COMMON COUNCIL AGENDA  
January 10, 2023

The public may view/listen to the meeting by:
- Calling Toll Free 1-844-992-4726, access code: 263 155 00124
- Visiting the web link: https://tinyurl.com/rfcc11023
- Viewing the City’s YouTube Channel: https://www.youtube.com/user/cityofriverfalls

Call Meeting to Order – 6:30 p.m.
Pledge of Allegiance
Roll Call
Approval of Minutes – December 13, 2022, Minutes
Approval of Bills

*** NOTE: OFFICIAL ACTION MAY BE TAKEN ON ANY AGENDA ITEM ***

PUBLIC COMMENT, PETITIONS, REQUESTS AND COMMUNICATIONS:
1. Public Comment
   If you are unable to attend the meeting in person but would like to submit a public comment, please e-mail to the City Clerk’s office (awhite@rfcity.org).

PUBLIC HEARING:
6:31 p.m.
2. Ordinance 2023-01 Repealing and Recreating Section 12.12.010 - Street Excavations – First Reading

6:32 p.m.
3. Ordinance 2023-02 Repealing and Recreating Title 18 Cable Franchise Ordinance – First Reading

CONSENT AGENDA
4. Change of Agent for Walgreens
5. Change of Agent for Kwik Trip 453, 1238 N. Main Street
6. Resolution to Accept Public Improvements for Sterling 3rd and 4th Additions

REPORTS:
7. Administrator’s Report

ADJOURNMENT

NOTE: Any person who has a qualifying disability as defined by the Americans with Disabilities Act that requires the meeting or materials to be in an accessible location or format, may contact City Clerk Amy White at (715) 426-3408 or in person at 222 Lewis Street, for accommodations. Requests for accommodations should be made at least three (3) business days in advance of the meeting. Every effort will be made to arrange accommodations.

Posted at City Hall 1/5/23; Publish: The Pierce County Journal: 1/4/23
City of River Falls, Wisconsin
Common Council Proceedings

December 13, 2022

Mayor Dan Toland called the meeting to order at 6:30 p.m.

City Council Members Present: Todd Bjerstedt, Jeff Bjork, Sean Downing, Scott Morrissette, Diane Odeen

Members Absent: Nick Carow, Alyssa Mueller

Staff Present: City Administrator Scot Simpson; City Attorney Chris Gierhart; IT Specialist Jonathan Thoen; Utility Director Kevin Westhuis; Community Development Director Amy Peterson, Assistant City Administrator Jason Stroud; Planner Sam Burns; Sergeant Kevin Moore; Public Works Director Mike Stifter; Economic Development Manager Keri Schreiner

Approval of Minutes
November 22, 2022, Minutes
MSC Odeen/Downing move to approve minutes. Unanimous.

Approval of Bills:
Bills: $3,404,604.19
MSC Morrissette/Bjerstedt move to approve bills subject to the Comptroller. Unanimous.

Public Comment, Petitions, Requests and Communications:
There were none.

Public Hearing:
Ordinance 2022-20 – Amending the Official Traffic Control Map (Stop sign at intersection of State Street and Hamilton Drive) – Second Reading and Disposition
At 6:32 p.m., Mayor Toland moved into a public hearing. With no public comments, the mayor closed the public hearing and moved into Open Session. MSC Bjork/Bjerstedt move to approve ordinance. Unanimous.

Reports:
2022 Update to the 2018 Comprehensive Housing Needs Analysis
Planner Sam Burns provided a presentation. In 2018, the city contracted with Maxfield Research and Consulting to complete a comprehensive housing study. The most crucial information was a housing needs analysis. After the pandemic, historic market trends, and the completion of the 2020 census, Maxfield was contracted again to provide an update to the housing needs analysis section. Burns showed slides illustrating the 2022-2030 average annual housing demand and senior housing needs, and outcomes. He talked about the city’s vacancy rates. There remains a deep need for new units, but this need is not unique to the city as the entire country faces a housing storage. Upon completion of the presentation, Burns stood for questions.

Alderperson Bjork talked about the population and different age groups. He expressed concern about the possibility of the city overextending itself in terms of housing. He felt we should be cautious in how quickly the city should grow.
REPORTS:
Administrator's Report
City Administrator Simpson provided date information and updates. Bjork thanked Mike Stifter for his years of service to the city.

CLOSED SESSION:
At 6:47 p.m. MS Downing/Odeen move to recess into Closed Session per Wisconsin State Statutes §19.85(1)(e) for the following purposes: “deliberating or negotiating the purchasing of public properties, the investing of public funds, or conducting other specified public business, whenever competitive or bargaining reasons require a closed session, to wit: Whitetail Ridge Corporate Park, Lot “C”, St. Croix County Parcel 276-1040-30-250.” The roll call vote to move into Closed Session passed unanimously.

At 7:21 p.m., MSC Downing/Morrissette move to reconvene into Open Session. Unanimous. MSC Bjerstedt/Morrissette move to adjourn at 7:21 p.m. Unanimous.

Respectfully submitted,

Kristi McKahan, Deputy Clerk
MEMORANDUM

TO: Mayor Toland and City Council
FROM: City Attorney Christopher B. Gierhart and Samuel Bach-Hanson, Weld Riley, S.C.
DATE: January 10, 2023
TITLE: First Reading – municipal code ordinances related to utility installations in public places and related to video and television service providers

RECOMMENDED ACTION
The repeal and recreation of two existing ordinances, Section 12.12.010 (the “Utility Installation Ordinance”) and the entirety of Title 18 (the “Cable Franchise Ordinance”).

BACKGROUND
This memorandum will provide a high-level summary of each ordinance along with an explanation of the reasoning behind the proposal to repeal and replace each ordinance. The City Attorney has reviewed each ordinance.

Utility Installation Ordinance
City staff propose the Utility Installation Ordinance due to the continuous increase in use of public rights-of-way that has resulted in both increased cost to the City and taxpayers and increased obstructions.

Specifically, delays of the occupants of the public rights-of-way in maintaining, supporting, protecting, or relocating facilities that are impacting public construction projects may result in an increase in public works project costs, which is ultimately borne by the City and taxpayers. Further, certain occupants of the public rights-of-way may exhibit a pattern of delay and non-responsive in cooperating with the City for public construction projects that occur in the public rights-of-way.

Examples of these costs include: (1) administrative costs associated with public rights-of-way projects; (2) management costs associated with ongoing activities necessitated by public right-of-way occupants; and (3) repair or restoration costs to the roadway associated with the actual excavation into the public rights-of-way.
Memorandum to Mayor and City Council  
January 10, 2023  
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The Utility Installation Ordinance is intended to impose reasonable and limited regulations on the placement and maintenance of facilities currently within its rights-of-way or to be placed therein in the future.

**Cable Franchise Ordinance**  
City staff are proposing the repeal and recreation of the Cable Franchise Ordinance. This is largely due to 2007 Wisconsin Act 42 (“Act 42”) which replaced municipal franchising with a state franchising process for wireline-based video services provided by cable and telecommunication companies. Act 42 explicitly prohibits municipalities from entering into new cable franchise agreements and from extending existing ones.

The Cable Franchise Ordinance recreates the City’s regulations with respect to cable and telecommunication companies to be in compliance with Wisconsin law, while still imposing regulations that protect the safety, health, and welfare of the public.

**DISCUSSION**  
**Utility Installation Ordinance**  
The Utility Installation Ordinance will reduce the cost borne by the City and taxpayers by requiring those who excavate, occupy, or otherwise obstruct the public rights-of-way to reimburse the City’s administrative, inspection, and ongoing management costs.

This is done through the creation of heightened requirements for obtaining permits to excavate, obstruct, or occupy public rights-of-way. Specifically, the application requirements listed in Section 2 of the Utility Installation Ordinance must be followed and complied with before a permit is issued.

Examples of how the Utility Installation Ordinance achieves these goals include: (1) requiring payment of all money due to the City for application fees and costs associated with the current project and any amounts overdue from prior projects; (2) a written guarantee or surety bond in an amount consistent with the value of work performed; and (3) permitting the public works committee to establish the permit fee as needed to ensure it is sufficient to recover costs incurred by the City.

The Utility Installation Ordinance also creates standards by which the City can revoke, suspend, or refuse to issue or extend permits. Examples of these standards include: (1) the misrepresentation of a fact by the permit holder/applicant; (2) the nature of the proposed activity; (3) the condition and age of the public right-of-way; and (4) the failure of the permit holder to complete the work in a timely manner.

Further, the Utility Installation Ordinance addresses matters related to relocation of existing facilities and removal of abandoned facilities.

This said, the Utility Installation Ordinance does create exceptions to the permitting process in the event of emergency situations that require immediate action.

**Cable Franchise Ordinance**  
While Act 42 prevents the City from entering into and extending cable franchise agreements, municipalities still have the authority to regulate certain uses of the rights-of-way and impose franchise fees.
The Cable Franchise Ordinance establishes a video service provider fee based upon five percent (5%) of the provider's gross receipts. This amount is established in Wis. Stat. § 66.0420.

The Cable Franchise Ordinance also establishes requirements for cable providers to provide PEG (public, educational, or governmental) use channels. The Cable Franchise Ordinance follows the regulations permitted in Wis. Stat. § 66.0420. This includes items such as the number of PEG channels that must be provided, the quality of PEG channels, and the process of a PEG channel's discontinuance due to non-use by the City.

There are also restrictions imposed with respect to the use of public rights-of-way by cable providers. These restrictions are determined to be necessary for the safety, health, and welfare of the public. They require cable providers to comply with all City Ordinances with respect to zoning and use restrictions and permitting. Lastly, the Cable Franchise Ordinance imposes requirements for activities which interrupt the use of a street. For example, it requires the restoration of pavement and landscaping to its prior condition, prior approval for the erection of poles, and prior approval for the removal or trimming of trees within a public street.

CONCLUSION
Both ordinances described above have been reviewed by the City Attorney. City staff are requesting Council consider adopting these ordinances, which both contribute to the safety, health, and welfare of the public.
ORDINANCE NO. 2023 -01

AN ORDINANCE REPEALING AND RECREATING SECTION 12.12.010 STREET EXCAVATIONS AS UTILITY INSTALLATIONS IN PUBLIC PLACES

THE COMMON COUNCIL OF THE CITY OF RIVER FALLS DOES ORDAIN:

Section 1. That Section 12.12.010 titled “Street Excavations,” of the City of River Falls Municipal Code is hereby repealed and replaced in its entirety as follows:

“12.12.010 Utility Installations in Public Places; Occupancy of rights-of-way

A. General Provisions.

1. Purpose and Findings. In the exercise of its police powers, the city has priority over all other uses of the public rights-of-way. The city desires to anticipate and minimize the number of obstructions and excavations taking place in the public rights-of-way to ensure that the rights-of-way remain available for public services and safe for public use, and to ensure that facilities are timely maintained, supported, protected or relocated to accommodate reconstruction or repairs. The taxpayers of the city bear the financial burden for the upkeep, maintenance and reconstruction of the rights-of-way and a primary cause for the early and excessive deterioration of the public rights-of-way is the frequent excavation by persons who place facilities therein.

The city finds that there has been an increase in the use of the public rights-of-way and, as a result, increased costs to the taxpayers of the city and that these costs are likely to continue into the foreseeable future.

The city finds that delays by occupants of the rights-of-way in maintaining, supporting, protecting or relocating facilities, if they impact public construction projects, have the potential to significantly increase public works project costs borne by the taxpayers. Moreover, the city finds that some right-of-way occupants have a history of delays and nonresponsiveness.

