
CHAPTER 141

RIGHT-OF-WAY ACCESS

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141.01 PURPOSE AND RULE OF INTERPRETATION.

The City Council of the City of Coralville, Johnson County, Iowa, hereby finds it is necessary and desirable to establish uniform rules and controls: (a) to ensure public safety and provide efficient delivery of services by the City and others wishing to utilize streets and other public property for the delivery of utility or other services; (b) to protect public and private investment; (c) to ensure the orderly use of public property and the health, safety, and welfare of the population; and (d) to provide for the regulation and administration of the public streets and other public property. This chapter is to be interpreted in light of these findings for the benefit of the public and users of the City streets and other public property. Accordingly, this chapter imposes fair, efficient, competitively neutral, uniform and reasonable regulations on the placement and maintenance of equipment currently within the City's right-of-way or to be placed herein. Under this chapter, persons disturbing and obstructing the right-of-way shall bear a fair share of the financial responsibility for right-of-way degradation.

141.02 DEFINITIONS.

The following definitions shall apply in this chapter. References to "Sections" shall hereafter mean references to sections in this chapter unless otherwise specified. Defined terms remain defined terms whether or not capitalized.

1. "Applicant" means any person requesting permission to excavate or obstruct a right-of-way.
2. "City" means the City of Coralville, Johnson County, Iowa.
3. "City cost" means the actual costs incurred by the City for managing its rights-of-way, including, without limitation: (i) costs associated with the registering of applicants; (ii) issuing, processing and verifying right-of-way permit applications; (iii) revoking right-of-way permits; (iv) inspecting job sites; (v) updating mapping systems; (vi) determining the adequacy of right-of-way restoration; (vii) budget analysis, record keeping, legal assistance; (viii) and performing all of the other tasks required by this chapter, including other costs the City may incur in managing the provisions of this chapter except as expressly prohibited by law. Without limiting the generality of the immediately preceding sentence, "city cost" does not include the costs incurred by the City for routine landscaping, mowing and snow removal, nor does it include costs incurred in connection with seasonal, celebratory or event-oriented decorating of City rights-of-way, including, by way of example, for Christmas, July 4th, the Summer Music in the Park Series, or RAGBRAI.
4. "City Inspector" means any person authorized by the City to carry out inspections related to the provisions of this chapter.
5. "Degradation" means the accelerated depreciation of the right-of-way caused by excavation in or disturbance of the right-of-way, resulting in the need for reconstruction in such right-of-way earlier than would be required if the excavation did not occur, as determined by the City Inspector in accordance with those standards set forth in the *Right-of-way Access Standards Book*.
6. "Designated contact person" means the person authorized by a registrant to accept service and to make decisions for that registrant regarding all matters within the scope of this chapter.
7. "Emergency" means a condition that (i) poses a clear and immediate danger to life or health, or of a significant loss of property; or (ii) requires immediate repair or replacement in order to restore service to a customer.
8. "Equipment" means any tangible thing located over, above, in, within, under or on any right-of-way for the purpose of providing, or assisting or enabling the provision, of: telecommunication services, community antenna television, cable television, fire and alarm communications, water, electricity, City sanitary sewer services, light, heat, cooling energy, or power services. Without negating the generality of the immediately preceding sentence, "Equipment" does not include City paving, street lighting, sidewalks and storm sewers, since same constitute integral parts of the City right-of-way itself. Neither boulevard paintings nor gardens planted or

maintained in the right-of-way shall be considered “equipment” for purposes of this chapter.

9. “Excavate” means to dig into or in any way remove or physically disturb or penetrate any part of a right-of-way for purposes of installing, constructing, repairing, replacing or relocating equipment.
10. “Excavation permit” means the permit which, pursuant to Section 141.12(2) of this chapter, must be obtained before any person may excavate in a right-of-way. An excavation permit allows the holder to excavate that part of the right-of-way described in such permit.
11. “Franchisee” means any person holding a franchise or required to obtain a franchise under this chapter.
12. “In,” when used in conjunction with right-of-way, means over, above, in, within, under or on a right-of-way, including, without limitation, any placement of elevated, subsurface or surface equipment over, above, in, within, under or on same.
13. “Obstruct” means to place any equipment in a right-of-way so as to hinder free and open passage in the right-of-way.
14. “Obstruction permit” means the permit which, pursuant to Section 141.12(3) of this chapter, must be obtained before a person may obstruct a right-of-way, allowing the holder to hinder free and open passage over a specified portion of right-of-way by placing equipment described therein on the right-of-way for the duration specified therein.
15. “Performance and restoration bond” means a performance bond or letter of credit posted to ensure the availability of sufficient funds to assure that all obligations pursuant to this chapter, including but not limited to right-of-way excavation or obstruction work, is timely and properly completed.
16. “Permit” means the excavation permit or obstruction permit which must be obtained by a person under Section 141.12 of this chapter before the person may excavate or obstruct a right-of-way.
17. “Permittee” means any person to whom a permit to excavate or obstruct right-of-way has been granted by the City under this chapter.
18. “Permit area” means that area specifically described in the applicable excavation permit or obstruction permit wherein the registrant may perform specified work for the period of time set forth in the applicable permit. The permit area shall be sufficient in size to provide for the adequate parking, loading, and unloading of private vehicles associated with the work for which the applicable permit was granted.
19. “Person” means any individual, corporation, business association or other business entity, including, without limitation, a partnership, a sole proprietorship, a political subdivision, a public or private agency of any kind, a utility, a successor or assign of any of the foregoing, or any other legal entity which has or seeks to have equipment in any right-of-way.
20. “Probation” means the status of a person that has not complied with the conditions of this chapter.
21. “Probation period” means one (1) year from the date that a person has been notified in writing that such person has been put on probation.
22. “Registrant” means any person who has or seeks to have its equipment located in any right-of-way and, accordingly, is required to register with the City under this chapter.
23. “Restore” or “restoration” means the process by which an excavated or obstructed right-of-way and surrounding area, including but not limited to, pavement and foundation, is returned to the same condition (excluding degradation resulting from the excavation or obstruction) that existed before the commencement of excavation or obstruction, as applicable.
24. “Right-of-way” means the area on, below, or above any real property in which the City has an interest, including, without limitation, any street, road, highway, alley, sidewalk or any other place, area or real property owned by or under the control of the City, including other dedicated right-of-way for travel purposes and utility easements, but expressly excluding parks, which shall not be available for the location of new equipment unless permitted by the City on a case-by-case basis for good cause shown, as same is set forth in Section 141.19(3) of this chapter.
25. “*Right-of-way Access Standards Book*” means those general engineering standards and technical requirements applicable to the placement of equipment in the right-of-way that are promulgated by the City Inspector in a single text and adopted, and amended from time to time, by Resolution of the City Council.
26. “Right-of-way permit” means either the excavation permit or the obstruction permit, or both, depending on the context, required by this chapter.
27. “Service” or “utility service” includes, but is not limited to: (i) those services provided by a public utility as same is defined in Chapter 476 of the State Code of Iowa; (ii) a telecommunications right-of-way user, pipeline, community antenna television, cable television, fire and alarm communications, water, sanitary sewer services, electricity, light, heat, cooling energy, or power services; and (iii) the services provided by a district heating or cooling system.
28. “Supplemental application” means an application made to excavate or obstruct more of the right-of-way than allowed in a permit, or to extend a permit that has already been issued.
29. “Unusable equipment” or “abandoned equipment” means equipment located in the right-of-way which remained unused for two (2) years and for which the registrant is unable to provide proof reasonably satisfactory to the City that it has either a plan to begin using it within the next twelve (12) months, or a potential purchaser or user of the equipment.

