

ORDINANCE NO. 4-2026

ORDINANCE TO CREATE DIVISION 90-351 OF THE MUNICIPAL CODE OF ORDINANCES
RELATED TO REGULATION OF TELECOMMUNICATIONS AND FIBER FACILITIES IN
THE PUBLIC RIGHT OF WAY

WHEREAS, The Village Board finds that the public right-of-way is a limited and valuable public resource held in trust for the public; and

WHEREAS, the Village has authority under Wis. Stat. §§ 61.34, 62.11(5), and 66.0425 to regulate the use of its rights-of-way; and

WHEREAS, the Village seeks to promote the deployment of broadband infrastructure while ensuring orderly, safe, and efficient use of the right-of-way; and

WHEREAS, the Village desires to establish uniform requirements for telecommunications providers;

NOW THEREFORE, at a regular meeting of the Village Board for the Village of Mount Pleasant, held on the 11th day of May 2026, a quorum of the members of the Village Board being present and a majority voting in favor thereof, the Village Board of Mount Pleasant do ordain as follows:

SECTION 1. Division 90-351 of the Municipal Code of Ordinances is hereby created as follows:

DIVISION 90-351 FIBER AND TELECOMMUNICATIONS**§90-351.10 Purpose and Authority.**

This article is adopted pursuant to Wis. Stat. §§ 61.34, and 66.0425 to regulate the placement and maintenance of telecommunications facilities in the public right-of-way.

§90-351.20 Definitions.

The definitions of this section apply only in administering and enforcing the fiber and telecommunications regulations of this article.

FACILITIES

Fiber optic cables, conduit, pedestals, cabinets, vaults, and related equipment.

LICENSE AGREEMENT

A written agreement granting occupancy rights.

PROVIDER

Any entity placing telecommunications facilities in the Village right-of-way.

RIGHT-OF-WAY PERMIT

Village authorization for construction activities within the Village right-of-way.

§90-351.40 Application Requirements.

Applicants shall provide identity, system description, plans, and proof of insurance.

§90-351.50 Permits.

A Right-of-Way Permit is required for each construction project, including plans and restoration details.

A. Prior to commencing construction of a private communications system within, above, over, under, across or through or in any way connected with the streets, public ways or public places of the Village, the Provider shall obtain the written approval of, and all other required permits from, all appropriate agencies of the Village, including the Department of Public Works. Applications for such approval shall be made in the form approved by the Village Engineer.

B. A permit issued under this chapter shall be a nonexclusive permit for the use of the streets, public ways or public places as specified in the permit, for the erection, construction, reconstruction, operation, dismantling, testing, use, maintenance, repair, rebuilding and replacement of a private communications system.

C. Upon obtaining such written approval, the Provider shall give the Village Engineer written notice of proposed construction within a reasonable time prior to such construction, but in no event less than 10 days before construction, except for emergency repairs of existing lines and cables.

D. Any person who submits a request for a permit in accordance with this chapter shall include therein proposed agreements for the use of existing utility poles and conduits, if applicable, with the owner or owners of such facilities to be used or affected by the construction of the proposed private communications system. All such agreements shall become effective on the date of execution of a permit issued under this chapter. In the event that permission to use existing poles or conduits cannot be obtained, the Provider shall submit documentation or other evidence to the Village which supports the unavailability of such poles and conduits, and a detailed alternate plan for construction, which plan assures protection for all existing facilities.

E. The Provider shall occupy the streets, public ways and public places of the Village as a terminable privilege under the laws of the State of Wisconsin, including, but not limited to, s. 66.0425, Wis. Stats., as the same may be amended from time to time. The Provider shall, at its expense, protect, support, temporarily disconnect, relocate in the same street, public way or other public place, or remove from such street, public way or public place, any of its property and facilities when required to do so by the Village due to any public work or improvement, street vacation and abandonment, or any other work or improvement required for the public health, safety and welfare. The Provider shall promptly remove its property and facilities upon the termination or expiration of its telecommunication permit, without reimbursement or compensation therefor from the Village.

F. A permit issued under this chapter shall apply only to the location or locations stated on the permit. Each permit shall state the location of each end and leg of the private telecommunications system and specify the length certified by a registered survey company or through other equivalent means acceptable to the Village.

G. A permit issued under this chapter shall continue in force and effect for as long as the Provider is in compliance with the provisions of this chapter, and all applicable federal and state laws, rules and

regulations and local ordinances, and until the space occupied pursuant to the permit is not required by the Village for public purposes.

H. If any permit is revoked under the provisions of this chapter, the private communications system facilities of Provider shall, at the option of the Village, be removed from all streets, public ways and public places of the Village at the sole expense of Provider.

§90-351.60 Construction and Maintenance Standards.

A. Facilities shall be installed to minimize disruption and comply with Village engineering standards. Facilities unused for 12 months are deemed abandoned and must be removed at the Provider's expense. Upon completion of installation of maintenance, permit revocation, or in the case of abandonment, the Provider shall cause the right-of-way to be restored to equal or better condition.

B. Provider shall maintain all cables, conduits, wires and all other facilities and appurtenances in good condition, order and repair.

C. Provider shall keep accurate, complete and current maps and records of its system and facilities which occupy the streets, public ways and public places within the Village and shall furnish to the Village, as soon as reasonably practicable, two complete copies of such maps and records, including as-built drawings, to the department of engineering.

§90-351.70 Coordination and Colocation.