The city finds that occupancy and excavation of its rights-of-way causes direct and indirect costs to be borne by the city and its taxpayers, including but not limited to: i) Administrative costs associated with public right-of-way projects, such as permitting, inspection and supervision, supplies and materials; ii) Management costs associated with ongoing management activities necessitated by public right-of-way users; iii) Repair or restoration
costs to the roadway associated with the actual excavation into the public right-of-way.

In response to the foregoing facts, and pursuant to its authority under Wis. Stat. §§ 62.11(5), 86.16, 182.017, and 196.58, the city hereby enacts this section relating to the administration of and permits to excavate, obstruct and/or occupy the public rights-of-way. This section imposes reasonable regulations on the placement and maintenance of facilities 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.

The purpose of this section is to provide the city a legal framework within which to regulate and manage the public rights-of-way, and to provide for the recovery of costs incurred by the city in doing so. This section provides for the health, safety and welfare of the residents of the city as they use the rights-of-way of the city, as well as to ensure the structural integrity of the public rights-of-way.

Under this section, all persons who excavate, obstruct and/or occupy the public rights-of-way will reimburse the city's administrative, inspection, ongoing management costs. Right-of-way users will bear a fair share of the financial responsibility for the integrity of the public rights-of-way.

2. Definitions. For the purposes of this section the following definitions apply:

"Applicant" means any person requesting permission to excavate, obstruct and/or occupy a right-of-way.

"City" means the city of River Falls, Wisconsin, a Wisconsin municipal corporation.

"Department" means the city engineering division.

"Emergency" means a condition that (1) poses a clear and immediate danger to life or health, or of a significant loss of property; or (2) requires immediate repair or replacement in order to restore service to a customer.

"Engineer" means the city engineer or his/her designee.

"Excavate" means to dig into or in any way remove or physically disturb or penetrate any part of a right-of-way.

"Facilities" means all equipment owned, operated, leased or subleased in connection with the operation of a service or utility service, and shall include, but is not limited to, poles, wires, pipes, cables, underground conduits, ducts, manholes, vaults, fiber optic cables, lines and other structures and appurtenances.

"In," when used in conjunction with "right-of-way," means over, above, in, within, on or under a right-of-way.

"Local representative" means a local person or persons, or designee of such person or
persons, authorized by an applicant to accept service and to make decisions for that applicant regarding all matters within the scope of this section.

"Obstruct" means to place any object in a right-of-way so as to hinder free and open passage in that or any part of the right-of-way.

"Occupy" means to locate facilities in the public right-of-way.

"Permitted contractor" means a contractor or public utility approved by the department to work in the right-of-way.

"Permittee" means any person to whom a permit to occupy, excavate or obstruct a right-of-way has been granted by the city under this section.

"Person" means municipality, corporation, company, including a "company" as defined in Wis. Stat. § 182.017(1g)(b), association, firm, partnership, limited liability company, limited liability partnership and individuals and their lessors, transferees and receivers.

"Pole" or "tower" has its usual meaning, except that it does not include poles used for governmental operations such as traffic signals or traffic control devices, street lights, and emergency alert signals, or high-voltage transmission lines.

"PSCW" means the Public Service Commission of Wisconsin.

"Public utility" has the meaning provided in Wis. Stat. § 196.01(5).

"Repair" means to perform construction work necessary to make the right-of-way useable for travel, according to department specifications, or to return facilities to an operable condition.

"Restore" or "restoration" means the process by which an excavated right-of-way and surrounding area, including pavement and foundation is reconstructed, per department specifications.

"Right-of-way" means the surface and space above and below the entire width of an improved or unimproved public roadway, highway, street, bicycle lane, terrace, shoulders, side slopes, and public sidewalk in which the city has an interest, including any other dedicated rights-of-way for travel purposes.

"Right-of-way user" means a person owning or controlling a facility in the public right-of-way, or seeking to own or control a facility in the public right-of-way.

"Service" or "utility service" includes services such as municipal sewer and water services and services provided by a public utility or a company subject to Wis. Stat. § 182.017 and other similar services.

"Supplementary application" means an application made to excavate or obstruct more of the right-of-way than permitted, or to extend a permit that has already been issued.

3. Administration. The engineer is responsible for the administration of the rights-of-way under this section, and the permits and ordinances related
thereto.

B. Utility Installation Permit Requirement.

1. Utility Installation Permit Required.

   a. Except as otherwise provided in this section, no person shall excavate any right-of-way or place facilities in a right-of-way or cause another person to do so, without a valid utility installation permit issued by the department under this subsection. This section shall not apply to privileges granted pursuant to Wis. Stat. §66.0425.

   b. No person shall excavate the right-of-way or maintain an excavation in the right-of-way except as specified in the permit. If the permittee needs to modify the date or area specified in the permit, then the person shall first notify the department of the change. If requested by the city engineer, the person shall be required to make a supplementary application pursuant to subdivision B.3 below.

   c. Permits are valid for ninety (90) days. A request to extend the permit must be filed five days prior to its expiration. Failure to extend a permit requires cessation of all work on the right-of-way until a new application is submitted and approved.

   d. One permit is valid for the applicant and all subcontractors listed on the permit application.

   e. Permit Display. A copy of any permit issued under this subsection shall be made available at all times by the permittee at the indicated work site and shall be available for inspection by the department upon request.

2. Utility Installation Permit Application. Application for a permit shall be made to the department. Permit applications shall contain and will be considered complete only upon compliance with the requirements of the following provisions:

   a. Submission of a completed permit application form, including the following:

      1. A detailed schedule of work including specific dates for any traffic lane closures or disruptions.

      2. A list of all subcontractors.

      3. Contact information for an onsite supervisor and corporate office for the applicant and all subcontractors.

      4. If the proposed project involves the installation of a pole or tower in the right-of-way, the applicant must submit scaled drawings of the proposed pole or tower and all proposed
attachments, and the location of the pole or tower in reference to the nearest occupied building.

5. The applicant shall identify in detail the location of the proposed project and any affected right-of-way, public utility easements, and the location of all existing and proposed facilities within the project area in addition to installation details, traffic control plans and other details requested by the department.

6. If the proposed project involves the installation of a pole or tower in the right-of-way, the applicant must submit evidence sufficient to demonstrate that the applicant is prohibited from using an existing pole or tower (either owned by the applicant or a third party) because such use is technically infeasible, economically prohibitive, or prohibited by law.

7. If the proposed project involves the installation of a pole or tower in the right-of-way that is greater than ten (10) feet taller than existing poles or towers in nearby right-of-way, the applicant must submit evidence sufficient to demonstrate that: i) the greater height is required to accomplish the applicant's purposes; ii) the applicant is prohibited from using existing poles or towers (either owned by applicant or a third party) to accomplish its purposes because such use is technically infeasible, economically prohibitive, or prohibited by law; iii) the pole or tower, due to its height and size, poses no greater danger to the health, safety, and welfare of the public than existing poles in nearby right-of-way; iv) the applicant has informed the alder within whose district the pole or tower will be located of the proposed project; and, v) the applicant has informed all property owners within two hundred (200) feet of the pole or tower location of the proposed project.

b. Payment of all money due to the city for: i) Applicable permit fees and costs as set forth below; ii) Unpaid fees or costs due for prior excavations; and iii) Any loss, damage, or expense suffered by the city because of applicant's prior excavations of the rights-of-way or any emergency actions taken by the city.

c. A statement on forms provided by the department that the applicant will comply with all local, state and federal codes including but not limited to safety, building, traffic control codes and the Manual of Uniform Traffic Control Devices (MUTCD).

d. Furnish a certificate of liability insurance compliant with standards of the department including required insurance policy endorsements.

e. Furnish a written guarantee or surety bond to the city in an amount determined by the city engineer to be the value of the work or the
improvements that may be disturbed. Such written guarantee or surety bond shall be in an amount no greater than ten thousand dollars ($10,000.00). An annual bond, may be given under this section to protect the public and the city which shall cover all excavation work done by the principal during a one-year period, beginning on the date of approval, which bond shall be conditioned as specified above.

3. Supplementary Applications.

a. Supplementary Application. Upon request of the city engineer under subdivision B.1.b. above, a permittee shall make a supplementary application to the department to modify the area or time period covered by the permit. The permittee shall pay any additional fees required thereby.

b. Fees for Supplementary Applications. A permittee shall pay additional fees as established by the public works committee, including any costs for additional permits.

C. Utility Installation Permit Fee.

1. Fee Calculation. The utility installation permit fee shall be established by the public works committee in an amount sufficient to recover the costs incurred by the city. This fee shall recover the city's administrative and inspection costs. The fee may be reestablished by the public works committee as needed to accurately reflect the costs incurred by the city. For those permit applications which provide for a substantial undertaking of excavation within the public right-of-way attended by disruption of the general public and traffic, the engineer is authorized to assess the actual cost of the city employee's time engaged in the review and inspection of the anticipated work, multiplied by a factor determined by the respective department to represent the city's cost for statutory expenses, benefits, insurance, sick leave, holidays, vacation and similar benefits, overhead and supervision, said factor not to exceed 2.0, plus the cost of mileage reimbursed to city employees which is attributed to the work, plus all consultant fees associated with the work at the invoiced amount plus ten percent (10%) for administration.

2. Payment Date. Payment of utility installation permit fees shall be made prior to the issuance of the permit. Alternatively, the engineer may, with the advice and consent of the finance director, establish a fee collection process in order to expedite the permitting system and recognize that certain excavations are deemed emergencies.

3. City Exemption. The city and its contractors shall not pay fees for excavations due to general government functions.

4. Coordinated Work. Permittees who join in a scheduled excavation performed by the city are not required to pay the inspection portion of the utility installation permit fee.
5. Non-Refundable. Utility installation permit fees, once paid, are not refundable, even if the permit is revoked.

D. Right-of-Way Repair/Restoration.

1. Timing of Work and Repair/Restoration. The work to be done under the utility installation permit, and the repair or 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 unseasonable or unreasonable under subsection G.2.

2. Repair or Restoration Required. The permittee shall be required to repair the public right-of-way. In addition to repairing its own work, the permittee must repair the general area of the work, and the surrounding areas, including the paving and its foundations, to the specifications of the department.

3. Standards. The permittee shall perform repairs according to the standard specifications for public works construction, the plans and specifications of the department, and in accordance with the conditions specified in the permit. The department shall have the authority to prescribe the manner and extent of the repair and may do so in written procedures of general application or on a case-by-case basis.

4. Acceptance of Work. Upon completion of the work, the department shall inspect the area of the work and accept the work when it determines that proper repair has been made.

5. Guarantees. The permittee guarantees its work and shall maintain it for thirty-six (36) months following its completion. During either period, the permittee shall, upon notification from the department, correct all repair work to the extent necessary, using the method required by the department. Said work shall be completed within ten (10) calendar days of the receipt of the notice from the department, not including days during which work cannot be done because of circumstances constituting force majeure or days when work is prohibited as unseasonable or unreasonable under subsection G.2.

6. Failure to Repair. If the permittee fails to repair the right-of-way in the manner and to the condition required by the department, or fails to satisfactorily and timely complete all work required by the department, the department, at its option, may do such work. In that event, the permittee shall pay to the city, within thirty (30) days of billing, the cost of repairing the right-of-way. If the work associated with the permit is directly attributable to a specific property, or properties, the unpaid bill shall become a special charge against the properties served by the repair work.

E. Inspection.

1. Notice of Completion. When the work under any permit issued hereunder is
completed, the permittee shall notify the department.

