

93.26 RIGHT-OF-WAY PATCHING AND RESTORATION.

- (A) Timing. The work to be done under the excavation permit, and the patching 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 circumstances beyond the control of the permittee or when work was prohibited as unseasonal or unreasonable under this subchapter.

- (B) Patch and restoration. The permittee shall patch its own work. The city may choose either to have the permittee restore the right-of-way or to restore the right-of-way itself.
 - (1) City restoration. If the city restores the right-of-way, the permittee shall pay the costs thereof within 30 days of billing. If following the restoration, the pavement settles due to the permittee's improper backfilling, the permittee shall pay to the city, within 30 days of billing, all costs associated with having to correct the defective work.

 - (2) Permittee restoration. If the permittee restores the right-of-way itself, it may be required at the time of application for an excavation permit to post a construction performance bond or a deposit in accordance with the provisions of Minn. Rules part 7819.3000, as it may be amended from time to time.

- (C) Standards. The permittee shall perform patching and restoration according to the standards and with the materials specified by the city and shall comply with Minn. Rules part 7819.1100, as it may be amended from time to time. The Clerk, Utilities Superintendent or other person designated by the Council 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.

- (D) Duty to correct defects. The permittee shall correct defects in patching, or restoration performed by the permittee or its agents. The permittee upon notification from the Clerk, Utilities Superintendent or other person designated by the Council, shall correct all restoration work to the extent necessary, using the method required by the Clerk, Utilities Superintendent or other person designated by the Council. The work shall be completed within five calendar days of the receipt of the notice from the Clerk, Utilities Superintendent or other person designated by the Council, not including days during which work cannot be done because of circumstances constituting force majeure or days when work is prohibited as unseasonal or unreasonable under this subchapter.

- (E) Failure to restore. If the permittee fails to restore the right-of-way in the manner and to the condition required by the Clerk, Utilities Superintendent or other person designated by the Council, or fails to satisfactorily and timely complete all restoration required by the Clerk, Utilities Superintendent or other person designated by the Council, the Clerk, Utilities Superintendent or other person designated by the Council at his or her option may do the work. In that event the permittee shall pay to the city, within 30 days of billing, the cost of restoring the right-of-way. If the permittee fails to pay as required, the city may exercise its rights under the construction performance bond.
- (F) Degradation fee in lieu of restoration. In lieu of right-of-way restoration, a right-of-way user may elect to pay a degradation fee as established by the Ordinance Establishing Fees and Charges adopted pursuant to ' 30.11 of this code, as that ordinance may be amended from time to time. However, the right-of-way user shall remain responsible for patching and the degradation fee shall not include the cost to accomplish these responsibilities.