141.03 ADMINISTRATION.

The City may by resolution designate a principal City official to be responsible for the administration of the rights-of-way, right-of-way permits, and this chapter. The City may by resolution delegate any or all of its duties hereunder. Any delegation made under this section shall remain in effect until it is altered by resolution.

141.04 FRANCHISE REQUIRED.

No person shall erect, maintain, or operate any plants or systems for electric light and power, heating, telegraph, cable television, district telegraph alarm, or gas works within the City through the use of the right-of-way to provide customers within the City without first obtaining a franchise from the City as provided in Chapter 364 of the State Code of Iowa.

141.05 FRANCHISE SUPREMACY.

The terms of any existing franchise or other existing agreement allowing the use of the right-of-way which are in direct conflict with any provision of this chapter, shall control and supersede the conflicting terms of this chapter until the expiration of such franchise or other agreement, provided, however, that requirements set forth in this chapter relating to insurance, bonds, penalties, security funds, letters of credit, indemnification or any other security in favor of the City may also be applicable in the sole determination of the City or unless otherwise negotiated by the City and franchise grantee. All other terms of this chapter shall be fully applicable to all persons whether franchised or not.

141.06 FRANCHISE FEE REQUIRED.

No franchise for the use of right-of-way shall be granted without requiring the grantee thereof to pay a reasonable and competitively neutral fee for the use of right-of-way. Each new franchisee shall be assessed an annual franchise fee on July 1 of each year that the franchise is enforced of five percent (5%) of the franchisee's gross receipts derived from the sale of local services to customers within the City limits.

141.07 PERFORMANCE AND RESTORATION BOND REQUIRED.

1. Any person shall, as part of the application process for an excavation permit, post a performance and restoration bond acceptable to the City. Said performance and restoration bond shall be in an amount determined by the City Inspector to be sufficient to cover the cost of restoring the right-of-way to its proper and required condition pursuant to the City's *Right-of-way Access Standards Book* or such other additional specifications required by the City Inspector pursuant to Section 141.15(1) of this chapter. If at the conclusion of the sixty (60) month period required under Section 141.15 of this chapter, the City Inspector determines that the right-of-way has been properly restored, the surety on the performance and restoration bond shall be released.

2. The performance and restoration bond shall be conditioned upon:

A. The faithful performance of the right-of-way restoration work required under this chapter, or payment of the restoration costs incurred by the City; and

B. The faithful performance of the terms of the permit, the provisions of this chapter, and any other requirements provided by law.

3. If the permittee fails or neglects to properly restore the right-of-way to its proper condition within the time for completion set forth in the permit, or within a reasonable time after notice by the City Inspector of said failure or neglect, or fails to pay the restoration costs incurred by the City, or fails or neglects to properly maintain the right-of-way to its proper condition within a reasonable time after notice by the City Inspector of said failure or neglect, or fails to pay the maintenance costs incurred by the City, then the same shall be restored or maintained by the City and the costs thereof, as certified by the City Inspector, shall be promptly paid by the permittee or bonding company, as the case may be.

4. In lieu of filing a performance and restoration bond hereunder, a permittee may, in the discretion of the City Inspector, be allowed to post an alternate form of security with the City in the form of an annual performance and restoration bond, letter of credit, certificate of deposit, or certified check in an amount deemed sufficient by the City Inspector, but in no event less than \$10,000.00 (ten thousand dollars), to secure the permittee's performance of all restoration work which the permittee will become responsible for during the next twelve (12) month period. Such alternate form of security shall be conditioned upon permittee's performance as provided in subsection 3 of this section. If the restoration costs, as certified by the City Inspector during said year, are less than such letter of credit, certificate of deposit, or certified check, or if maintenance period provided for in the permit has expired with the permittee having satisfied all of its restoration and maintenance responsibilities, the balance thereof shall upon request be returned to the permittee. If it appears to the City Inspector that at any time after issuance of a permit that the security so provided by letter of credit, certificate of deposit, or certified check is inadequate to secure performance of all such restoration work, the City Inspector may require the permittee to increase such security. If the costs during said year exceed the amount of such additional security provided by letter of credit, certificate of deposit, or certified check, the permittee shall be required to pay such difference to the City. Such excess costs shall be paid before any subsequent permit hereunder may be issued. If the City incurs any outlay and expense in collecting its costs from the permittee, such outlay and expense shall be paid by the permittee or bonding company in addition to other amounts due.

141.08 TERM LIMIT.

No franchise for use of the right-of-way or other public property shall be granted for a term of more than ten (10) years.

141.09 RIGHT TO OCCUPY RIGHT-OF-WAY.

1. Any person required to register under this chapter, that occupies, uses or places its equipment in the right-of-way, is hereby granted a right to do so if and only for so long as it:

A. Timely pays all fees as provided herein; and

B. Complies with all other requirements of law.

2. The grant of right to occupy hereunder is expressly conditioned on, and is subject to, the police powers of the City, continuing compliance with all provisions of law now or hereafter enacted, including this chapter as it may be from time to time amended and,

further, is specifically subject to the obligation to obtain any and all additional required authorizations, whether from the City or other governmental body or authority.