2. Site Inspection. The permittee shall make the work site available to the department and to all others as authorized by law for inspection at all reasonable times during the execution of and upon completion of the work.

3. Authority of Department. At the time of inspection, the city may order the immediate cessation of any work that poses a threat to the life, health, safety, or well-being of the public. Failure to maintain utility markings and/or the necessary traffic control measures may result in the issuance of a stop-work order. The city may issue an order to the permittee for any work that does not conform to the applicable standards, conditions, or codes. The order shall state that failure to correct the violation will be cause for revocation of the permit. Within ten (10) days after issuance of the order, the permittee shall present proof to the department that the violation has been corrected. If such proof has not been presented within the required time, the department may revoke the permit pursuant to subsection H.

F. Location and Permanent Marking Requirements.

1. Poles and towers over fifty (50) feet in height shall be located so that all residential, commercial, retail or other occupied buildings are outside the fall radius of the structure.

2. Rigid non-breakaway poles and other utility structures shall be located to meet American Association of State Highway Transportation Officials (AASHTO) requirements regarding pole location.

3. Underground facilities in the terrace area of the right-of-way may be marked with flush mounted caps only, unless other markings are allowed by the department.

G. Other Obligations.

1. Compliance with Other Laws. Obtaining a permit to excavate and/or occupy the right-of-way does not relieve a permittee of its duty to obtain all other necessary permits, licenses, and authority and to pay all fees required by any other city, county, state, or federal rules, laws or regulations. A permittee shall comply with all requirements of local, state and federal laws. A permittee shall perform all work in conformance with all applicable codes and established rules and regulations, and is responsible for all work done in the right-of-way pursuant to its permit, regardless of who does the work.

2. Prohibited Work. Except in an emergency, or with the approval of the department, no right-of-way excavation may be done when seasonally prohibited or when conditions are unreasonable for such work, as determined by the engineer. Cutting or opening of road pavement structures are specifically prohibited between November 15 and May 1.

a. Digger’s Hotline Compliance. All permittees shall comply with the Digger’s Hotline requirements set forth in Wis. Stat. § 182.0175, if applicable.

b. Planning. The department may seek information on existing facility locations for planning purposes. It shall be the obligation of permittees to locate facilities to enable planning by the city. Facility locations shall be represented in the field during field surveys or by providing maps of utilities within the planning areas.

c. Non-Compliance with Locating Requirements. No person shall fail to locate facilities as required under Wis. Stat. § 182.0175(2m). Additionally, any permittee who fails to locate facilities shall be responsible for all costs due to delays caused to city projects. Repeated failure to locate facilities may result in suspension of permits for the permittee and/or increased fines. Repeated failure to locate facilities shall be defined as more than two occurrences within twelve (12) months or more than three within twenty-four (24) months.

H. Revocations, Suspensions, Refusals to Issue or Extend Permits.

1. Grounds. The department may refuse to issue a permit or may revoke, suspend or refuse to extend an existing permit if it finds any of the following grounds:

   a. Issuance of a permit for the requested date would interfere with an exhibition, celebration, festival or other event;

   b. Misrepresentation of any fact by the applicant or permittee;

   c. Failure of the applicant or permittee to maintain required bonds and/or insurance;

   d. Failure of the applicant or permittee to complete work in a timely manner;

   e. The proposed activity is contrary to the public health, safety or welfare;

   f. The extent to which space is available in the right-of-way for which the permit is sought;

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

   h. The availability of other locations in the right-of-way or in other rights-of-way for the facilities of the permittee or applicant;

   i. If the permittee or applicant proposes to install a new pole or tower in the right-of-way, the availability of other existing poles or towers owned by the permittee or applicant or by a third party;
j. The applicability of ordinances or other regulations of the right-of-way that affect location of facilities in the right-of-way;

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

l. The applicant or permittee is otherwise not in full compliance with the requirements of this section or state or federal law.

2. The department shall not deny a utility installation permit because of a dispute between the city and the applicant related to subsection B.2.b above if:
   a. The dispute has been adjudicated in favor of the applicant; or,
   b. The dispute is the subject of an appeal filed by the applicant and no decision in the matter has yet been rendered.

3. Discretionary Issuance. Notwithstanding the provisions of subdivision (A), the department may issue a permit where issuance is necessary to prevent substantial economic hardship to a customer of the permittee or applicant, or to allow such customer to materially improve its utility service, or to allow the permittee or applicant to comply with federal, state, county or city laws or ordinances or an order of a court or administrative agency.

4. Appeals. Any person aggrieved by a decision of the department revoking, suspending, refusing to issue or refusing to extend a permit may file a request for review with the public works committee. A request for review shall be filed within ten (10) days of the decision being appealed. Following a hearing, the public works committee may affirm, reverse or modify the decision of the department.

I. Work Done Without a Permit.

1. Emergency Situations. Each applicant shall immediately notify the city by verbal notice on an emergency phone number provided by the city of any event regarding its facilities that it considers to be an emergency. The applicant may proceed to take whatever actions are necessary to respond to the emergency. Within two business days after the occurrence of the emergency, the applicant shall apply for the necessary permits, pay the fees associated therewith, and otherwise fully comply with the requirements of this section.

   If the city becomes aware of an emergency regarding an applicant's facilities, the department may attempt to contact the local representative of each applicant affected, or potentially affected, by the emergency. The city may take whatever action it deems necessary to protect the public safety as a result of the emergency, the cost of which shall be borne by the applicant whose facilities occasioned the emergency.

2. Non-Emergency Situations. Except in an emergency, any person who, without first having obtained the necessary permit, excavates a right-of-way
must subsequently register and apply for a utility installation permit, and shall in addition to any penalties prescribed by ordinance, pay double the normal fee for said permit, pay double all the other fees required by this section or other sections of the City of River Falls Municipal Code of Ordinances, deposit with the department the fees necessary to correct any damage to the right-of-way and comply with all of the requirements of this section. If no application is made, this subsequent permit application is denied or is not approved, the person causing the work to be done, shall discontinue and abandon the facilities.

3. Non-Compliant Work. All work that is determined by the city to be non-compliant with city standards and/or approved project plans must be removed or corrected immediately.

J. Location of Facilities.

1. Undergrounding. Unless in conflict with state or federal law, except when existing aboveground facilities are used, the installation of new facilities and replacement of existing facilities shall be done underground or contained within buildings or other structures in conformity with applicable codes.

2. Limitation of Space. To protect health, safety, and welfare, or when necessary to protect the right-of-way and its current use, the department may prohibit or limit the placement of new, replacement or additional facilities within the right-of-way if there is insufficient space to accommodate all of the requests of persons to occupy and use the right-of-way. In making such decisions, the department shall strive to the extent 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 needs for the particular utility service, the condition of the right-of-way, the time of year with respect to essential utilities, the protection of existing facilities 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.

3. Attachment to Bridges. Whenever an applicant or permittee under this section requests permission to attach facilities to any city bridge structure, the applicant shall provide a structural analysis prepared by a licensed state of Wisconsin professional engineer and pay a fee of one thousand dollars ($1,000.00) upon the granting of such permission to help defray administrative expense in the analysis and inspection of such installation. The owner of such pipes, conduits, cables or wires shall be entitled to no compensation for removal or relocation of the same in the case of repair, removal, or replacement of said bridge structure by the city.

4. Corridors. The department may assign specific corridors within the right-of-way, or any particular segment thereof as may be necessary, for each type of facility that is or, pursuant to current technology, the city expects will someday be located within the right-of-way. All excavation, obstruction, or other permits issued by the city involving the installation or replacement of facilities shall designate the proper corridor for the facilities at issue.
consistent with the department's assignment.

Any permittee who has facilities in the right-of-way in a position at variance with the corridors established by the city under this subdivision shall, no later than at the time of the next reconstruction or excavation of the area where the facilities are located, move the facilities to the assigned position within the right-of-way, unless this requirement is waived by the city for good cause shown, upon consideration of such factors as the remaining economic life of the facilities, public safety, customer service needs and hardship to the permittee.

K. Relocation and Protection of Facilities.

1. Requirement. Except as prohibited by state or federal law, a permittee must, promptly and at its own expense, maintain, support, protect or relocate its facilities in the right-of-way whenever the city, or its agent, acting in its governmental capacity, requests such action to prevent interference by the company's facilities with the following:

   a. A present or future city use of the right-of-way;
   
   b. A public improvement undertaken by the city;
   
   c. An economic development project in which the city has an interest or investment;
   
   d. When the public health, safety and welfare require it; or,
   
   e. When necessary to prevent interference with the safety and convenience of ordinary travel over the right-of-way.

2. Order. The city, or its agent, shall issue a due date for the work to the local representative of not less than seventy-two (72) hours, which due date shall be reasonable and based upon the actions to be undertaken by the permittee. If requested, the permittee shall restore the right-of-way following the completion of the work.

3. City's Right to Self-Help. In the event that a permittee does not proceed to maintain, support, protect or relocate its facilities as ordered in this subsection, the city may arrange to do the work and bill the permittee, said bill to be paid within thirty (30) days.

4. Additional Cost Recovery. The city may bill the permittee for any additional costs incurred as a result of the failure of the permittee to accomplish the needed work within the time specified in the order.

5. Exception. Notwithstanding the foregoing, a person shall not be required to remove or relocate its facilities 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 to the person therefore.
6. Penalty. If a permittee fails to perform the required action by the due date, the permittee shall be subject to a forfeiture of not less than two hundred fifty dollars ($250.00) nor more than five hundred dollars ($500.00) for the first offense within a three year period, and a forfeiture of not less than five hundred dollars ($500.00) nor more than two thousand five hundred dollars ($2,500.00) for the second or subsequent offense within a three year period. Each day such violation or failure to comply continues shall be considered a separate offense.

L. Indemnification Requirement. By registering with the city, or by accepting a permit under this section, a permittee, agrees to indemnify, defend, and hold harmless the city, its officers, boards, committees, commissions, elected officials, employees and agents (collectively, "indemnified parties"), from and against all loss or expense (including liability costs and attorney's fees) by reason of any claim or suit, or of liability imposed by law upon an indemniﬁed party for damages because of bodily injury, including death at any time resulting therefrom, sustained by any person or persons or on account of damages to property, including loss of use thereof, arising from, in connection with, caused by or resulting from the permittee's acts or omissions in the exercise of its rights under this section, whether caused by or contributed to by the city or its agents or employees.

M. Discontinued and Abandoned Facilities.

1. Discontinued Operations. A permittee who has discontinued or who plans to discontinue its operations in the city, either in full or in part, must do one of the following:

   a. Provide information satisfactory to the department that the permittee's obligations for its facilities under this subdivision have been lawfully assumed by another permittee.

   b. Submit to the department a proposal and instruments for dedication of its facilities under this subdivision to the city. If a permittee proceeds under this clause, the city may, at its option: i) accept the dedication for all or a portion of the facilities; ii) require the permittee, at its own expense, to remove the facilities in the right-of-way at ground or above ground level; or, iii) require the permittee to post a bond or provide payment sufficient to reimburse the city for reasonably anticipated costs to be incurred in removing the facilities.

   c. Remove its facilities under this subdivision within two years, unless the department waives this requirement or provides a later deadline.

2. Abandoned Facilities. Facilities of a permittee who fails to comply with subdivision (1) above or facilities that are not claimed by any registered person and which remain either unclaimed by a registered person or unused for one year, shall be deemed to be abandoned. Abandoned facilities are declared to be a nuisance. In addition to any remedies or rights it has at law or in equity, the city may, at its option, do any of the following:

   a. Abate the nuisance;
b. Take possession of the facilities; or,

c. Require removal of the facilities by the permittee, or the permittee's successor in interest, or other person responsible for the facilities.

