - Right-of-Way Delay Penalty of the City of Elk River, Minnesota, City Code

The City Council of the City of Elk River does hereby ordain as follows:

SECTION 1. That § 66-62, Delay Penalty of the City of Elk River Code of Ordinances shall be amended to read as follows:

In accordance with Minnesota Rules 7819.1000, subp. 3, and notwithstanding any provision of this article, the city establishes a delay penalty for unreasonable delays in right-of-way excavation, obstruction, patching, or restoration. A person shall be subject to a fee or penalty for violation of this ordinance when an obstruction of the right-of-way exists beyond the date specified in the permit, is performing non-emergency work in the right-of-way without having been issued a permit or when a person causes the city to incur costs as a result of actions or inactions of a person.

A delay penalty will not be imposed in the discretion of the director for delays due to force majeure, including inclement weather, civil strife, acts of God, or other circumstances beyond the control of the permit holder.

The delay penalty for violation of this ordinance may be levied daily for as long as the violation occurs. The amount of the delay penalty will be determined by the applicability of each specified circumstance, which reflect unnecessary inconvenience and hazard exposure to the public:

Traffic Control. The permit holder shall, within 1 calendar day of completion of work, retrieve all traffic control associated with the permit. Failure to remove any traffic control devices from right-of-way shall result in a monetary penalty of \$100 per day, up to seven days. If any obstruction remains in right-of-way after seven days, city staff will remove the hazards and notify the permit holder of their new location.

Collection. The permit holder will incur a fee for all staff and equipment hours utilized to retrieve the hazards, calculated at a rate consistent with the most recent city fee schedule.

Storage. The permit holder will incur a fee of \$100 per day for any hazards stored in city facilities.



Restoration. The permit holder shall, within 1 calendar day of completion of work, perform any necessary patching or restoration work as specified within the permit. Failure to correct any damaged infrastructure within the right-of-way shall result in a monetary penalty of \$200 per day, up to three days. If after three days the hazard still exists, the city shall initiate restoration. All staff hours used to procure a contractor, facilitate restoration and inspection will result in a monetary penalty to the permit holder calculated at a rate consistent with the most recent city fee schedule, and the actual costs to the City to engage the contractor to perform the work.

(Ord. No. 00-09, § 1(1200.03(3)), 4-17-2000)

SECTION 2. That this ordinance shall take effect upon adoption and be published as provided by law.

Passed and adopted by the City Council of the City of Elk River this 15th day of May, 2023.

John J. Dietz, Mayor

ATTEST:

Tina Allard, City Clerk