141.10 REGISTRATION INFORMATION.

1. In addition to all other registration requirements set forth herein, any person required to register under this chapter, that occupies, uses or places its equipment in the right-of-way, shall file with the City before any such equipment is placed in the right-of-way the following:

A. A certificate of insurance or self-insurance which shall:

(1) Be on a form approved by the City;

(2) Verify that an insurance policy has been issued to the registrant by an insurance company licensed to do business in the State of Iowa;

(3) Verify that the registrant is insured against claims for personal injury, including death, as well as claims for property damage arising out of the: (a) use and occupancy of the right-of-way by the registrant, its officers, agents, employees and permittees; and (b) placement and use of equipment 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;

(4) 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 on a form that is acceptable to the City;

(5) Require that the City be notified thirty (30) days in advance of cancellation, termination or nonrenewal of the policy; and

(6) Indicate comprehensive liability coverage, automobile liability coverage, worker's compensation and umbrella coverage in amounts determined by the City to be sufficient to protect the City and carry out the purposes and policies of this chapter. Without negating the generality of the preceding sentence, the amount of insurance shall be a minimum of one million dollars (\$1,000,000) with a maximum deductible of five thousand dollars (\$5,000).

B. If the registrant is a corporation, a copy of the certificate required to be filed under Iowa law as recorded and certified by the Secretary of State.

C. Copies of all certification documents from the Iowa Utilities Board, where the registrant is lawfully required to have same.

D. Such other information as the City may require.

2. The registrant shall keep all of the aforementioned information current at all times by providing to the City information of changes within thirty (30) days following the date on which the registrant has knowledge of any change. Additionally, the registrant shall provide reasonable information regarding the registration requirements set forth under this section upon written request therefor by the City.

141.11 REPORTING OBLIGATIONS.

1. Each registrant shall, at the time of registration and by December 1 of each year, file a construction and major maintenance plan for all upcoming projects and include all such projects in a construction or major maintenance plan. Such plan shall be submitted using a format designated by the City and shall contain the information determined by the City to be necessary to facilitate the coordination and reduction in the frequency of excavations and obstructions of rights-of-way.

2. The plan shall include, but not be limited to, the following information:

A. The specific locations and the estimated beginning and ending dates of all projects to be commenced during the next calendar year (hereinafter referred to as a "Next-Year-Project"); and

B. The tentative locations and beginning and ending dates for all projects contemplated for the five (5) years following the next calendar year (hereinafter referred to as "Five-Year-Project").

3. The term "project" in this section shall include both Next-Year-Projects and Five-Year-Projects. By January 1 of each year, the City shall have available for inspection in its offices a composite list of all projects of which it has been informed in the annual plans. All registrants are responsible for keeping themselves apprised of the current status of this list.

4. Thereafter, by February 1, each registrant may change any project on its list of Next-Year-Projects, and must notify the City and all other registrants of all such changes in said list. Notwithstanding the foregoing, a registrant may at any time join in a Next-Year-Project of another registrant that was listed by the other registrant.

5. Without negating the general application of this section, during the first fiscal year, or portion thereof, that this chapter is in force and effect:

A. Registrants shall have sixty (60) days from the effective date of the ordinance codified in this chapter to provide the City with their construction and major maintenance plans.

B. The City shall have available for inspection in its offices its composite list of all projects of which it has been informed within ninety (90) days of such effective date.

C. All changes to projects, and notice of same to the City and all other registrants, must be completed by registrants within one hundred twenty (120) days of the effective date of the ordinance codified in this chapter.

6. The City may, for good cause shown, allow a registrant to submit additional Next-Year-Projects after the December 1 deadline. Good cause includes, but is not limited to, the criteria set forth in Section 141.19 of this chapter concerning the discretionary issuance of

permits.

141.12 PERMIT REQUIREMENT.

1. Except as otherwise provided in this chapter or in this Code of Ordinances, no person may obstruct or excavate any right-of-way without first having obtained the appropriate right-of-way permit from the City to do so.
2. An excavation permit is required to allow the holder to excavate that part of the right-of-way described in such permit and to hinder free and open passage over the specified portion of the right-of-way by placing equipment described therein to the extent and for the duration specified therein.
3. An obstruction permit is required to allow the holder free and open passage over the specified portion of the right-of-way by placing equipment described therein to the extent and for the duration specified therein; however, an obstruction permit shall only be required in those instances where excavation is not a part of the work for which a permit application has been made, and said proposed work is estimated to hinder free and open passage in City right-of-way for twenty-four (24) hours or longer.
4. No person may excavate or obstruct the right-of-way beyond the date or dates specified in the permit unless such person:
 - A. Makes a supplementary application for another right-of-way permit before the expiration of the initial permit; and
 - B. A new permit or permit extension is granted. Such extension may be granted in the City's discretion for circumstances beyond the reasonable control of the permittee.
5. Any permit issued under this chapter shall be conspicuously displayed at all times at the indicated work site and shall be available for inspection by the City Inspector and authorized City personnel.
6. No person shall be granted a right-of-way permit under this section until the applicant has submitted a completed application for a right-of-way permit. This application shall include at a minimum the following information: (i) the name, address, telephone and facsimile numbers, e-mail address (if applicable) and Iowa One-Call registration certificate number of the applicant; (ii) the name, address, telephone and facsimile numbers, and e-mail address (if applicable) of the applicant's designated contact person for any and all matters pertaining to the proposed use of right-of-way, whom the City may notify or contact at any time concerning the matters pertaining to the right-of-way permits; (iii) an engineering site plan showing the proposed location of the equipment, including manholes, the size, type and proposed depth of any conduit or other enclosures; and (iv) any other additional information the City may require.
7. No person shall be granted a right-of-way permit under this section until the applicant has submitted all mapping data as required under Section 141.26 of this chapter.

141.13 PERMIT APPLICATIONS.

Application for a permit is made to the City Inspector. Right-of-way permit applications shall contain, and will be considered complete only upon compliance with the requirements of the following provisions:

1. Registration with the City pursuant to this chapter;
2. Submission of an application containing all of the information required under Section 141.12 of this chapter;
3. Payment of all monies due to the City hereunder for: (i) loss, damage, or expense suffered by the City as a result of the applicant's prior excavations or obstructions of the rights-of-way; and (ii) any emergency actions taken by the City hereunder; and
4. Payment of all monies currently due to the City under Section 141.29 of this chapter.

141.14 ISSUANCE OF PERMIT; CONDITIONS.

1. If the City determines that the applicant has satisfied the requirements of this chapter, the City may issue a permit.
2. The City may impose any reasonable conditions upon the issuance of a 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, to minimize the disruption and inconvenience to the traveling public, and to otherwise efficiently manage use of the right-of-way.

