

STATE OF MINNESOTA
COUNTY OF WASHINGTON
CITY OF LAKE ELMO

ORDINANCE NO. 9756

AN ORDINANCE RELATING TO RIGHT-OF-WAY MANAGEMENT

The Lake Elmo City Council hereby ordains that Section 1415 and its subdivisions are added to the Lake Elmo Municipal Code to read as follows:

1415 RIGHT-OF-WAY MANAGEMENT PERMITS

Sec. 1415.01. Findings and Purpose.

To provide for the health, safety and well-being of its citizens, and to ensure the structural integrity of its streets and the appropriate use of the rights-of-way, the City strives to keep its rights-of-way in a state of good repair and free from unnecessary encumbrances. Although the general population bears the financial burden for the upkeep of the rights-of-way, a primary cause for the early and excessive deterioration of its rights-of-way is frequent excavation.

Right-of-way obstruction is a source of frustration for merchants, business owners and the general population which must avoid these obstructions or change travel or shopping plans because of them and has a detrimental effect on commerce. Persons whose equipment is within the right-of-way are the primary cause of these frequent obstructions.

The City holds the rights-of-way within its geographical boundaries as an asset in trust for its citizens. The City and other public entities have invested millions of dollars in public funds to build and maintain the rights-of-way. It also recognizes that some persons, by placing their equipment in the right-of-way and charging the citizens of the City for goods and services delivered thereby, are using this property held for the public good. Although such services are often necessary or convenient for the citizens, such persons receive revenue and/or profit through their use of public property.

The Minnesota Legislature has recognized that it is in the public's interest that the use and regulation of rights-of-way be carried on in a fair, efficient, competitively neutral and substantially uniform manner while recognizing such regulation must reflect distinct engineering, construction, operation, maintenance, and public and worker safety requirements and standards applicable to various users of rights of way. Further, the legislature has determined that because increasing numbers of persons may seek usage of rights-of-way, municipalities such as the City must be and have been authorized to regulate use of rights-of-way. Consistent with this mandate, the City has endeavored to model its right-of-way regulations consistent with those of models enacted or under consideration by municipalities throughout the state. Further, the City has endeavored to create competitively neutral rights-of-way standards and regulations of general applicability.

In response to the foregoing facts, the City hereby enacts this Section relating to Right-of-Way Management. This Section imposes reasonable regulations on the placement and maintenance of equipment currently within its rights-of-way or to be placed therein at some future time. It is intended to complement the regulatory roles of state and federal agencies. Under this Section, persons disturbing and obstructing the rights-of-way will bear a fair share of the financial responsibility for the integrity of the City's rights-of-way. Finally, this Section provides for recovery of out-of-pocket and projected costs from persons using the public rights-of-way.

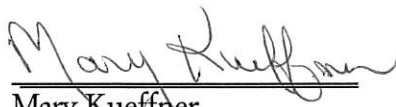
June 15, 2000

On the 20th day of June, 2000, the Lake Elmo City Council adopted Ordinance 9756. On the 20th day of June, 2000, pursuant to Minn. Stat. §412.191, Subd. 4, the Lake Elmo City Council, by four affirmative votes, directed that a Summary of Ordinance 9756 be published.

Lake Elmo Ordinance 9756 is entitled "An Ordinance Relating to Right-of-Way Management". The ordinance establishes rules and regulations for the use of rights-of-way including registration requirements, reporting obligations, right-of-way permit requirements, right-of-way patching and restoration obligations, inspection requirements, revocation of permit procedures, mapping data requirements, procedures which apply to right-of-way vacation, indemnification obligations of right-of-way users, and procedures which apply to the abandonment of equipment located within the right-of-way.

A copy of Ordinance 9756 is available for inspection by any person during regular business hours at the office of the Lake Elmo City Administrator at 3800 Laverne Avenue North, Lake Elmo, MN 55042.

Dated: 7-12-00


Mary Kueffner
Mary Kueffner
City Administrator

PUBLISHED IN THE JULY 13, 2000 STILLWATER GAZETTE