

ORDINANCE NO.: 2026-09

CITY OF BALDWIN
SHERBURNE COUNTY
STATE OF MINNESOTA

AN ORDINANCE AMENDING ORDINANCE 100
RIGHT OF WAY PERMITS

THE BALDWIN CITY COUNCIL ORDAINS:

Section 1. Ordinance 100, Section 2.02 shall be amended to repeal the following definitions with subsequent provisions renumbered accordingly:

12. ~~Excavation Permit.~~ "Excavation Permit" means the permit which, pursuant to this Article, must be obtained before a 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 a permit.
13. ~~Excavation Permit Fee.~~ "Excavation Permit Fee" means money paid to the Town by an applicant to cover the costs as provided in this Article.
18. ~~Obstruction Permit.~~ "Obstruction Permit" means the permit which, pursuant to this Article, must be obtained before a person may obstruct a right of way, allowing the holder to hinder free and open passage over the specified portion of that right of way, for the duration specified therein.
19. ~~Obstruction Permit Fee.~~ "Obstruction Permit Fee" means money paid to the Town by a permittee to cover the costs as provided in this Article.

Section 2. Ordinance 100, Section 2.02.29 shall be amended to revise the following definition with subsequent provisions renumbered accordingly:

29. **Right-of-Way Permit.** "Right-of-way permit" means either the excavation permit or the obstruction permit, or both, depending on the context, required by this Article the permit that must be obtained before a person may obstruct or excavate in a right of way. This permit allows the holder to hinder free and open passage over a specified portion of that right of way and allows the holder to excavate that part of the right of way described in such permit.

Section 3. Ordinance 100, Section 2.03.1 shall be amended to read as follows:

1. **Permit Required.** Except as otherwise provided in this Article, no person may obstruct or excavate any right-of-way without first having obtained the appropriate a right-of-way permit from the Town-City to do so. A right-of-way permit allows the permit holder to:
 - (a) Excavation Permit. An excavation permit is required to ~~e~~ Excavate within a right-of-way related to the installation, repair, replacement, or removal of facilities.
 - (b) Obstruction Permit. An obstruction permit is required to obstruct a right-of-way

by placing equipment described therein on the right-of-way, to the extent and for the duration specified therein.

- ~~(c) Combination Permit. If a proposed utility project involves both the excavation and obstruction of a right-of-way, a person may apply for a combination excavation/obstruction permit.~~

Section 4. Ordinance 100, Section 2.06 shall be amended to read as follows:

Section 2.06. Right-of-Way Permit Fees.

1. The City shall establish a right-of-way permit fee in an amount sufficient to recover the following costs:
 - (a) The ~~Town~~ City management costs; and
 - (b) Degradation costs, if applicable.
- ~~2. **Obstruction Permit Fee.** The Town shall establish an obstruction permit fee and it shall be in an amount sufficient to recover the Town management costs.~~
- ~~32. **Payment of Permit Fees.** No excavation permit or obstruction right-of-way permit shall be issued without payment of excavation or obstruction the permit fees. The Town may allow applicants to pay such fees within thirty (30) days of billing.~~
- ~~43. **Non-Refundable.** Permit fees that were paid for a permit that the Town-City has revoked for a breach as provided in this Article are not refundable.~~
- ~~54. **Fees.** All fees provided for in this Article ordinance shall be determined by resolution of the Town Board and shall be designed established with the City Fee Schedule to recover the actual costs the ~~Town~~ City incurs related to the particular project and in managing its rights-of-way.~~

Section 5. Ordinance 100, Section 2.07.1 shall be amended to read as follows:

1. **Timing.** The work to be done under ~~an excavation~~ a right-of-way 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 due to unseasonal or other weather conditions which reasonably prohibited the work.

Section 6. Ordinance 100, Section 2.07.2 shall be amended to read as follows:

Patch and Restoration. 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.