3. Public Utilities. This subsection shall not apply to a public utility that is required to follow the provisions of Wis. Stat. § 196.81.

N. Reservation of Regulatory and Police Powers. The city, by the granting of a permit to excavate, obstruct and/or occupy the right-of-way, or by registering a person under this section, does not surrender or to any extent lose, waive, impair, or lessen the lawful powers and rights which it has, or may be hereafter granted, under the constitution and statutes of the state of Wisconsin to regulate the use of the right-of-way; and the permittee, by its acceptance of a permit to excavate, obstruct and/or occupy the right-of-way, and the permittee agrees that all lawful powers and rights, regulatory power, or police power, or otherwise, as are or the same may be from time to time vested in or reserved to the city, shall be in full force and effect and subject to the exercise thereof by the city at any time. A permittee is deemed to acknowledge that its rights are subject to the regulatory and police powers of the city to adopt and enforce general ordinances necessary to the safety and welfare of the public and is deemed to agree to comply with all applicable general law, and ordinances enacted by the city pursuant to such powers.

O. Penalty. Except as otherwise provided in this section, any person who violates this section or fails to comply with the provisions of this section shall be subject to a forfeiture of not less than two hundred fifty dollars ($250.00) nor more than one thousand dollars ($1,000.00). Each day such violation or failure to comply continues shall be considered a separate offense."

Section 2. Severability. The provisions of this ordinance shall be deemed severable and it is expressly declared that the City of River Falls would have passed the other provisions of this ordinance irrespective of whether or not one or more provisions may be declared invalid. If any provision of this ordinance or the application to any person or circumstances is held invalid, the remainder of the ordinance and the application of such provisions to other person's circumstances shall not be deemed affected.

Section 3. Effective date. This ordinance amendment shall take effect from and after its date of publication as provided by law.

FOR THE CITY OF RIVER FALLS

__________________________
Dan Toland, Mayor

ATTEST:

__________________________
Amy White, City Clerk

Adopted: ____________

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ORDINANCE NO. 2023 -02
AN ORDINANCE REPEALING AND RECREATING TITLE 18 CABLE FRANCHISE
ORDINANCE

THE COMMON COUNCIL OF THE CITY OF RIVER FALLS DOES ORDAIN:

Section 1. That Title 18, the “Cable Franchise Ordinance,” of the City of River Falls Municipal Code is hereby repealed and replaced in its entirety as follows:

“Title 18 – VIDEO AND CABLE TELEVISION SERVICE PROVIDERS

Chapter 18.04 – VIDEO AND CABLE TELEVISION SERVICE PROVIDERS

18.04.010 – General Provisions.

The provisions of § 66.0420, Wis. Stats., are hereby incorporated as though fully set forth herein. The additional provisions of this section supplement those provisions of the state statutes and constitute and expression of the City's home rule authority. Any person who owns, leases, operates, controls, constructs or maintains a video service or cable television service shall comply at all times with the provisions herein when constructing, operating or maintaining a video service or cable television service in the City.

18.04.020 - Definitions.

The terms used in this chapter shall have the same meaning as those terms are defined in § 66.0420(2) Wis. Stats., which is incorporated by reference as though fully set forth herein.

18.04.030 – Video service provider fee and PEG channel monetary support.

A. Video Service Provider Fee. Video Service Providers and Cable Operators shall pay a Video Service Provider Fee to the City in an amount equal to five percent (5%) of the providers gross receipts.

B. Supporting Documentation. Payment of the fee set forth in Sub. A, above, shall be accompanied by documentation verified by an agent or officer with the authority to legally bind the provider that is sufficient for the City to verify the accuracy of the fees being paid by the provider. The failure to provide such documentation shall subject the provider to a forfeiture of not less than $100.00 nor more than $1,000.00 per day until such time as the documentation is provided to the City.

18.04.040 – PEG Channel Requirements.
A. **Number of PEG Channels.** Video Service Providers and Cable Operators shall provide capacity for three PEG channels. These channels shall be allocated as follows; one channel dedicated for use by local educational authorities; and two channels designated for local public access programming and local governmental uses.

B. **Location of PEG Channels.** PEG channels must be carried on any service tier that is viewed by more than fifty percent (50%) of the Video Service Provider's or Cable Operator's customers. Video Service Providers or Cable Operators may not charge an extra fee nor require the rental of special equipment in order for their customers to view such PEG Channels if such fees or equipment are not required to view any of the non-PEG channels on such service tiers.

C. **Quality of PEG Channels.** Video Service Providers and Cable Operators shall not carry a PEG television signal in a lesser format or lower resolution than that afforded to a non-broadcast digital programmer carried on the video or cable system. The signal quality of PEG channels shall be indistinguishable or better than the signal of other non-PEG channels carried by the Video Service Provider or Cable Operator.

D. **Drops/Origination Points.** Video Service Providers and Cable Operators shall supply and maintain upstream capacity from all current origination points, (a/k/a "live drops") and shall provide sufficient capacity for carriage of a television signal from each of these origination points at all times. These origination points are all located in the City of River Falls.

E. **Substantial Utilization of PEG Channels and PEG Programming; Procedures for Disconnection Due to Failure to Substantially Utilize PEG Channel.**

1. **Written Notice of Objection to Program as Not Locally Produced.** A Video Service Provider or Cable Operator must provide written notice to the PEG Public Access Coordinator within ten days of the first original airing of any program that the Video Service Provider or Cable Operator is objecting to the program as having not been locally produced. Such notice shall describe with particularity the program being objected to, the date and time the program was first aired and the factual basis supporting the objection. Failure to timely provide this notice waives the objection, in which case such program will be counted towards the determination of whether said PEG channel is being substantially utilized.

2. **Written Notification of Failure to Substantially Utilize Channel.** A Video Service Provider or Cable Operator must provide written notification to the PEG Public Access Coordinator within ten days following any week in which the Video Service Provider or Cable Operator objects that the PEG Channel has not been substantially utilized. Such notice shall describe with particularity the time period being objected to, the dates and times during the week in which qualifying programming was not aired and the factual basis supporting the objection. Failure to timely provide this notice waives this objection, in which case such programming period will be counted towards the determination of whether said PEG channel is being substantially utilized.
3. **Written Notification of Intention to Disconnect, Reprogram or Drop PEG Channel.**

A Video Service Provider or Cable Operator must provide 120 days advance written notification to the PEG Public Access Coordinator that the Video Service Provider or Cable Operator intends to disconnect, reprogram or drop a PEG channel. A Video Service Provider or Cable Operator may not disconnect, reprogram or drop any PEG channel that it has not timely provided such written notice to. Furthermore, should the PEG Public Access Coordinator provide the Video Service Provider or Cable Operator with a written response that the PEG channel was substantially utilized during the time period in question or will be substantially utilized by the municipality, the Video Service Provider or Cable Operator shall not disconnect, reprogram or drop the PEG channel or channels.

4. **Penalty for Failing to Provide Notice(s).** If any Video Service Provider or Cable Operator disconnects, reprograms or drops any PEG channels without providing the notice(s) as required in subs. 1. through 3., above, the Video Service Provider or Cable Operator shall be subject to the following:

   a. Immediate reinstatement of the PEG channel to its location in the channel line-up prior to the disconnection, reprogramming or dropping of the channel;

   b. A forfeiture of not less than $1,000.00 nor more than $10,000.00 for each day that the PEG channel is disconnected, reprogrammed or dropped.

F. **Locally Produced Programming.** Locally produced programming shall include all programming produced by any PEG channel and shall include all programming that has not been commercially aired. "Locally produced programming" includes any program that was in part produced for original airing in the broadcast market in which it was produced either in part or in whole. The term "locally produced" shall not require that the programming was created, filmed or produced in the River Falls area. PEG stations may share and exchange programming content in order to meet the substantial utilization requirements of Sec. 66.0420(5)(b), Wis. Stats.

G. **Underwriting of Programming.** PEG channels may transmit non-commercial programming to subscribers generally or to specific recipients of Video Service Providers or Cable Operators. Nothing herein shall in any way prohibit or prevent PEG channels from accepting grants or sponsorships in support of such programming nor shall PEG channels be prohibited from acknowledging such grants or sponsorships before, during or immediately after such PEG programming has been broadcast in such a manner that is similar to the manner in which the Public Broadcasting System (PBS) acknowledges the substantially similar support of its programming content. Such acknowledgments shall comply with the requirements of 47 USC §399b as though the PEG channel were a public broadcast station. (8) **Notice of Intention to Move PEG Channel Locations/Designations.** Any Video Service Provider or Cable Operator, who intends to move any PEG channel from the channel designations in effect at the time that this ordinance is enacted, may only make such a change after providing 60 days advance written notice to the affected PEG channel(s). Additionally, such Video Service Provider or Cable Operator shall engage in a public education program of such intensity and duration as to reasonably inform the general public of the proposed PEG channel designations.

A. Subject to Police Powers. Video Service Providers and Cable Operators are subject to the police power of the City to adopt and enforce general ordinances necessary to the safety, health and welfare of the public. The grant of a statewide video or cable franchise does not render or to any extent lose, waive, impair or lessen the lawful powers and rights, now or hereafter vested in the City under the Constitution and statutes of the State of Wisconsin to regulate the use of streets and public ways or to regulate any matter affecting the safety, health, and welfare of the public. The City shall make the Video Service Provider's and Cable Operator's history of compliance with such codes and ordinances available to the Department of Financial Institutions so that the Department may determine the provider's or operator's legal, financial, and technical qualifications to provide video services.

B. Design, Permits, Construction, and Excavation. Video Service Providers and Cable Operators shall comply with all applicable City codes and ordinances including any zoning ordinance regarding height and use restrictions and shall pay such permit fees, encroachment fees and/or degradation fees for the use of any municipal right of way in the future by the City, and shall be subject to any forfeitures so specified for any violations thereof. The City shall make the history of compliance with such codes and ordinances available to the Department of Financial Institutions so that the Department may determine the Video Service Provider's or Cable Operator's legal, financial, and technical qualifications to provide video services.

C. Use of Cable Facilities. The City shall have the right to install and maintain upon the poles of the Video Service Provider or the Cable Operator at a charge equal to the Video Service Provider's or Cable Operator's costs any wire or pole fixtures that do not unreasonably interfere with the cable television system operations, including future plans, of the Video Service Provider or the Cable Operator. The City shall indemnify and hold harmless the Video Service Provider or Cable Operator from any claim that might arise due to or as a result of the City's use.

D. Construction and Technical Standards.

1. Compliance with Construction and Technical Standards. The Video Service Provider or Cable Operator shall construct, install, operate, and maintain its system in a manner consistent with all laws, ordinances, construction standards, governmental requirements, and FCC technical standards.