141.15 RIGHT-OF-WAY RESTORATION.

1. In addition to repairing its own work, the permittee must restore the permit area and the adjacent areas, including the paving and its foundations, to its proper and required condition in accordance with those standards set forth in the *Right-of-way Access Standards Book*, unless the City Inspector deems other or additional specifications must be utilized in order to secure proper restoration of the permit area. Further, the permittee must inspect the area of the work and use reasonable care to maintain the same condition for sixty (60) months thereafter and as more fully set forth below.
2. If an applicant for an excavation permit has not qualified to perform right-of-way restoration work as hereinafter provided, or if a qualified applicant chooses to have the City restore the right-of-way, the applicant shall pay the costs thereof within thirty (30) days of billing. If, during the sixty (60) months following such restoration, the pavement settles due to the permittee's improper backfilling, the permittee shall pay to the City, within thirty (30) days of billing, the cost of repairing said pavement.
3. An applicant for an excavation permit which has been determined qualified to perform right-of-way restoration work as hereinafter provided, and which intends to itself restore the right-of-way, shall so indicate in its application for an excavation permit. The permittee shall perform the work in accordance with subsection 1 of this section. The City Inspector 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. The City Inspector, in exercising this authority, shall be guided by the following standards and considerations: the number, size, depth and

duration of the excavations, disruptions or damage to the right-of-way; the pre-excavation condition of the right-of-way; the remaining life expectancy of the right-of-way affected by the excavation; whether the relative cost of the method of restoration to the permittee is in reasonable balance with the prevention of the accelerated degradation of the right-of-way that would otherwise result from the excavation, disturbance or damage to the right-of-way; and the likelihood that the particular method of restoration would be effective in slowing the degradation of the right-of-way that would otherwise take place.

A. By choosing to restore the right-of-way itself, the permittee guarantees its work and shall maintain it for sixty (60) months following its completion. During this 60-month period, it shall, upon notification from the City Inspector, correct all restoration work to the extent necessary using the method required by the City. Said work shall be completed within five (5) calendar days of the receipt of the notice from the City Inspector.

B. If the permittee fails to restore the right-of-way in the manner and to the condition required by the City Inspector, or fails to satisfactorily and timely complete all repairs required by the City Inspector, the City, at its option, may do such work. In that event, the permittee shall pay to the City, within thirty (30) days of billing, all costs incurred by the City in restoring the right-of-way.

4. The qualifications of any person owning or operating a utility service, or any person seeking to become qualified to perform right-of-way restoration work under this chapter shall be determined by the City Inspector. In making this determination, the City Inspector may consider any of the following factors, which shall be demonstrated to the satisfaction of the City Inspector:

A. The financial responsibility of the applicant;

B. The City's past record of transactions and experience with the applicant, including the quality of workmanship on past right-of-way restoration projects; the number of liens, claims or complaints filed regarding such past projects; and the number of repairs made on prior right-of-way restoration projects involving that applicant;

C. The adequacy of the applicant's equipment and materials;

D. The competency and experience of the applicant's managerial and supervisory personnel in performing right-of-way restoration work;

E. The applicant's demonstrated ability to complete performance of right-of-way restoration work or work of a similar nature.

5. The City Inspector may decline to qualify an applicant for the performance of right-of-way restoration work if the City Inspector determines that the applicant has not demonstrated satisfactory compliance with the above-referenced criteria, or if the City Inspector determines that the applicant has:

A. Without good cause therefor failed to carry on or complete prior right-of-way restoration work or work of a similar nature in an acceptable manner, or refused to comply with a written order of the City Inspector with regard thereto within a reasonable time; or

B. Failed to perform prior right-of-way restoration work or work of a similar nature in reasonably close conformity with the plans and specifications therefor, or in reasonably close conformity with the City's *Right-of-way Access Standards Book*; or

C. Failed or refused to remove and replace materials or work found by the City Inspector not to be in reasonably close conformity with the City's *Right-of-way Access Standards Book*, or failed to correct such material or work so as to cause such materials or finished product to be reasonably acceptable work.

6. In the event the City Inspector determines not to qualify an applicant to perform right-of-way restoration work, the City Inspector shall so notify the affected applicant in writing. The notice shall set forth the reasons supporting the City Inspector's determination not to qualify an applicant and shall indicate that the City Inspector's determination shall be considered final unless the applicant requests an appeal in accordance with Section 141.25 of this chapter.

7. Upon a determination by the City Inspector that a person previously qualified to perform right-of-way restoration work either has failed to meet any of the criteria set forth in this section, or has failed to perform as provided under this section, the City Inspector may disqualify such person from the further performance of such work, as hereinafter provided. Upon making said determination, the City Inspector shall give notice to the affected party of his/her determination, and shall therein set forth the reasons supporting disqualification and the proposed period for disqualification, and shall indicate that the City Inspector's determination shall be considered final unless the applicant requests an appeal of that determination in accordance with Section 141.25 of this chapter.

8. All of the bonding and restoration requirements set forth for excavations and the issuance of excavation permits shall also be applicable to obstructions and the issuance of obstruction permits if the City Inspector determines that, as a result of vehicular traffic being detoured for the duration of a proposed obstruction, alternate City right-of-way(s) or portions thereof shall suffer increased degradation to the extent that restoration is deemed appropriate under the City's *Right-of-way Access Standards Book*.

141.16 JOINT APPLICATIONS

1. Registrants may jointly make application for permits to excavate or obstruct the right-of-way at the same place and time.

2. Registrants who join in and during a scheduled obstruction or excavation performed by the City, whether or not it is a joint application by two (2) or more registrants or a single application, are not required to satisfy the restoration requirements set forth in Section 141.15.

3. Registrants who apply for permits for the same obstruction or excavation, which is not performed by the City, may share the restoration obligations set forth in Section 141.15 hereunder. Registrants must agree among themselves how their restoration obligations shall be allocated between themselves and indicate the same on their joint application.

141.17 SUPPLEMENTARY APPLICATIONS.

A right-of-way permit is valid only for the area of the right-of-way specified in the permit. No permittee may perform any work outside the area specified in the permit, except as provided herein. Any permittee which determines that an area greater than that specified in the permit must be obstructed or excavated must, before entering upon that greater area:

1. Make application for a permit extension and pay any additional fees necessitated thereby; and
2. Be granted a new permit or permit extension.