- (a) City Restoration. The City may elect to restore the right-of-way. If the City elects to restore the right-of-way, the permittee shall pay the costs thereof within thirty (30) days of billing. If, following such restoration, the roadway settles due to permittee's improper backfilling, the permittee shall pay to the City, within thirty (30) days of billing, all costs associated with correcting the defective work.
- (b) Permittee Restoration. If the City elects to have permittee restore the right-of-way, permittee shall restore the right-of-way in the manner and to the condition required by the City.
- (c) Degradation Fee in Lieu of Restoration. In lieu of right-of-way restoration, the City may elect to have a permittee pay a Degradation Fee in the amount determined by the City Engineer. However, the permittee user shall remain responsible for patching, and the Degradation Fee shall not include the cost to accomplish these responsibilities.
- (d) Financial Security. When required by the City, permittee shall provide a financial guarantee to assure restoration of the ~~road~~ right-of-way, any damage to City infrastructure, and all City costs incurred due to permittee's failure to comply with the terms of the permit. The City shall be entitled to reimburse itself out of such escrow deposit for any cost or expense incurred by the City for curing permittee's default under or breach of the terms of the permit including, but not limited to, attorney's fees, engineering costs and other costs. The financial guarantee required as part of permit issuance shall be one of the following as determined by the City:
 - 1) Escrow deposit. A cash escrow deposit may be made with the City Clerk in a sum determined by the City Engineer.
 - 2) Construction Performance Bond. A construction performance bond in a form approved by the City Attorney and in a sum determined by the City Engineer.
 - 3) Letter of Credit. The subdivider shall deposit with the City, from an FDIC member bank and subject to the approval of the City Attorney, an irrevocable letter of credit which shall certify:
 - i. That the creditor does guarantee funds in an amount as determined by the City.
 - ii. That the creditor, in case of failure on the part of the Applicant to comply with the terms and conditions of the permit, shall upon written notification by the City, immediately and without further action pay to the City such funds as are necessary to cure Applicant's default of the terms and conditions of the permit, up to the limit of credit stated in the letter, plus all legal, engineering and other costs incurred by the City related to Applicant's failure to comply with the terms and conditions of the permit.
 - iii. That the letter of credit shall not be withdrawn, reduced in amount, revised, or amended in its terms until approved by the City.
 - iv. All such letters of credit shall be in a form acceptable to the City Attorney and

shall be issued by an FDIC member bank located in the State of Minnesota, but not more than 100 miles from the Baldwin City Hall unless otherwise agreed to in writing by the City.

- v. The amount of the letter of credit shall be in a sum determined by the City Engineer.
- (e) Permit Agreement. If required by the City, permittee shall enter into an agreement with the City for the restoration work. The agreement shall be in a form acceptable to the City Attorney.

Section 7. Ordinance 100, Section 2.07.6 shall be amended to read as follows:

Failure to Restore. If permittee fails to satisfactorily and timely complete all right-of-way restoration work required by the City or otherwise comply with the terms of the permit, the City at its option may do such work. In that event, the City shall be entitled to reimburse itself out of any financial security on file with the City for any cost or expense incurred by the City for curing permittee's default under or breach of the terms of the permit including, but not limited to, attorney's fees, engineering costs and other costs. In the event that any financial security required by this ordinance is ever utilized and found to be deficient in amount to pay or reimburse the City in total as required herein, the permittee shall be invoiced by the City, the permittee shall pay, within thirty (30) days of the mailing of said billing such deficient amount unless otherwise agreed to by the City. If there should be an overage in the amount of utilized security, the City shall, upon making such determination, refund to the permittee any monies which the City has in its possession which exceeds the actual costs incurred by the City.

Section 8. Whenever any provision of this Ordinance is more restrictive than provisions of existing laws or ordinances, the provision of this Ordinance shall govern. Should any section, clause or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of the Ordinance as a whole or any part thereof, except that part so declared to be invalid.

Section 9. The City Clerk is hereby authorized and directed to incorporate the amendments made by this Ordinance into Ordinance No. 100 Regulating City Road Right-of-Way and such updated version shall constitute the official Ordinance.

Section 10. This ordinance shall be in full effect upon adoption and publication.

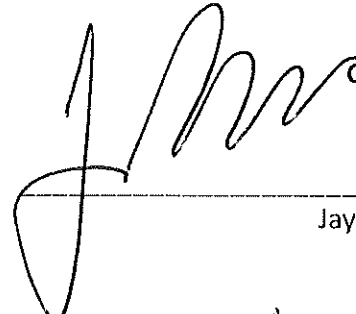
Section 11. Any previous ordinance adopted by the City of Baldwin that is inconsistent with this ordinance is hereby repealed to the extent of such inconsistency.

(remainder of page intentionally blank; signatures follow)

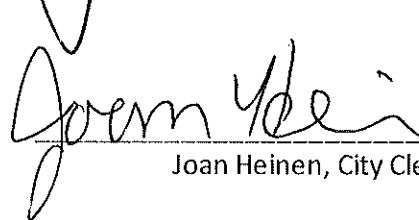
ADOPTED by the Baldwin City Council this 18th day of July, 2026.

MOTION BY: Rush
SECONDED BY: Walker
IN FAVOR: All
OPPOSED: none

Jeff Holm absent


CITY OF BALDWIN

Jay Swanson, Mayor

ATTEST:


Joan Heinen, City Clerk/Treasurer