

7819.0100 DEFINITIONS.

Subpart 1. **Scope.** The terms used in this chapter have the meanings given in this part.

Subp. 2. **Abandoned facility.** "Abandoned facility" means a facility no longer in service or physically disconnected from a portion of the operating facility, or from any other facility, that is in use or still carries service. A facility is not abandoned unless declared so by the right-of-way user.

The definition of abandoned facility in this chapter is not meant to affect the treatment of the term abandoned facility under any other rules.

Subp. 3. **City.** "City" means a statutory or home rule charter city.

Subp. 4. **Commission.** "Commission" means the state Public Utilities Commission.

Subp. 5. **Congested right-of-way.** "Congested right-of-way" means a crowded condition in the subsurface of the public right-of-way that occurs when the maximum lateral spacing between existing underground facilities does not allow for construction of new underground facilities without using hand digging to expose the existing lateral facilities in conformance with Minnesota Statutes, section 216D.04, subdivision 3, over a continuous length in excess of 500 feet.

Subp. 6. **Construction performance bond.** "Construction performance bond," as referenced in Minnesota Statutes, section 237.162, subdivision 8, clause (2), means any of the following forms of security provided at the permittee's option:

- A. individual project bond;
- B. cash deposit;
- C. security of a form listed or approved under Minnesota Statutes, section 15.73, subdivision 3;
- D. letter of credit, in a form acceptable to the local government unit;
- E. self-insurance, in a form acceptable to the local government unit; and
- F. a blanket bond for projects within the local government unit, or other form of construction bond, for a time specified and in a form acceptable to the local government unit.

Subp. 7. **Degradation cost.** "Degradation cost" means the cost to achieve a level of restoration as determined by the local government unit at the time the permit is issued, not to exceed the maximum restoration shown in plates 1 to 13, which are set forth in parts 7819.9900 to 7819.9950.

Subp. 8. **Degradation fee.** "Degradation fee" means the estimated fee established at the time of permitting by the local government unit to recover costs associated with the

decrease in the useful life of the right-of-way caused by the excavation, and which equals the degradation cost.

Subp. 9. **Facility.** "Facility" means any tangible asset in the public right-of-way required to provide utility service.

Subp. 10. **Five-year project plan.** "Five-year project plan" shows projects adopted by the local government unit for construction within the next five years.

Subp. 11. **High-density corridor.** "High-density corridor" means a designated portion of the public right-of-way within which telecommunications right-of-way users having multiple and competing facilities may be required to build and install facilities in a common conduit system or other common structure.

Subp. 12. **Hole.** "Hole" means an excavation in the pavement, with the excavation having a length less than the width of the pavement.

Subp. 13. **Local government unit.** "Local government unit" has the meaning given it in Minnesota Statutes, section 237.162.

Subp. 14. **Patch.** "Patch" means a method of pavement replacement that is temporary in nature. A patch consists of: (1) the compaction of the subbase and aggregate base, and (2) the replacement, in kind, of the existing pavement for a minimum of two feet beyond the edges of the excavation in all directions. A patch is considered full restoration only when the pavement is included in the local government unit's five-year project plan.

Subp. 15. **Pavement.** "Pavement" means any type of improved surface that is within the public right-of-way and that is paved or otherwise constructed with bituminous, concrete, aggregate, or gravel.

Subp. 16. **Permit.** "Permit" has the meaning given "right-of-way permit" in Minnesota Statutes, section 237.162.

Subp. 17. **Permittee.** "Permittee" means a person to whom a permit to excavate or obstruct a right-of-way has been granted by a local government unit under this chapter.

Subp. 18. **Person.** "Person" means an individual or entity subject to the laws and rules of this state, however organized, whether public or private, whether domestic or foreign, whether for profit or nonprofit, and whether natural, corporate, or political. Examples include:

A. a business or commercial enterprise organized as any type or combination of corporation, limited liability company, partnership, limited liability partnership, proprietorship, association, cooperative, joint venture, carrier or utility, and any successor or assignee of any of them;

B. a social or charitable organization; and

C. any type or combination of political subdivision, which includes the executive, judicial, or legislative branch of the state, a local government unit, or a combination of any of them.

Subp. 19. **Public right-of-way.** "Public right-of-way" has the meaning given it in Minnesota Statutes, section 237.162.

Subp. 20. **Restoration.** "Restoration" means the process by which an excavated public right-of-way and surrounding area, including pavement and foundation, is returned to the same condition that existed before excavation.

Subp. 21. **Right-of-way user.** "Right-of-way user" means: (1) a telecommunications right-of-way user as defined by Minnesota Statutes, section 237.162, subdivision 4; or (2) a person owning or controlling a facility in the public right-of-way that is used or is intended to be used for providing utility service, and who has a right under law, franchise, or ordinance to use the public right-of-way.

Subp. 22. **Temporary surface.** "Temporary surface" means the compaction of subbase and aggregate base and replacement, in kind, of the existing pavement only to the edges of the excavation. It is temporary in nature except when the replacement is of pavement included in the local government unit's two-year project plan, in which case it is considered full restoration.

Subp. 23. **Trench.** "Trench" means an excavation in the pavement, with the excavation having a length equal to or greater than the width of the pavement.

Subp. 24. **Two-year project plan.** "Two-year project plan" shows projects adopted by the local government unit for construction within the next two years.

Subp. 25. **Utility service.** "Utility service" includes: (1) services provided by a public utility as defined in Minnesota Statutes, section 216B.02, subdivisions 4 and 6; (2) services of a telecommunications right-of-way user, including the transporting of voice or data information; (3) services provided by a cable communications system as defined in Minnesota Statutes, chapter 238; (4) natural gas or electric energy or telecommunications services provided by a local government unit; (5) services provided by a cooperative electric association organized under Minnesota Statutes, chapter 308A; and (6) water, sewer, steam, cooling, or heating services.

Statutory Authority: *MS s 237.163*

History: *23 SR 2004*

Published Electronically: *November 14, 2003*