141.18 OTHER OBLIGATIONS.

1. In the event that any proposed work for which the applicable right-of-way permits have been obtained appears reasonably likely to risk serious damage to tree(s) in or near the permit area, the registrant shall expressly inform the City Inspector of such risk prior to the commencement of any such work and take all the steps requested by the City Inspector to avoid or minimize damage to existing City trees. Furthermore, all of the work performed under this chapter shall be carried out in compliance with the Chapter 150/Trees and Shrubs of this Code of Ordinances.

2. All of the registrant's activities in the right-of-way shall comply with the requirements of all City, State, and Federal laws, rules and regulations. Without negating the generality of the foregoing, nothing contained in this chapter shall be construed to disapprove, negate or otherwise contradict State or Federal laws, rules or regulations that are applicable to the installation and maintenance of equipment in the right-of-way. The registrant's equipment located in the right-of-way shall conform to established grades of streets and sidewalks and be so located as:

A. To cause minimum interference with public utilities or property or private property located in the right-of-way at the grant or authorization of the City, including, without limitation, the natural free and clear passage of water through gutters, storm sewers or other waterways; and

B. To cause minimum interference with the rights and reasonable convenience of the owners of property adjoining the right-of-way.

3. The registrant shall carry on all excavation, installation, maintenance, repair and restoration activities within the right-of-way with utmost regard to the safety of the public and adjacent property owners. Further, the registrant shall conduct any of the aforementioned activities in such a manner as to cause as little interference as possible with pedestrian and vehicular traffic. If the City Inspector determines that it is necessary for the Registrant to provide traffic control to ensure the health, safety and welfare of the public, the registrant shall do so at its sole expense and in accordance with Iowa Department of Transportation safety standards and guidelines. The registrant shall coordinate all traffic control required for such activities within the right-of-way with the City Inspector prior to the commencement of same. Private vehicles shall not be parked adjacent to the permit area. The loading or unloading of trucks adjacent to the permit area is prohibited unless specifically authorized by the permit.

141.19 DENIAL OF PERMIT.

1. The City may deny any application for a permit:

A. To any person who has failed to register and fully satisfy all application requirements in connection with the proposed excavation or obstruction;

B. To any person (except a telecommunications provider) who has failed within the past three (3) years to comply, or is not presently in full compliance, with the terms and provisions of this chapter; or

C. If, in the sole discretion of the City, the issuance of a permit for a particular date and/or time would cause a conflict or interfere with an exhibition, celebration, festival, or any other event.

2. The City may deny a permit in order to protect the public health, safety and welfare, to prevent interference with the safety and convenience of ordinary travel over the right-of-way, or when necessary to protect the right-of-way and its users. The City may consider one or more of the following factors:

A. The extent to which the right-of-way space where the permit is sought is available;

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

C. The availability of other locations in the right-of-way or in other rights-of-way for the equipment of the applicant;

D. The applicability of any other ordinances or State or Federal laws or regulations that affect location of equipment in the right-of-way;

E. The degree of compliance of the applicant with the terms and conditions of its franchise, this chapter, and other applicable ordinances or State or Federal laws or regulations;

F. The degree of disruption to the City and surrounding businesses that will result from the proposed use of that part of the right-of-way;

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

H. The balancing of the costs of disruption to the public and damage to the right-of-way against the benefits to that part of the public serviced by the expansion into additional parts of the right-of-way.

3. Notwithstanding the provisions of the immediately preceding subsection 2, the City may issue a permit for good cause shown in any case where the permit is necessary:

A. To prevent substantial economic hardship to a customer of the applicant;

B. To allow such customer to materially improve its utility service; or

C. To allow a new economic development project and where the applicant did not have knowledge of any of the foregoing at the time the applicant was required to submit its list of Next-Year-Projects.

Additionally, the City may issue a permit to a registrant who properly and timely listed additional Next-Year-Projects under the terms of Section 141.11 of this chapter, or if the registrant demonstrates that it used commercially reasonable efforts to anticipate and plan for proposed additional projects, such permit to be subject to all other conditions and requirements of law, including such conditions as may be imposed under Section 141.14 of this chapter.

141.20 INSTALLATION REQUIREMENTS.

All work within the right-of-way shall be done in accordance with the *Right-of-way Access Standards Book* and at a location as determined under Section 141.27 of this chapter.

141.21 INSPECTION.

The City Inspector shall be afforded full access to registrant's work-sites to review compliance with the terms of this chapter and to make any inspection or test that the City determines is necessary to protect the public health, safety and welfare, and to ensure that the work for which the applicable permit was granted is being carried out in the authorized area of the right-of-way and within the permitted time limit. The City Inspector may issue an order to the registrant for any work which does not conform to the applicable standards, conditions or codes. The order shall state that failure to correct the violation within ten (10) days after issuance of the order will be cause for revocation of the permit pursuant to Section 141.24 of this chapter. The City Inspector shall not, however, make any determinations or have control over the registrant's work other than to require that same be carried out in compliance with this chapter, within the authorized area of the right-of-way, and within the time permitted for the work. The City Inspector shall not make any determinations or have authority over or responsibility for the means, methods, techniques, sequences or procedures of work being performed by the registrant, for safety precautions and programs incident to the work, or for any failure of the registrant to comply with applicable laws, rules and regulations governing registrant's performance of the work. The City Inspector shall not make any determinations or have authority over or responsibility for the structural integrity or safety of any non-City equipment constructed, installed, repaired, reconstructed, replaced or restored in the right-of-way, nor shall it make any determinations or have authority over or responsibility for the ability of non-City equipment to function as intended in the right-of-way.

141.22 WORK DONE WITHOUT A PERMIT.

1. In the event of an emergency, the registrant may proceed to take whatever actions concerning its equipment which it determines are necessary to respond to the emergency. Each registrant shall subsequently notify the City of the event as soon as is reasonably practicable. Within two (2) business days thereafter, 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 chapter for the actions it took in response to the emergency.
2. In the event that the City becomes aware of an emergency regarding a registrant's equipment, the City may attempt to contact the designated contact person. In any event, the City may take whatever action it deems reasonably necessary to respond to the emergency, the cost of which shall be borne by the registrant.
3. Except in the case of an emergency, any person who, without first having obtained the necessary permit, obstructs or excavates a right-of-way must subsequently obtain a permit; pay double the normal fee for said permit; pay double all other fees required under this Code of Ordinances, including, without limitation, criminal fines and penalties; deposit with the City the fees necessary to correct any damage to the right-of-way; and comply with all of the requirements of this chapter. In the event that the City subsequently determines that an alleged emergency situation that would supersede the requirement for all necessary permits hereunder was not an emergency, the terms of this subsection shall apply.