2. Additional Specifications. Additional specifications shall be as follows:
   a. Construction, installation, and maintenance of the cable television system shall be performed in an orderly and workmanlike manner. All construction must also conform to all City of River Falls policies and permit requirements. The Video Service Provider or Cable Operator must provide erosion control, backfilling and compaction, and restoration to meet City of River Falls specifications. All cables and wires shall be installed, where possible, parallel with electric and telephone lines. Multiple cable configurations shall be arranged in parallel, and bundled with due respect for engineering considerations.
   b. The Video Service Provider or Cable Operator shall at all times comply with the applicable: i) National Electrical Safety Code (National Bureau of
Standards; ii) National Electrical Code (National Bureau of Underwriters); and Applicable FCC or other federal, state, and local regulations.

c. The cable television system shall not endanger or interfere with the safety of persons or property in the franchise area or other areas where the Video Service Provider or Cable Operator may have equipment located.

d. Any antenna structure used in the cable television system shall comply with construction, marking, and lighting of antenna structures, required by the United States Department of Transportation.

e. All working facilities and conditions used during construction, installation and maintenance of the cable television system shall comply with the standards of the Occupational Safety and Health Administration.

f. In all areas of the City where all cables, wires, and other like facilities of public utilities are placed underground, the Video Service Provider or Cable Operator shall place its cables, wires, and other like facilities underground. When all public utilities relocate their facilities from pole to underground, the Video Service Provider or Cable Operator must concurrently do so.

E. Use of Streets.

1. Definition of "Street" for Purposes of Section 18.04.050. Street means the surface of and all rights-of-way and the space above and below any public street, road, highway, freeway, lane, path, public way or place, sidewalk, alley, court, boulevard, parkway, drive or easement now or hereafter held by the City for the purpose of public travel and shall include other easements or rights-of-way as shall be now held or hereafter held by the City which shall, within their proper use and meaning entitle the Video Service Provider or Cable Operator to the use thereof for the purposes of installing, repairing, or maintaining poles, wires, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, attachments, and other property as may be ordinarily necessary and pertinent to a cable television system.

2. Interference with Persons and Improvements. The Video Service Provider's or Cable Operator's system, poles, wires, and appurtenances shall be located, erected, and maintained so that none of its facilities shall endanger or interfere with the lives of persons or interfere with the rights or reasonable health, safety, or welfare of property owners who adjoin any of the streets and public ways, or interfere with any improvements the City may make, or hinder or obstruct the free use of the streets, alleys, bridges, easements, or public property. The Video Service Provider or Cable Operator shall secure a permit from the City Engineer for any improvements constructed in the public right-of-way in accordance with Section 12.12.010 of this Code.

3. Restoration to Prior Condition. In case of any disturbance of pavement, sidewalk, landscaping, driveway or other surfacing, the Video Service Provider or Cable Operator shall, at its own cost and expense and in a manner approved by the City Engineer, replace and restore all paving, sidewalk, driveway, landscaping, and streets or alleys, including any subbase which was disturbed, in as good condition as before the work was commenced and in accordance with standards for such work set by the City Engineer. After 30 days, if restoration measures are not performed to the reasonable satisfaction of the City Engineer, the City may
undertake remedial restoration activities, such activities to be performed at the Video Service Provider's or Cable Operator's cost.

4. **Erection, Removal and Common Uses of Poles.** Erection, removal and common uses of poles shall be in accordance with the following:
   
a. No poles or other wire-holding structures shall be erected by the Video Service Provider or Cable Operator without prior written approval of the City with regard to location, height, types, and any other pertinent aspect. However, no location of any pole or wire-holding structure of the Video Service Provider or Cable Operator shall be a vested interest and such poles or structures shall be removed or modified by the Video Service Provider or Cable Operator at its own expense whenever the City determines that the public health, safety, or welfare would be enhanced thereby.

   b. Each Video Service Provider or Cable Operator shall use existing poles whenever possible and shall not construct or install any new, different or additional poles in the streets until the Video Service Provider or Cable Operator obtains the City's written approval.

   c. Where the City desires to make use of the poles or other wire-holding structures of the Video Service Provider or Cable Operator and the use will not unduly interfere with the Video Service Provider's or Cable Operator's operations, the City may require the Video Service Provider or Cable Operator to permit such use for reasonable consideration and terms.

5. **Relocation of Facilities.** If at any time during the period of the franchise the City shall lawfully elect to alter, or change the grade of any street, alley or other public ways or alter or change the location or width of any street and/or any municipal underground facilities, the Video Service Provider or Cable Operator, upon reasonable notice by the City, shall remove or relocate as necessary its poles, wires, cables, underground conduits, manholes and other fixtures at its own expense.

6. **Cooperation with Building Movers.** The Video Service Provider or Cable Operator shall, at the request of any person holding a building moving permit issued by the City, temporarily raise or lower its wires to permit the moving of buildings. Expenses of such temporary removal, raising or lowering of wires shall be paid by the person making the request, and the Video Service Provider or Cable Operator shall have the authority to require such payment in advance. The Video Service Provider or Cable Operator shall be given at least ten days advance notice to arrange for such temporary wire changes.

7. **Tree Trimming.** The Video Service Provider or Cable Operator shall not remove any tree or trim any portion of any tree within any public street, as defined below, without the prior consent of the City, except in an emergency situation. The Video Service Provider or Cable Operator shall provide notice to any affected residents at the same time that the Video Service Provider or Cable Operator applies to the City for consent to perform tree trimming. The City shall have the right to do the trimming requested by the Video Service Provider or Cable Operator at the cost of the Video Service Provider or Cable Operator. Regardless of who performs the work requested by the Video Service Provider or Cable Operator, the Video
Service Provider or Cable Operator shall be responsible, shall defend and hold 
the City harmless from any and all damages to any tree as a result of the Video 
Service Provider's or Cable Operator's trimming, or to the property surrounding 
any tree, whether such tree is trimmed or removed.

8. Road Cuts. The Video Service Provider or Cable Operator shall not use road 
cuts, trenchless or subsurface methods for laying of cables or wires without the 
prior written approval of the City. Said written approval shall be in the form of a 
permit issued by the City Engineer as referenced in Subsection E.2 above.

9. One-Call System. The Video Service Provider or Cable Operator or its designee 
shall contact the one-call system, in accordance with §182.0175 Wis. Stats. 
before commencing any construction. The Video Service Provider or Cable 
Operator acknowledges that private sanitary sewer, water and stormwater 
laterals are not part of the one-call system and will take necessary measures to 
have these located by the owner. The Video Service Provider or Cable Operator 
shall be responsible for all damaged laterals and shall repair the laterals at its 
own expense.

18.04.60 – Consumer Protection Regulations.

Pursuant to the authority granted to the City under §66.0420(9)(b) Wis. Stats. and in addition to 
those rights provided in §100.209 Wis. Stats., and until such time as there is more than one 
Video Service Provider or Cable Operator, the City shall require the Video Service Provider or 
Cable Operator to comply with all customer service standards specified in 47 CFR 76.309(c).

18.04.070 – Enforcement and Penalties.

A. Except where otherwise provided, violation of any provisions of this Chapter shall result 
in a forfeiture of $250.00 per day per violation for each day that such violation occurs or 
continues to occur.

B. The imposition of a penalty in this Chapter shall not be deemed, nor shall it constitute 
any waiver on the part of the City, of its right to prosecute any claim for damage which 
might be or might have been caused to any public property by a violator.

18.04.080 – Procedures.

A. Whenever the City has cause to believe that the Video Service Provider or Cable 
Operator has violated one or more provisions of this Chapter, a written notice shall be 
given to said Video Service Provider or Cable Operator informing it of such alleged 
violation or liability. The written notice shall describe in reasonable detail the specific 
violation so as to afford the Video Service Provider or Cable Operator an opportunity to 
remedy the violation. The Video Service Provider or Cable Operator shall have ten days 
subsequent to the receipt of the notice in which to correct the violation before the City 
may impose penalties unless the violation is of such a nature so as to require more than 
ten days and the Video Service Provider or Cable Operator proceeds diligently within the 
ten days to correct the violation. In any case where the violation is not cured within ten 
days of notice from the City, or such other time limit as the Video Service Provider or 
Cable Operator and the City may mutually agree to, the City may then proceed with a 
forfeiture action for the uncured violation or violations.
B. The rights reserved to the City under this section are in addition to all other rights of the City whether reserved by this Chapter or authorized by law or equity, and no action, proceeding or exercise of a right with respect to penalties shall affect any other right the City may have.

18.04.090 – Force Majeure. The Video Service Provider or Cable Operator shall not be held in violation under, or in noncompliance with, the provisions of the Chapter, nor suffer any enforcement or penalty where such violation or noncompliance or alleged defaults occurred or were caused by strike, riot, war, earthquake, flood, severe weather conditions or other catastrophic act of nature, labor disputes, inability to obtain necessary contract labor or materials, governmental, administrative or judicial order or regulation, or any other event that is reasonably beyond the Video Service Provider's or Cable Operator's ability to anticipate and control and that makes performance impossible."

Section 2. Severability. The provisions of this ordinance shall be deemed severable and it is expressly declared that the City of River Falls would have passed the other provisions of this ordinance irrespective of whether or not one or more provisions may be declared invalid. If any provision of this ordinance or the application to any person or circumstances is held invalid, the remainder of the ordinance and the application of such provisions to other person's circumstances shall not be deemed affected.

Section 3. Effective date. This ordinance amendment shall take effect from and after its date of publication as provided by law.

FOR THE CITY OF RIVER FALLS

____________________________
Dan Toland, Mayor

ATTEST:

____________________________
Amy White, City Clerk

Adopted: ____________
Published: ____________
MEMORANDUM

TO: Mayor Toland and City Council
FROM: Jackie Hanson, Deputy City Clerk
DATE: January 10, 2023
TITLE: Change of Agent Request – Walgreens

RECOMMENDED ACTION
Please consider appointment and approve or deny by motion Robert Slate as Agent for Walgreens.

BACKGROUND
Walgreens was granted a Combination “Class A” Liquor and Class “A” Beer License. §125.04(6) states Corporations and Limited Liability Companies must appoint an Agent and that Agent shall be approved by the issuing authority. On May 24, 2022, Council approved the renewal of Brian Lee as the Agent for Walgreens. Brian Lee will be retiring from his position at Walgreens at the end of January and approval for appointment of a new Agent is necessary.

DISCUSSION
Walgreens is requesting Robert Slate as Agent. Robert has successfully completed the requirements to be appointed as Agent and will attend the meeting.

CONCLUSION
Consider appointing and approve or deny by motion the change of Agent request for Walgreens.
Schedule for Appointment of Agent by Corporation / Nonprofit Organization or Limited Liability Company

Submit to municipal clerk.

All corporations/organizations or limited liability companies applying for a license to sell fermented malt beverages and/or intoxicating liquor must appoint an agent. The following questions must be answered by the agent. The appointment must be signed by an officer of the corporation/organization or one member/manager of a limited liability company and the recommendation made by the proper local official.

To the governing body of: □ Town □ Village ● City of River Falls County of ST. CRON

The undersigned duly authorized officer/member/manager of Walgreens (Registered Name of Corporation / Organization or Limited Liability Company) a corporation/organization or limited liability company making application for an alcohol beverage license for a premises known as

Trade Name: Walgreens

Located at: 1047 N. Main St. River Falls WI 54022

Appoints: Robert Slate

(Name of Appointed Agent)

Home Address of Appointed Agent: 3463 Cambridge Pl River Falls WI 54022

Appoints Robert Slate to act for the corporation/organization/limited liability company with full authority and control of the premises and of all business relative to alcohol beverages conducted therein. Is applicant agent presently acting in that capacity or requesting approval for any corporation/organization/limited liability company having or applying for a beer and/or liquor license for any other location in Wisconsin? □ Yes X No If so, indicate the corporate name(s)/limited liability company(ies) and municipality(ies).

Is applicant agent subject to completion of the responsible beverage server training course? X Yes □ No

How long immediately prior to making this application has the applicant agent resided continuously in Wisconsin? 7 years

Place of residence last year: 3463 Cambridge Pl River Falls WI 54022

For: Walgreens

By: Robert Slate

(Name of Corporation / Organization / Limited Liability Company)

(Signature of Officer / Member / Manager)

Any person who knowingly provides materially false information in an application for a license may be required to forfeit not more than $1,000.