Providers shall coordinate with other utilities and make reasonable efforts to minimize duplication. Permits issued under this chapter shall not be deemed to authorize the Provider to erect and maintain new poles in areas serviced by existing poles if such existing poles are available to accommodate and include Provider's facilities. The Provider shall obtain written approval from the Village Engineer and all other appropriate agencies of the Village prior to the erection of new poles or underground conduits in areas where such poles or underground conduits are not in existence to accommodate and include Provider's facilities.

§90-351.90 Insurance and Indemnification

A. A permitted Provider shall indemnify and hold harmless the Village, its officers, boards, commissions, agents and employees, against and from any and all claims, demands, causes of action, actions, suits, proceedings and damages, including costs or liabilities of the Village with respect to its employees, of every kind and nature whatsoever, including, but not limited to, damages for injury or death or damage to person or property, and regardless of the merit of any of the same, and against all liability to others, and against any loss, cost and expense resulting or arising out of any of the same, including any attorney's fees, accountant fees, expert witness or consultant fees, court costs, per diem expense, traveling and transportation expense, or other costs or expenses for any damages resulting from the operation, construction or maintenance of the system.

B. The permitted Provider shall, at the sole risk and expense of the Provider, upon demand of the Village, made by and through the Village attorney, appear in and defend any and all suits, actions, or other legal proceedings, whether judicial, quasi-judicial, administrative, legislative or otherwise, brought or instituted or had by third parties or duly constituted authorities, against or affecting the Village, its officers, boards, commissions, agents or employees, and arising out of or pertaining to the exercise or the enjoyment of the telecommunication permit issued to Provider or the granting thereof by the Village.

C. The permitted Provider shall pay and satisfy and shall cause to be paid and satisfied any judgment, decree, order, directive or demand rendered, made or issued against Provider, the Village,

its officers, boards, commissions, agents or employees in any of these premises, and such indemnity shall exist and continue without reference to or limitation by the amount of any bond, policy of insurance, deposit, undertaking or other assurance required hereunder, provided that neither Provider nor Village shall make or enter into any compromise or settlement of any claim, demand, cause of action, action, suit or other proceeding without first obtaining the consent of the other.

D. The Provider shall file with the Village clerk and shall, during the term of its permit, maintain in full force and effect at its own cost and expense the following:

1. General comprehensive liability insurance in the amount of at least \$1 million, together with personal injury liability insurance in an amount of not less than \$250,000 for injuries, including accidental death, to any one person, and subject to the same limit for each person in an amount not less than \$500,000 on account of any one occurrence, and property damage liability insurance in an amount not less than \$250,000 resulting from any one occurrence, and workers compensation insurance; provided as follows:

a. The Village shall be named as an additional insured on all of said insurance policies; and

b. Where such insurance is provided by a policy which also covers Provider or any other entity or person, it shall contain a standard cross-liability endorsement; and

c. All insurance, including performance bonds, shall be issued by companies authorized to do business in the state of Wisconsin; and d. All insurance required by this section shall be and remain in full force and effect for the entire life of the permit. Said policy or policies of insurance or a certified copy or copies thereof shall be approved by the Village Attorney and deposited with and kept on file by the Village Clerk.

2. The Provider shall not cancel any such insurance policy nor reduce the coverage thereof without prior written notice to the Village Clerk at least 15 days in advance.

§90-351.100 Transfer or Assignments.

No Right-of-Way Permit shall be transferred or assigned, in whole or in part, nor shall title thereto, either legal or equitable, or any right, interest or property therein, pass to or vest in any person other than Provider, without the prior express written consent of the Village. The consent or approval of the Village to any transfer or assignment of a permit shall not constitute a waiver or release of the rights of the Village in and to its streets, public ways or public places. For purposes of this section, the merger or consolidation of the Provider with another person or entity shall not be deemed to constitute a transfer or assignment within the meaning of this section. The assignment to an unaffiliated company to place a line, cable or fiber optic facility within a permitted conduit or duct bank of a Provider shall require an additional telecommunication permit accompanied by payment of all applicable charges and fees.

§90-351.110 Existing Infrastructure.

Except as the same have been authorized pursuant to s. 66.0425, Wis. Stats., and this Code of Ordinances, all lines, cables and facilities of private communications systems which had been constructed or placed within the streets, public ways or public places of the Village prior to the effective date of this chapter (revisor inserts date) shall be deemed to lack authorization to occupy said streets, public ways or public places. All unauthorized lines, cables and facilities of a private communications system shall thereafter be permitted to continue to occupy the streets, public ways and public places of the Village only if compliance is obtained with all provisions of this chapter. The private communications system shall be granted a period of 3 months from the effective date of this chapter within which to obtain such compliance, provided that such period may be extended by action of the Village Board for good cause shown.

§90-351.120 Fees

The Village may charge cost-based fees consistent with Wis. Stat. § 66.0425.

§90-351-130 Enforcement

Violations may result in permit revocation, removal, citations pursuant to §1-15, and cost recovery.

SECTION 2. All ordinances and parts of ordinances contravening the provisions of this ordinance are hereby repealed.

SECTION 3. The terms of this ordinance are severable. Should any term or provision of this ordinance be found to be invalid by a court of competent jurisdiction, the remaining terms and provisions shall remain in full force and effect.

SECTION 4. This ordinance shall take effect and be in force after its passage and publication.

PASSED AND ADOPTED by the Village Board of the Village of Mount Pleasant on the 11th day of May, 2026

APPROVED:

David DeGroot, Village President

ATTEST:

Jill Firkus, Village Clerk