141.23 SUPPLEMENTARY NOTIFICATION.

If the obstruction or excavation of the right-of-way begins later or ends sooner than the date given on the permit, the permittee shall notify the City of the accurate information as soon as this information is known.

141.24 REVOCATION OF PERMITS.

1. If the City determines that the permittee has committed a material breach of a term or condition of any statute, ordinance, rule, regulation or any condition of an applicable permit, the City shall make written demand upon the permittee to remedy such violation. The demand shall state that continued violation may be cause for the immediate forfeiture of the permittee's franchise, the termination of all rights thereunder, and the revocation of all rights established and granted under this chapter. Further, a material breach, as set forth above, shall allow the City, at the City's discretion, to place additional or revised conditions on the applicable permit.
2. Within ten (10) business days after receiving written notification of the breach, the permittee shall provide the City with a written plan, acceptable to the City Inspector, for its correction. Permittee's failure to so contact the City Inspector, the permittee's failure to submit an acceptable plan, or the permittee's failure to reasonably implement the approved plan shall be cause for immediate forfeiture of the permittee's franchise, the termination of all rights hereunder, and the revocation of all rights established and granted under this chapter. Further, the permittee's failure to so contact the City Inspector, or the permittee's failure to submit an acceptable plan, or the permittee's failure to reasonably implement the approved plan shall automatically place the permittee on probation for one (1) year.
3. If a permit is revoked, the permittee shall reimburse the City for the City's reasonable costs, including, but not limited to, restoration costs, the costs of collection, and reasonable attorney's fees incurred in connection with such revocation.
4. In addition to the specific remedies set forth above, any material breach of the terms of this chapter shall constitute a municipal infraction as set forth in Chapter 4 of this Code of Ordinances.

141.25 APPEALS.

1. The City Council, in regular or special session, shall sit as a right-of-way appeal board and, on appeals under this chapter, may seek and retain additional professional counsel schooled in matters contained in this chapter. A simple majority of the appeal board shall be deemed sufficient to settle matters brought before the board.
2. The Council, sitting as an appeal board, shall hold meetings from time to time and conduct hearings on appeals. The appeal board shall act within sixty (60) days on a timely written request, and if the appeal board fails to act within sixty (60) days after the filing of a timely written appeal, the appeal shall be deemed granted in favor of the appellant.
3. Any person aggrieved by any ruling, decision, interpretation or order of the City Inspector shall have the right to appeal to the right-of-way appeal board by filing a written notice of such appeal with the City Clerk within ten (10) business days from the date of the City Inspector's ruling. If such a notice is filed, the appeal board shall set a time and place for hearing and so notify the party that has filed the appeal. The hearing shall be open to the public and subject to the time limitation set out in the immediately preceding subsection. The right-of-way appeal board by majority vote shall affirm, modify or reverse an appealed ruling, decision, interpretation or order of the City Inspector. The appeal board may permit such variance that can be made without increasing the hazards to the health or safety of persons or property, and when the granting thereof will not violate the intent and purpose of this chapter. Mere inconvenience to the appellant is not grounds for the granting of such variance.
4. Without negating the generality of the foregoing subsections 1 through 3:
 - A. Any person that is denied registration, denied a right-of-way permit, that has its right-of-way permit revoked, or that believes that the fees imposed hereunder are in violation of applicable State law, may request in writing that such denial, revocation, or fee imposition be reviewed by the appeal board. The appeal board shall act within sixty (60) days on a timely written request. A decision by the appeal board affirming the denial, revocation or fee imposition must be in writing and supported by written findings establishing the reasonableness of the decision.
 - B. Only after both fully availing itself of the review process set forth in paragraph A above, and upon thereafter receiving formal, written affirmation by the appeal board of the denial, revocation, or fee imposition for which the aforementioned review process was requested, the person may do either of the following:
 - (1) With the consent of the City, have the matter finally resolved by binding arbitration. Binding arbitration must be before an arbitrator agreed to by both the City and the person. If the parties are unable to agree on an arbitrator, the matter shall be resolved by a three-person arbitration panel made up of one arbitrator selected by the City, one arbitrator selected by the person, and one arbitrator selected by the other two arbitrators. The cost and expense of a single arbitrator shall be borne equally by the City and the person. If a three-person arbitration panel is selected, each party shall bear the expense of its own arbitrator and the parties shall jointly and equally bear the cost and expense of the third arbitrator, and of the arbitration. Each party to the arbitration shall pay its own costs, disbursements, and attorney fees.
 - (2) Bring an action in district court to review a decision of the City made under this section.

141.26 MAPPING DATA.

1. Before receiving a permit for any proposed excavation, construction, installation or major repair of any equipment in the right-of-way, the registrant shall furnish the City Inspector with a detailed map or maps in a format currently used by the registrant showing the location of all of its equipment previously installed or constructed within the corporate limits of the City
 - A. All franchisees shall have six (6) months from the date of passage of this chapter to supply all mapping data to the City Inspector as required by Section 141.26(1).
 - B. Any person that is not required to obtain a franchise from the City shall have six (6) months from the date of passage of the ordinance codified in this chapter to supply all mapping data to the City Inspector as required by Section 141.26(1).
2. Notwithstanding paragraphs A and B above, before receiving a permit for any proposed excavation, construction, installation, or major repair of any equipment in the right-of-way, the registrant shall furnish the City Inspector with a detailed map or maps in the format to be specified by the City for inclusion in the City mapping system with references to street names, the size and dimensions of all equipment and proposed equipment, and the distance beneath the surface of the ground where said equipment or proposed equipment is or will be located for the entire area located within the corporate limits of the City of Coralville. Each registrant shall be and remain responsible for keeping the aforementioned detailed maps of its equipment updated. This obligation shall include providing the City with an "as-built" map upon completion of work for which a permit is granted as soon as reasonably practicable, but in no event later than six (6) months after completion of the work. As the City mapping system shall be comprised in large part of information provided to it by registrants and other third parties, the City makes no guarantee of the accuracy of its mapping materials, nor shall the City be liable for any loss or damage resulting from inaccuracies in the City mapping system. All registrants shall be responsible for taking due care when conducting work in the right-of-way.
3. In the case where the City is undertaking a public improvement project and has excavated in any right-of-way corridor, any person requested in writing by the City shall update its maps showing the size and dimensions of all equipment located in said corridor as described in Section 141.26(2) above.