ACCEPTANCE BY AGENT

I, Robert Slate (Print / Type Agent’s Name), hereby accept this appointment as agent for the corporation/organization/limited liability company and assume full responsibility for the conduct of all business relative to alcohol beverages conducted on the premises for the corporation/organization/limited liability company.

Agent’s age: 0

Date of birth: 3/1/1972

(Date) (Signature of Agent) (Home Address of Agent)

APPROVAL OF AGENT BY MUNICIPAL AUTHORITY
(Clerk cannot sign on behalf of Municipal Official)

I hereby certify that I have checked municipal and state criminal records. To the best of my knowledge, with the available information, the character, record and reputation are satisfactory and I have no objection to the agent appointed.

Approved on 12/13/2022 by Chief Young

(Town Chair, Village President, Police Chief)

Title Police Chief

(Signature of Proper Local Official)

Wisconsin Department of Revenue

AT-104 (R. 4-18) 31
Auxiliary Questionnaire
Alcohol Beverage License Application

Submit to municipal clerk.

<table>
<thead>
<tr>
<th>Individual's Full Name (please print)</th>
<th>(first name)</th>
<th>(middle name)</th>
</tr>
</thead>
<tbody>
<tr>
<td>State</td>
<td>Robert</td>
<td>Paul</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Home Address (street/number)</th>
<th>Post Office</th>
<th>City</th>
<th>State</th>
<th>Zip Code</th>
</tr>
</thead>
<tbody>
<tr>
<td>3463 Cambridge Ave</td>
<td>River Falls</td>
<td>River Falls</td>
<td>WI</td>
<td>54022</td>
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</table>

<table>
<thead>
<tr>
<th>Home Phone Number</th>
<th>Place of Birth</th>
</tr>
</thead>
<tbody>
<tr>
<td>509-927-6848</td>
<td>417</td>
</tr>
</tbody>
</table>

The above named individual provides the following information as a person who is (check one):

☐ Applying for an alcohol beverage license as an Individual.
☐ A member of a partnership which is making application for an alcohol beverage license.
☐ Manager of [Name of Organization] which is making application for an alcohol beverage license.

The above named individual provides the following information to the licensing authority:

1. How long have you continuously resided in Wisconsin prior to this date? ___________ years.

2. Have you ever been convicted of any offenses (other than traffic unrelated to alcohol beverages) for violation of any federal laws, any Wisconsin laws, any laws of any other states or ordinances of any county or municipality? ____________________________.

☐ Yes ☐ No

If yes, give law or ordinance violated, trial court, trial date and penalty imposed, and/or date, description and status of charges pending. (If more room is needed, continue on reverse side of this form.)

3. Are charges for any offenses presently pending against you (other than traffic unrelated to alcohol beverages) for violation of any federal laws, any Wisconsin laws, any laws of any other states or ordinances of any county or municipality? ____________________________.

☐ Yes ☐ No

If yes, describe status of charges pending.

4. Do you hold, are you making application for or are you an officer, director or agent of a corporation/nonprofit organization or member/manager/agent of a limited liability company holding or applying for any other alcohol beverage license or permit? ____________________________.

☐ Yes ☐ No

If yes, identify.

5. Do you hold and/or are you an officer, director, stockholder, agent or employe of any person or corporation or member/manager/agent of a limited liability company holding or applying for a wholesale beer permit, brewery/winery permit or wholesale liquor, manufacturer or rectifier permit in the State of Wisconsin? ____________________________.

☐ Yes ☐ No

If yes, identify.

6. Named individual must list in chronological order last two employers.

<table>
<thead>
<tr>
<th>Employer's Name</th>
<th>Employer's Address</th>
<th>Employed From To</th>
</tr>
</thead>
<tbody>
<tr>
<td>Shop Show Inc</td>
<td>Charleston, South Carolina</td>
<td>July 2019 Nov 2020</td>
</tr>
<tr>
<td>Savers</td>
<td>Seattle, Washington</td>
<td>March 2018 June 2019</td>
</tr>
</tbody>
</table>

READ CAREFULLY BEFORE SIGNING: Under penalty provided by law, the undersigned states that each of the above questions has been truthfully answered to the best of the knowledge of the signor. The signor agrees that he/she is the person named in the foregoing application; that the applicant has read and made a complete answer to each question, and that the answers in each instance are true and correct. The undersigned further understands that any license issued contrary to Chapter 125 of the Wisconsin Statutes shall be void, and under penalty of state law, the applicant may be prosecuted for submitting false statements and affidavits in connection with this application. Any person who knowingly provides materially false information on this application may be required to forfeit no more than $1,000.

Signature of Named Individual
Supplement to
Schedule For Appointment of Agent

1. As designated agent for the license holder, do you understand that you have full responsibility over the business and may be held civilly or criminally liable for violations of the law or City ordinances by its employees, even if you are not physically present?

Yes ☑ No ___

2. Do you understand that under the laws of Wisconsin, violations of statutes regulating the sale of liquor do not require the showing of a willful or intentional act?

Yes ☑ X No ___

3. Do you understand that if an employee or agent of the entity on whose behalf you are agreeing to act as agent is guilty of a violation, it is no defense for you to claim that you were not present and did not know of the acts of that employee or agent and that you can be held responsible even if you expressly forbade that employee or agent from engaging in a particular act in violation of the state liquor laws?

Yes ☑ X No ___

4. Do you understand that with respect to employees or agents, as long as they are performing acts that fall within their scope of employment, such as serving beer or alcohol, such that for all intents and purposes he or she appears to be representing the interests of the license holder, you as its agent, can be held vicariously liable for violations of the law?

Yes ☑ X No ___

5. Do you realize that at all times the business is open, as its agent, you are responsible to make certain that all liquor laws and ordinances are being obeyed?

Yes ☑ X No ___

6. Do you understand that even if you claim that you were negligent in hiring or supervising an employee who violates the law, this is no excuse if a liquor law violation is brought against you in your representative capacity as agent?

Yes ☑ X No ___

Signature of Agent

Date

12/14/2020
MEMORANDUM

TO: Mayor Toland and City Council
FROM: Jackie Hanson, Deputy City Clerk
DATE: January 10, 2023
TITLE: Change of Agent Request – Kwik Trip Store #453

RECOMMENDED ACTION
Please consider appointment and approve or deny by motion Brandyn Ruesink as Agent for Kwik Trip Store #453.

BACKGROUND
Kwik Trip, Inc was granted a Combination “Class A” Liquor and Class “A” Beer License. §125.04(6) states Corporations and Limited Liability Companies must appoint an Agent and that Agent shall be approved by the issuing authority. On May 24, 2022, Council approved the renewal Julianne Chalupsky as the Agent for Kwik Trip Store #453. Julianne Chalupsky has accepted another position within the Kwik Trip organization and is no longer at Store #453 and approval for appointment of a new Agent is necessary.

DISCUSSION
Kwik Trip, Inc is requesting Brandyn Ruesink as Agent for Kwik Trip Store #453. Brandyn has successfully completed the requirements to be appointed as Agent and is currently the Agent for Kwik Trip store #301. He will attend the meeting.

CONCLUSION
Consider appointing and approve or deny by motion the change of Agent request for Kwik Trip, Inc. Store #453.
Schedule for Appointment of Agent by Corporation / Nonprofit Organization or Limited Liability Company

Submit to municipal clerk.

All corporations/organizations or limited liability companies applying for a license to sell fermented malt beverages and/or intoxicating liquor must appoint an agent. The following questions must be answered by the agent. The appointment must be signed by an officer of the corporation/organization or one member/manager of a limited liability company and the recommendation made by the proper local official.

☐ Town
☐ Village of River Falls  County of St. Croix
☑ City

The undersigned duly authorized officer/member/manager of KWIK TRIP, INC. (Registered Name of Corporation / Organization or Limited Liability Company)
a corporation/organization or limited liability company making application for an alcohol beverage license for a premises known as Kwik Trip 453 (Trade Name)
located at 1238 N. Main St., River Falls, WI 54022
appoints Brandyn J. Ruesink (Name of Appointed Agent)
228 N. 4th St., River Falls, WI 54022 (Home Address of Appointed Agent)
to act for the corporation/organization/limited liability company with full authority and control of the premises and of all business relative to alcohol beverages conducted therein. Is applicant agent presently acting in that capacity or requesting approval for any corporation/organization/limited liability company having or applying for a beer and/or liquor license for any other location in Wisconsin?
☑ Yes ☐ No
If so, indicate the corporate name(s)/limited liability company(ies) and municipality(ies).
Current agent of Kwik Trip 301, City of River Falls, WI, until new agent appointment approved.

Is applicant agent subject to completion of the responsible beverage server training course? ☑ Yes ☐ No
How long immediately prior to making this application has the applicant agent resided continuously in Wisconsin? Since 2006

Place of residence last year 228 N. 4th St., River Falls, WI 54022

For: KWIK TRIP, INC. (Name of Corporation / Organization / Limited Liability Company)
By: (Signature of Officer / Member / Manager)

Any person who knowingly provides materially false information in an application for a license may be required to forfeit not more than $1,000.

ACCEPTANCE BY AGENT

I, Brandyn J. Ruesink (Print / Type Agent’s Name), hereby accept this appointment as agent for the corporation/organization/limited liability company and assume full responsibility for the conduct of all business relative to alcohol beverages conducted on the premises for the corporation/organization/limited liability company.

228 N. 4th St., River Falls, WI 54022 (Home Address of Agent)

Agent’s age Date of birth
12/16/22

APPROVAL OF AGENT BY MUNICIPAL AUTHORITY
(Clerk cannot sign on behalf of Municipal Official)

I hereby certify that I have checked municipal and state criminal records. To the best of my knowledge, with the available information, the character, record and reputation are satisfactory and I have no objection to the agent appointed.

Approved on __________________________ by __________________________ (Date) (Signature of Proper Local Official) (Title)
(Town Chair, Village President, Police Chief)

Wisconsin Department of Revenue

35
Auxiliary Questionnaire
Alcohol Beverage License Application

Submit to municipal clerk.

<table>
<thead>
<tr>
<th>Individual's Full Name (please print)</th>
<th>(last name)</th>
<th>(first name)</th>
<th>(middle name)</th>
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</thead>
<tbody>
<tr>
<td>Ruesink</td>
<td>Brandyn</td>
<td>James</td>
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<tbody>
<tr>
<td>228 N. 4th St.</td>
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<table>
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<td>612-839-0882</td>
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</table>

<table>
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<tbody>
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<td>Grand Rapids, MN</td>
<td></td>
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</tbody>
</table>

The above named individual provides the following information as a person who is (check one):

☐ Applying for an alcohol beverage license as an individual.

☐ A member of a partnership which is making application for an alcohol beverage license.

☒ Agent of Kwik Trip, Inc.

(Name of Corporation, Limited Liability Company or Nonprofit Organization)

which is making application for an alcohol beverage license.

The above named individual provides the following information to the licensing authority:

1. How long have you continuously resided in Wisconsin prior to this date?  Since 2006

2. Have you ever been convicted of any offenses (other than traffic unrelated to alcohol beverages) for violation of any federal laws, any Wisconsin laws, any laws of any other states or ordinances of any county or municipality? Yes ☑ No ☐

If yes, give law or ordinance violated, trial court, trial date and penalty imposed, and/or date, description and status of charges pending. (If more room is needed, continue on reverse side of this form.)

3. Are charges for any offenses presently pending against you (other than traffic unrelated to alcohol beverages) for violation of any federal laws, any Wisconsin laws, any laws of other states or ordinances of any county or municipality? Yes ☑ No ☐

If yes, describe status of charges pending.

4. Do you hold, are you making application for or are you an officer, director or agent of a corporation/nonprofit organization or member/manager/agent of a limited liability company holding or applying for any other alcohol beverage license or permit? Yes ☑ No ☐

If yes, identify. Agent of Kwik Trip 301, City of River Falls, WI, until new agent appointment approved.

(Name, Location and Type of License/Permit)

5. Do you hold and/or are you an officer, director, stockholder, agent or employee of any person or corporation or member/manager/agent of a limited liability company holding or applying for a wholesale beer permit, brewery/.winery permit or wholesale liquor, manufacturer or rectifier permit in the State of Wisconsin? Yes ☑ No ☐

If yes, identify. (Name of Wholesale License or Permit) (Address By City and County)

6. Named individual must list in chronological order last two employers.

<table>
<thead>
<tr>
<th>Employer's Name</th>
<th>Eagan &amp; White Bear Lake, MN</th>
<th>Employed From</th>
<th>To</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sam's Club</td>
<td></td>
<td>3/2010</td>
<td>3/2018</td>
</tr>
</tbody>
</table>

READ CAREFULLY BEFORE SIGNING: Under penalty provided by law, the undersigned states that each of the above questions has been truthfully answered to the best of the knowledge of the signer. The signer agrees that he/she is the person named in the foregoing application, that the applicant has read and made a complete answer to each question, and that the answers in each instance are true and correct. The undersigned further understands that any license issued contrary to Chapter 125 of the Wisconsin Statutes shall be void, and under penalty of state law, the applicant may be prosecuted for submitting false statements and affidavits in connection with this application. Any person who knowingly provides materially false information on this application may be required to forfeit not more than $1,000.

Signature of Named Individual

AT-103 (R 7-18)

Wisconsin Department of Revenue

36
Supplement to
Schedule For Appointment of Agent

1. As designated agent for the license holder, do you understand that you have full responsibility over the business and may be held civilly or criminally liable for violations of the law or City ordinances by its employees, even if you are not physically present?
   Yes ☑ No ☐

2. Do you understand that under the laws of Wisconsin, violations of statutes regulating the sale of liquor do not require the showing of a willful or intentional act?
   Yes ☑ No ☐

3. Do you understand that if an employee or agent of the entity on whose behalf you are agreeing to act as agent is guilty of a violation, it is no defense for you to claim that you were not present and did not know of the acts of that employee or agent and that you can be held responsible even if you expressly forbid that employee or agent from engaging in a particular act in violation of the state liquor laws?
   Yes ☑ No ☐

4. Do you understand that with respect to employees or agents, as long as they are performing acts that fall within their scope of employment, such as serving beer or alcohol, such that for all intents and purposes he or she appears to be representing the interests of the license holder, you as its agent, can be held vicariously liable for violations of the law?
   Yes ☑ No ☐

5. Do you realize that at all times the business is open, as its agent, you are responsible to make certain that all liquor laws and ordinances are being obeyed?
   Yes ☑ No ☐

6. Do you understand that even if you claim that you were negligent in hiring or supervising an employee who violates the law, this is no excuse if a liquor law violation is brought against you in your representative capacity as agent?
   Yes ☑ No ☐

Signature of Agent

[Signature]

Date

[Date: 12/15/22]
MEMORANDUM

TO: Mayor Toland and Council Members
FROM: Todd Nickleski, City Engineer
DATE: January 10, 2023
TITLE: Acceptance of Public Improvements in Sterling Ponds 3rd and 4th Additions

RECOMMENDED ACTION:
Adopt resolution accepting public improvements in Sterling Ponds 3rd and 4th Additions.

BACKGROUND:
in 2021 and 2022, City Council approved an agreement to work with developers on the public improvements in Sterling Ponds 3rd and 4th Additions, including new and continued construction of Kettering Road, Elgin Court, and Coventry Circle. Public improvements are now complete and include water, sewer, and stormwater infrastructure, sidewalks, trail, and streets. Engineering, public works, and utility staff have inspected these public improvements and recommend acceptance.

Council formally accepts ownership of the public improvements by resolution. The details of public acceptance of improvements are outlined in the 2003 developer’s agreement as approved and amended by Council. As outlined in the agreement, adoption of a resolution by the City Council shall serve as the Certificate of Completion and acceptance of public improvements. This also serves as the start of the 14-month warranty period.

CONCLUSION
Staff recommends City Council acceptance of public improvements in Sterling Ponds 3rd and 4th Additions and that the 14-month warranty period for these public improvements begins on January 10, 2023.
RESOLUTION NO.

ACCEPTING PUBLIC IMPROVEMENTS
(STERLING PONDS 3\textsuperscript{rd} and 4\textsuperscript{th} ADDITIONS)

WHEREAS, public improvements including electric, sewer, water, stormwater, streets, trails and sidewalks, in Sterling Ponds 3\textsuperscript{rd} and 4\textsuperscript{th} Additions have been installed by the Developer; and

WHEREAS, the developer has requested acceptance of public improvements in Sterling Ponds 3\textsuperscript{rd} and 4\textsuperscript{th} Additions; and

WHEREAS, staff has reviewed and inspected the public improvements and recommends their acceptance; and

NOW, THEREFORE, BE IT RESOLVED that the Common Council of the City of River Falls hereby accepts public improvements in Sterling Ponds 3\textsuperscript{rd} and 4\textsuperscript{th} Addition.

BE IT FURTHER RESOLVED that the fourteen-month warranty for the project begins on January 10, 2023.

Dated this 10\textsuperscript{th} day of January 2023.

__________________________________________

Dan Toland, Mayor

Attest:

__________________________________________

Amy White, City Clerk
Administrator’s Report

January 10, 5 p.m. – City Council Workshop-Legislative Updates
January 10, 6:30 p.m. – City Council Meeting
January 16 – City Offices closed for MLK Day
January 24, 5 p.m. – City Council Workshop-Focus River Falls
January 24, 6:30 p.m. – City Council Meeting

RECREATION

2023 shelter reservations for Glen Park, Hoffman Park, and DeSanctis Park have begun. Make your reservation online at riverfalls.activityreg.com.

LIBRARY

Winter Wellness Adult Program Series runs January – March 2023
8 Dimensions of Wellness, 18+
Thursday, Jan. 5, 6:30 p.m. or Saturday, Jan. 14, 10:30 a.m. – 12:30 p.m.
This introductory dive into the eight dimensions serves as a springboard for greater wellness in all areas. (As developed by SAMHSA: Substance Abuse and Mental Health Services)

Origami Workshop for Adults
Saturday, Jan. 7, 12 p.m.
Enjoy an afternoon of exploring the art of paper folding. This class will take you through basic origami designs, and more advanced, multi-pieced sculptural techniques. Register here. Limit of 20 people with a short waiting list.

Mindful Eating: Supporting Your Local Farmer and Local Economy, 18+
Thursday, Jan. 12, 6:30-7:30 p.m.
Lindsey Baris, Farmer Owner of Rising Sun Farm and Orchard will discuss her diversified business. Learn how supporting local small-scale farm businesses is connected to a robust and healthy rural economy and community.

OPERATIONS

Facilities – CIP preparations have begun with a review and updating of previous requests as well as preparations for new ones. Roof work from the September storm continues. Some work on the metal coping is still expected this winter on the Public Safety building. Heating systems have run well for the month of December which has trended cooler than normal. Final preparations were made on the old PD with the School District moving in the week of December 19. Staff have assisted regularly with snow maintenance activities around City facilities as well as truck maintenance on occasion.

Public Works: Forestry – Trimming: Winter months are the ideal time to trim trees, so the city was poised to so. Maps and plans were created, and equipment sharpened and prepared. We were only able to get in a few days of boulevard trimming before the snows came which diverted the crew to plowing. The trimming will begin on the southwest side of town and move north. Smaller crews with the pole saw were able to make progress on various requests that came in throughout the year. Removal: Generally, the city is waiting for 2023 to restart contractor tree removals, but there were a few throughout town that were hazardous and needed to come down sooner. Storm: The heavy snows of December stressed a lot of the trees resulting in downed limbs and bent branches. It also provided a unique perspective of potential areas of concern or future work.
Public Works: Parks – Staff are continuing with tree trimming activities, in Parks and along trails, when the weather allows. Staff continue to assist with the cleanup of the Prairie Enthusiast’s invasives removal project. Staff have been regularly assisting with Snow Maintenance activities.

Public Works: Streets – Tree trimming has been started but has been hampered some by the above average snowfall in December. Plans are to continue tree trimming in January and February whenever the weather allows. Staff have been quite busy with snow removal activities in December and will start the year off with yet another larger snowfall. Staff have done well adjusting to new routes and are off to a good start for the season. Some sign work and other maintenance activities have occurred as the weather has allowed.

Public Works: Fleet – Routine maintenance activities continue with no major issues reported so far this season with snow equipment. The new Tractor Backhoe recently arrived as did the GMC replacement. The Kubota replacement should be coming soon and will be used immediately for Winter Maintenance activities. It will also be used for Large Area mowing in Spring-Fall.

Staffing – Mike Stifter will be departing after January 6th with his replacement expected by early February.

Events – Nothing noted for December or January at this time.

COMMUNITY DEVELOPMENT

- Development Review/Current Planning
  - Currently working with developers that plan to submit over the next few months
  - General Development Plan application received for The Current a multi-family development by Eau Claire Reality. The site is 5 acres located on the southeast side within the Thompson Annexation. Item to go to Plan Commission on January 3, 2023.
  - Special Use Permit application received for a self-storage facility at Radio Road and Chapman Drive. The request will be reviewed by Plan Commission on February 7, 2023.
  - Application received for a rental townhome project by Saturday Properties at Paulson Road and Radio Road (Thompson property) – Plan Commission recommended approval of the General Development Plan on October 4, 2022; Council approved the GDP on October 25, 2022. Next steps are SIP submission and approval process, slated for early 2023.
  - Application received for a single- and two-family neighborhood by Creative Homes on S. Apollo Road (Wells property) – Plan Commission recommended approval of the General Development Plan on October 4, 2022; Council approved the GDP on October 25, 2022. Next steps are SIP and plat submission and approval process, slated for early 2023.
  - Application received for a two-family neighborhood by Derrick Homes on Paulson Road at Radio Road (Thompson property) – Plan Commission recommended approval of the General Development Plan on November 1, 2022; Council approved the GDP on November 22, 2022. Next steps are SIP and plat submission and approval process, anticipated in early 2023.
  - Fielded questions and review of ETJ potential projects

- Historic Preservation Commission
  - Approved fabrication proposal of “The Glen” with a company called Pannier. It is to replace the Cascade Mill sign at Glen Park. Installation slated for Spring 2023.
  - Exploring quality Glover Station School images and information to incorporate inside building and kiosk.
  - Caption plaques to be installed soon for images inside Glen Pavilion & Train Depot image in City Hall.
  - HPC to apply for the Certified Local Government grant from the WI Historical Society in Dec. for nominating properties to the National Register of Historic Places.