141.27 LOCATION OF EQUIPMENT.

1. Unless otherwise permitted by an existing franchise, State or Federal law, or unless technologically infeasible given the type or quantity of service being supplied, the installation of all new equipment and the replacement of old equipment shall be done underground or contained within buildings or other structures in conformity with applicable codes unless otherwise agreed to by the City in writing.
2. The City may assign specific corridors within the right-of-way, or any particular segment thereof, as may be determined to be necessary by the City, for each type of equipment that is or, pursuant to current technology, the City expects will someday be located within the right-of-way. Excavation, obstruction, or other permits issued by the City involving the installation or replacement of

equipment may designate the proper corridor for the equipment at issue and such equipment must be located accordingly.

3. Any registrant whose equipment is located in the right-of-way prior to enactment of this chapter in a position at variance with the corridors established by the City shall, no later than at the time of either (i) the next reconstruction or excavation of its equipment, or (ii) a public improvement project in the area where its equipment is located, move that equipment to its assigned position within the right-of-way, unless this requirement is waived by the City for good cause shown.

3. One year after enactment of this chapter, any equipment found in a right-of-way that has not been registered shall be declared a nuisance. The City may exercise any remedies or rights it has at law or in equity, including, but limited to, abating the nuisance and restoring the right-of-way to a usable condition, or taking possession of the equipment and restoring it to a usable condition. In the event that the person who owns such unregistered equipment is known to the City, the City shall notify the person of the aforementioned designation of its equipment as a nuisance and afford the person an opportunity to either register its equipment with the City in accordance with this chapter, or abate the nuisance in accordance with the provisions of Chapter 50 of this Code of Ordinances. If this person, after having been properly notified and given an opportunity to register or abate, fails to do so, the City may charge the person for the entire cost of abating the nuisance and restoring the right-of-way should the City elect to remove the equipment rather than taking possession of same and restoring it to usable condition.

4. To protect the health, safety and welfare of the general public, the City shall have the power to prohibit or limit the placement of new or additional equipment within the right-of-way if there is insufficient space to accommodate all of the requests of registrants or persons to occupy and use the right-of-way. In making such decisions, the City shall strive to the extent reasonably possible to accommodate all existing and potential users of the right-of-way, but shall be guided primarily by considerations of the public interest, the public's need for a particular service, the condition of the right-of-way, the time of year with respect to essential utilities, the protection of existing equipment in the right-of-way, and future City plans for public improvements and development projects which have been determined to be in the public interest.

141.28 RELOCATION OF EQUIPMENT.

Upon written notification by the City, the registrant shall promptly and at its own expense remove and replace, relocate or otherwise adjust its equipment located in the right-of-way and restore the right-of-way to the same condition it was in prior to said removal or relocation. The City may make such requests in order to prevent interference by the registrant's equipment with:

1. Utilization of the right-of-way by the City for a present or future public use contemplated to commence within the next twelve (12) months;
2. A public improvement undertaken by the City;
3. An economic development project in which the City has an interest or investment which is undertaken for purposes of improving or ensuring the public health, safety or welfare;
4. When the public health, safety or welfare requires it; or
5. When necessary to prevent interference with the safety of ordinary travel over the right-of-way. In the event that the registrant fails to submit an acceptable relocation plan and schedule to the City Inspector within a reasonable period of time after the aforementioned written notice, which in no event shall exceed sixty (60) days, the City may cause the registrant's equipment to be removed or relocated and the registrant shall promptly reimburse the City for the cost of same. Notwithstanding the foregoing, a person shall not be required to remove or relocate its equipment from any right-of-way which has been vacated in favor of a non-governmental entity unless and until the reasonable costs thereof are first paid by such non-governmental entity to the person therefor.

141.29 RIGHT-OF-WAY MANAGEMENT FEES.

1. Before the issuance of any right-of-way permit in accordance with Section 141.12, each person applying to locate, relocate, or reconstruct any equipment within the right-of-way shall pay the following fees (if applicable) based upon the person's use and activity within the right-of-way:

A. Permit Review Fee. Each person shall pay a non-refundable permit review fee in an amount to be set by resolution of the City Council to be paid upon issuance of the right-of-way permit.

B. Disruption Fee. Each person shall pay a disruption fee to compensate the City and its citizens for a disruption or disturbance to the City's rights-of-way. The disruption fee and schedule shall be set by resolution of the City Council.

C. Degradation Fee. Each person required to obtain an excavation permit shall pay a degradation fee to compensate the City for the decrease in the useful life of the City's right-of-way. The degradation fee shall be calculated as shown on the schedule to be adopted by resolution of the City Council.

2. In addition to the fees set forth in subsection 1 above, the person shall also pay all costs attributable to inspection and mapping services rendered by the City in connection with the person's right-of-way permit. The inspection and mapping costs shall be calculated as shown on the schedule adopted by resolution of the City Council. All inspection and mapping costs are due and payable within thirty (30) days after invoice by the City.

3. On July 1 of each year, each person shall pay its pro rata share of the unattributable costs as by law allowed associated with the City's management of its rights-of-way.

4. Administrative Penalties. The City Inspector shall send notice to any person who commits a violation of this chapter. Said notice shall state the date, location and nature of the violation. Each person who violates a provision of this chapter shall pay the appropriate administrative penalty according to the schedule adopted by resolution of the City Council. The City Inspector shall not issue any additional right-of-way permits to that person until said administrative penalties have been paid in full and the violation has been

corrected.

141.30 DAMAGE TO OTHER EQUIPMENT.

1. When the City performs work in the right-of-way and finds it necessary to maintain, support, or move a registrant's equipment to protect it, the City shall notify the registrant's designated contact person as soon as reasonably possible, which in no event shall be later than two (2) business days from the date of the City's efforts to maintain, support or move the registrant's equipment. The costs associated therewith will be billed to that registrant and must be paid within thirty (30) days from the date of billing. Without negating the foregoing, the City shall use its best efforts to afford the registrant an opportunity to maintain, support or move its equipment prior to doing so on behalf of the registrant at the registrant's expense.
2. Each registrant shall be responsible for the cost of repairing any equipment in the right-of-way, the location of which has properly been indicated on a map or maps provided to the City Inspector in accordance with the provisions of this chapter, which it or its equipment damages. Each registrant shall be responsible for the cost of repairing any damage to the equipment of another registrant caused during the City's response to an emergency occasioned by that registrant's equipment.