- Mapping
  - Map of available sites for development; Click here for map
  - Map of active development projects map; Click here for map
• Projects
  o Focus River Falls – Steering Committees for the Comprehensive Plan, Outdoor Recreation Plan, and Bicycle and Pedestrian Plan continue to meet. Bike and Pedestrian Plan was recommended for approval by the Steering Committee on November 30th and Plan Commission on December 15th. The Parks and Recreation Advisory Board reviewed and recommended approval of the Outdoor Recreation Plan on December 14; the Plan Commission will review the plan and make a recommendation on January 3, 2023. Community Engagement – engagerf.org has over 900 registered participants and website homepage refreshed. Outdoor Recreation and Bike & Ped draft plans to be posted online soon.
• Assist customers with zoning and subdivision questions daily
• Exploring software options for permitting, inspections, and project management

Economic Development
• Attended online Innovation Center Management Committee Meetings (Schreiner)
• Attended River Falls Economic Development Corporation meeting (Schreiner and Burns)
• Treasurer duties for the RFEDC and Innovation Center Management Committee (Schreiner)
• Secretary duties for the RFEDC (Burns)
• Sent one RFI
• Continue Mann Valley project management
• Held monthly Major Development Project meeting (Schreiner)
• Gave presentation to Lion’s Club (Schreiner)
• Attended Community Venture Network (CVN) event (Schreiner)

Building and Inspections/Code Enforcement
• 745 Sycamore St, Frisbie/River Falls Senior Living – Multiple inspections for plumbing, fire stopping on 1st floor, insulation inspection 1st floor
• 1355 Sunshine Avenue, RF Renaissance Academy – Inspected footings and foundation, project is now on hold because the plan was denied by the State due to missing documentation
• 140 Quarry Road (old Burger King), Dunkin Donuts – permit issued to gut building and finish off interior shell only
• 1505 Paulson Road, McDonalds – Minor interior remodel/alteration completed
• 1200 S. Main and 1238 N. Main, Kwik Trip – adding walk-in cooler/freezer to each store, permit issued

Engineering
• Internal Consulting Projects
  o Mann Valley Design (SEH) – WDNR Permitting is in-process.
  o Powell Avenue Bridge Rehabilitation – WisDOT Design Study Report approved, temporary easement acquisition in process. Anticipating May 2023 bidding with Summer/Fall 2023 construction.
  o S. Wasson Lane Reconstruct (Strand) design is ongoing.
  o Wells Park Sidewalk (Stevens). Project was put on hold until spring 2023.
  o The Wastewater Utilities Biosolids Design Contract (Strand) kick-off meeting was 9/27, equipment selection and preliminary site layout is ongoing.
• Development review assistance for the following sites:
  o Lake George Lofts
  o BOH Electronics
  o Paulson Road Apartments (The Uplands)
  o Renaissance Academy
  o Saturday Townhomes
  o Derrick Townhomes
  o River Falls Wells (Apollo Rd)
  o Eurofins

<table>
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<th>Permits (Dec 1-30)</th>
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<tr>
<td>18 Building Permits</td>
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</tr>
<tr>
<td>2 New Home Permits</td>
<td></td>
</tr>
<tr>
<td>0 Fence Permits</td>
<td></td>
</tr>
<tr>
<td>0 Sign Permits</td>
<td></td>
</tr>
</tbody>
</table>
Thompson Properties West – Multifamily (The Current)  
Benson Commercial Suites

- Stormwater – Erosion control inspections are ongoing
- Public Construction Projects/Subdivisions
  - North Interceptor is substantially complete.
  - North Water Tower – Watermain construction is complete. Concrete foundation is complete.
  - North Loop Utility Loop awarded to Total Excavating for expected spring construction. Telecom utility conflicts were identified and working with telecom companies to relocate prior to Spring construction.
  - Residential lateral installation and abandonment inspections (ongoing)
  - Highview Meadows 7th Addition, building permits are being issued
  - Parking Map Updates Complete (Meadows Drive and West Cascade Avenue)
  - Sterling 3/4th Subdivision to be reviewed by Council on 1/10 for public acceptance

- Private Development Projects
  - Dawes Place Phase II: Majority of water and sewer installed, several building permits issued, and several foundations poured.
  - The Sycamore: Public curb and gutter and roadway construction is complete. Sidewalk is reopened.
  - Wasson Townhomes: Slow progress is reported due to supply issues
  - Lake George Lofts has commenced underground and foundation work.
  - Public utilities associated with Dawes Place Phase I were accepted by Council on November 22, commencing their warranty period.

- Conferences/Trainings/Events/Miscellaneous –
  - Parking Map Updates Complete (Meadows Drive and West Cascade Avenue)
  - East Division Trail paving complete

- Dog Park parking lot paving complete

Director
- Focus River Falls project management
- Department
  - Preparing Department staffing and organization study – met with Scot; drafting report
  - Prep staff on projects and presentations
  - Meetings: Staff 1:1s, consultant check ins, ED meetings, development team, exec team, staff working with consultant team on future land use, and future growth as well as potential policy recommendations items for the comprehensive plan
  - Drafted future land use map and policy recommendation items
  - Bike and Pedestrian Plan in final draft stage public comment to be open soon
  - Staff reviewing Outdoor Recreation Plan chapters
  - Staff reviewing Comprehensive Plan chapters
  - Staff/consultant meeting on implementation
  - Outdoor Recreation Steering Committee meeting
  - Comprehensive Plan Steering Committee meeting
  - Bicycle and Pedestrian Steering Committee meeting
  - Outreach:
    - EngageRF website homepage refresh
    - Gearing up for public input on draft plans
    - Focus River Falls update meeting with Hope for Creation, Lions Club, Grow to Share, UWRF and Rotary
  - EngageRF Analytics as of 12/16/22
    - 913 site registrations to date
    - 9,537 total visits
  - meeting, Merchant McIntyre meetings,
Staff meeting on grants and capital costs
- Assist with UniverCity
- Prep for annual review
- Kinni Corridor Implementation
  - Met with KCC Steve Goff
  - Met with communications consultant

**POLICE DEPARTMENT**

**Training**
- December 5-9 – Field Training Officer – Ofc. Hokkanen
- December 5-6 – LESB Vehicle Contacts Instructor – Ofc. Hemker
- December 5-9 – Leadership in Police Organization – Sgt. Dohmeier, Sgt. Moore
- December 13 – Glock Armorer’s Course – Ofc. Paul Jensen

**Miscellaneous**
- School Resource Officer Chris Gottfredsen had the following activity:
  - Two (2) Underage alcohol presentations for 8th grade health class
  - Intruder training to St Bridget’s staff
- School Resource Officer Bryan Jensen had the following activity:
  - Vaping presentations to high school students

**FIRE DEPARTMENT**

**Activities/Highlights**
- The Fire Department spent December conducting end of year activities such as station cleaning, apparatus and equipment cleaning and maintenance, and inventory.
- The Fire Department was able to implement a new training platform called FireRescue 1 Academy. This new platform should dramatically increase the quality of training and record keeping provided by the department.
- The Fire Department saw an uptick in call volume over the previous year. Noteworthy calls occurred at the River Falls Mobile Home Park:
  - An attempted arson on December 9, where a firefighter was bitten by a dog
  - A structure fire on December 30 that resulted in a fatality of a six-year-old

**December Numbers**
- In December 2022, we responded to a total of 25 calls for service, which compares to 19 calls for the same period in 2021. Year to date: 2022 = 311 calls; 2021 = 303 calls
### ELECTRIC DEPARTMENT

- **Electric**
  - Performed maintenance repairs through required system inspections
  - Completed monthly substation inspections
  - Continued weekly and monthly underground services
    - Installed over 25 new customers
    - Winter lateral fee is no in place for the winter season
  - Worked on monthly meter readings
  - Worked on miscellaneous service orders of tree trimming around service wires and streetlight repairs
  - Worked on miscellaneous inspection reports and maintenance repairs
  - There were 4 outages this month affecting 173 customers
  - Continued work on annual inspections for our 600 amp Switching and Capacitor insertions
  - Started annual inspections for the overhead and underground systems
    - This year, we in the South Fork Substation area (feeders 11,12,13,14)

### WATER DEPARTMENT

- **Water**
  - Repaired two broken curb stops on our service lines
  - Finished testing large meters that were due in 2022
  - Started doing our winter cleaning and maintenance in the wells
    - Replaced all the chemical lines, cleaned, and organized
  - Building water meters for AMI changeouts, we need to attach the registers with the radios, then on to the new brass meter
  - Received meter registers in late November and 500 new meters in late December
  - Sent New Holstein old AMR Erts that we would dispose of normally

### WASTEWATER DEPARTMENT

- **Wastewater**
  - Met with Strand Associates on the Bio Solids Dryer project
  - Chose the equipment (screw press for our dewatering process, a gas screw type dryer, and an outdoor silo for our storage of the dry product)
  - Finished cross training our operators
    - All seven operators are fully trained in the water department along with the lab
  - Six of the seven operators are trained in the operation of the WWTP, with the final one set to be trained by the end of January
  - Completed monthly WWTP, wells and lift inspections and performed snow removal

### UTILITY CUSTOMER SERVICE PROJECTS

- **Moratorium began November 1**
No disconnections for residential customers at this time
- Business disconnection letters were sent out on December 8
  - 15 businesses with past due amounts reflecting the threshold of $250.00 or more
- Personal calls were made on December 16
- Nine business customers were on the disconnection list and were called informing them of disconnection date and phone numbers for payment as well as payment arrangement options
  - There were three payment arrangements established on or before the disconnection day of December 19
  - No businesses were disconnected in the month of December
- There has been over 21” of snow in the month of December
- Calls received by the Customer Service department were concerns about snow removal, tree branches downed by the heavy snowfall and garbage related questions closer to the holiday season

Renewable Energy
The city continued to take applications for renewable energy installations. Worked with WPPI Energy to make an easier, more uniform, online system for customers to apply for installing solar. Green block sales are currently 1117 customers and buying 3156 blocks. Customer participation rose to 16.9%, this is our new all-time high. The city continued to explore solar as options on both the City Hall and Public Library for 2023.

Local Projects, Focus on Energy & WPPI Energy
- Continued to evaluate Level II Electric Vehicle charging stations for 2023
- POWERful Choices! again met their Focus on Energy goal for the River Falls community to receive $2 for every $1 sent into the program. In 2022 River Falls, contributed approximately $53,000 to Focus on Energy and received $159,400 in direct incentive payments. Through the Focus on Energy program the community is at a reduction of 394 kW and 1,698,983 kWh savings in 2022.
- Revised and uniformed local energy efficiency and renewable energy marketing materials
- Continued to enroll new businesses into the New Construction Design Assistance Program
- Tested solar LED streetlights as a short-term replacement for a standard LED streetlight. Snow impacted the effectiveness of light.
- Worked on making “Time of Day” more accessible to customers. Added a widget (icon) to the MyAccount portal that allows customers to simply click the icon and it does an instant evaluation of the benefits of being on the Time-of-Day rate.

Training, committees and speaking engagements
- Department of Energy- training on how utilize The Inflation Reduction Act for beneficial electrification
- WPPI Energy’s Member Services Advisory Group meeting - quarterly
- EarthFest 23 planning committee - monthly
- UWRF Sustainability Working Group – monthly

Engineering Tech Work
- 2 plan reviews: Thompson Heights and Thompson Storage Units Concept
- Attended 1 Plan review meeting - The Current
- Attended 2 training sessions: Introduction to Arcade in ArcGIS Pro and Confined Space Entry Training-Hands on Portion
- Worked with ESRI to resolve mapping issues online
- Inspected 1 water/sanitary lateral abandonment - SART building
- Updated Manhole inspections in mapping system
- Put data together for Pierce Pepin Electric
- Reviewed sanitary video for the newly installed N. Interceptor Project
- Attached more sanitary videos and reports from the field crew to the mapping system