141.31 INDEMNIFICATION AND LIABILITY.

1. The registrant shall indemnify, defend and hold the City, its officers, agents and employees, harmless from any and all liability for claims of any nature (including reimbursement of reasonable legal fees and all costs) arising directly or indirectly from the exercise of the rights granted herein, including but not limited to: payments under worker's compensation laws, liability as a result of negligence or otherwise; business or service interruption; damages to any person or property located in the right-of-way at the registrant's invitation; or for damages to any person or property resulting from the equipment, machinery and/or structures or actions of the registrant (including damages caused by or resulting from the existence of the registrant's equipment, machinery and/or structures on the right-of-way). In the event that any suit or action at law is commenced against the City, upon any claim for damage arising out of the grant of rights set forth in this chapter to a registrant, upon being notified in writing by the City of such action or proceeding, the registrant shall appear and make proper defense thereto at the sole expense of the registrant; the City shall have the right, at the City's expense, to participate in the defense of any claim or action arising directly or indirectly from the exercise of the rights granted herein to the registrant with counsel of the City's choice, and if any judgment or decree shall in any such case be rendered against the City therein, the registrant shall assume, pay and satisfy such judgment or decree, with the cost thereof.
2. Without negating the generality of the foregoing, the registrant covenants, represents and warrants that it will not cause or permit the discharge, release or disposal of any "hazardous materials, substances or waste" (as these terms are defined by applicable State and Federal law, rules and regulations) in the right-of-way or otherwise contaminate the right-of-way with any toxic or hazardous materials, substances or waste that would trigger response or remedial action under any environmental laws or any existing common law theory based on nuisance or strict liability. If any such representation is in any manner inaccurate or any such warranty is in any manner breached during the term of the registrant's franchise or right-of-way permit period, and if any such breach gives rise to or results in liability (including but not limited to, a response action, remedial action or removal action) under any environmental laws or any existing common law theory based on nuisance or strict liability, or causes a significant effect on public health, the registrant shall promptly take any and all remedial and removal action as required by law to clean up the right-of-way and mitigate exposure to liability arising therefrom. The covenants, representations and warranties made in this subsection shall survive and extend beyond the term of the registrant's franchise or right-of-way permit.
3. In placing equipment, or allowing it to be placed, in the right-of-way, the City is not liable for any damages caused thereby to any registrant's equipment which is already in place. This chapter is enacted to protect the general health, welfare and safety of the public at large.

141.32 ABANDONED AND UNUSABLE EQUIPMENT.

1. A registrant who has determined to discontinue its operations with respect to any equipment in any right-of-way, or segment or portion thereof, must either:
 - A. Obtain the City Council's approval by resolution of the transfer of the registrant's obligations for its equipment in the right-of-way under this chapter to another person. The aforementioned resolution approving such a proposed transfer shall not be considered until the registrant has filed with the City Inspector written notice of the proposed sale, transfer, disposition, or assignment, such notice to clearly summarize the proposed procedure and the terms and conditions thereof. Similarly, the proposed vendee, assignee or lessee shall file an instrument with the City Inspector, duly executed, reciting such proposal, accepting the terms of this chapter and franchise, if applicable, and agreeing to perform all of the conditions thereof and all of the obligations of the proposed transfer. The aforementioned approval by the City Council shall not be unreasonably withheld; or
 - B. Submit to the City a proposal and instruments for transferring ownership of its equipment to the City. If a registrant proceeds under this clause, the City may, at its option:
 - (1) Purchase the equipment;
 - (2) Require the registrant, at its own expense, to remove it; or
 - (3) Require the registrant to post an additional bond or an increased bond amount sufficient to reimburse the City for reasonably anticipated costs to be incurred in removing the equipment.
2. Equipment of a registrant which fails to comply with the provisions of this section and which for two (2) years remains unused shall be deemed to be abandoned. Abandoned equipment is deemed to be a nuisance. The City may:
 - A. Abate the nuisance in accordance with the provisions of Chapter 50 of this Code of Ordinances;
 - B. Take possession of the equipment and restore it to a usable condition;

- C. Require removal of the equipment by the registrant or by the registrant's surety; or
- D. Exercise its rights pursuant to the performance and restoration bond.

Any registrant who has unusable equipment in any right-of-way shall remove it from that right-of-way during the next scheduled excavation, unless this requirement is waived by the City.

141.33 ROUTINE MAINTENANCE AND MINOR REPAIR.

No excavation or obstruction permit shall be required for the routine maintenance and minor repair of equipment located in the right-of-way. Activities constituting "routine maintenance" and "minor repair" work for purposes of this chapter shall be restricted exclusively to work conducted on equipment located aboveground or overhead and as more specifically limited in the *Right-of-way Access Standards Book*. Registrants shall be required to restore the work area for such routine maintenance or minor repair projects to the same condition that existed before the commencement of such work. Routine maintenance and minor repair work shall be covered under the performance and restoration bond required under Section 141.07 of this chapter.

141.34 TRADE SECRETS.

Upon written request from a registrant to the City, any information required to be submitted by it to the City under this chapter that qualifies as a "trade secret" under Chapter 550 of State Code of Iowa shall be treated as trade secret information and kept confidential by the City in accordance with Chapter 22 of the State Code of Iowa.

141.35 HOME RULE.

This chapter is intended to be and shall be construed as consistent with the reservation of local authority contained in the 25th Amendment to the Iowa Constitution granting cities home rule powers. Accordingly, the City reserves to itself the right to exercise all power and authority to regulate and control its local affairs and all ordinances and regulations of the City shall be enforceable against all persons required to obtain a right-of-way permit, specifically including all franchises.

141.36 APPLICATION.

This chapter shall apply to all franchises and any other person required to obtain a right-of-way permit under this chapter.

141.37 NEW TECHNOLOGIES.

Should technological developments afford a permittee hereunder the opportunity to effectively, efficiently and economically serve its customers through use of a substance or material other than those for which the necessary permits hereunder were granted, then the permittee may petition the City Council which, with such additional requirements or limitations as it deems necessary to protect public health, safety and welfare, may allow the use of such substances under the terms and conditions of the existing franchise or right-of-way permits.

141.38 NONEXCLUSIVE REMEDY.

The remedies provided in this chapter and otherwise in this Code of Ordinances are not exclusive or in lieu of the rights and remedies that the City may have at law or in equity. The City is hereby authorized to seek legal and equitable relief for actual or threatened injury to the right-of-way, whether or not caused by a violation of any of the provisions of this chapter or this Code of Ordinances.