

CHAPTER 7

RIGHT-OF-WAY / TRAFFIC / PARKING / STREETS

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SECTION 1

GENERAL PROVISIONS

SECTION:

- 7-1-1: Definitions
- 7-1-2: Application
- 7-1-3: Emergency Vehicles
- 7-1-4: Violation a Misdemeanor or Petty Misdemeanor
- 7-1-5: Scope and Orders of Officers
- 7-1-6: General Parking and Traffic Control

7-1-1: DEFINITIONS. Except as otherwise defined in the City Code, or where the context clearly indicates a contrary intent, the words and terms defined in Minnesota Statutes, Chapter 169, shall be applicable to this Chapter.

7-1-2: APPLICATION. The provisions of this Chapter are applicable to the drivers of all vehicles and animals upon streets, including, but not limited to, those owned or operated by the United States, the State of Minnesota, or any county, town, city, district, or other political subdivision.

7-1-3: EMERGENCY VEHICLES. The provisions of this Chapter shall not apply to vehicles when operated with due regard for safety, under the direction of police officers in the chase or apprehension of violators of the law or of persons charged with or suspected of any such violation, nor to Fire Department or fire patrol vehicles when traveling in response to a fire alarm, nor to public ambulances when traveling in emergencies. This exemption shall not, however, protect the driver of any such vehicle from the consequences of a reckless disregard of the safety of others.

7-1-4: VIOLATION A MISDEMEANOR OR PETTY MISDEMEANOR. Every person violates a section, subdivision, paragraph or provision of this Chapter when he performs an act thereby prohibited or declared unlawful, or fails to act when such failure is thereby prohibited or declared unlawful, and upon conviction thereof, shall be punished as follows:

- A. Where the specific section, subdivision, paragraph or provision specifically makes violation a misdemeanor, he shall be punished as for a misdemeanor; where a violation is committed in a manner or under circumstances so as to endanger or be likely to endanger any person or property, he shall be punished as for a misdemeanor; where he stands convicted of violation of any provision of this Chapter, exclusive of violations relating to the standing or parking of an

unattended vehicle, within the immediate preceding twelve (12) month period for the third or subsequent time, he shall be punished as for a misdemeanor.

- B. As to any violation not constituting a misdemeanor under the provisions of Section 7-1-4.A. of this Code, he shall be punished as for a petty misdemeanor.
- C. As to any violation of a provision adopted by reference, he shall be punished as specified in such provision, so adopted.

Source: City Code

Effective Date: 06-01-1990

7-1-5: SCOPE AND ORDERS OF OFFICERS.

- A. Scope. The provisions of this Chapter relate exclusively to the streets, alleys and private roads in the City, and the operation and parking of vehicles refer exclusively to the operation and parking of vehicles upon such streets, alleys and private roads.
- B. Orders of an Officer. It is a misdemeanor for any person to willfully fail or refuse to comply with any lawful order or direction of any police or peace officer invested by law with authority to direct, control or regulate traffic.

7-1-6: GENERAL PARKING AND TRAFFIC CONTROL.

- A. Council Action. No devices, sign or signal shall be erected or maintained for traffic or parking control unless the Council shall first have approved and directed the same by resolution, except as otherwise provided in this Section.
- B. Temporary Restrictions. The City, acting through the Chief of Police, may temporarily restrict traffic or parking for any private, public or experimental purpose. It is the duty of the Chief of Police to so restrict traffic or parking when a hazardous condition arises or is observed.
- C. Traffic Restrictions and Prohibitions. It is a misdemeanor for any person to drive a vehicle contrary to lane restrictions or prohibitions painted on any street, or contrary to sign-posted, fenced, or barricaded restrictions or prohibitions.
- D. Parking Restrictions and Prohibitions. It is unlawful for any person to park a vehicle, except an emergency vehicle, contrary to lane restrictions or prohibitions painted on any curb, or contrary to sign-posted, fenced, or barricaded restrictions or prohibitions.

- E. Damaging or Moving Markings. It is a misdemeanor for any person to deface, mar, damage, move, remove, or in any way tamper with any structure, work, material, equipment, tools, sign, signal, barricade, fence, painting or appurtenance in any street unless such person has written permission from the City or is an agent, employee or contractor for the City, or other authority having jurisdiction over a particular street, and acting within the authority or scope of a contract with the City or such other authority.

SECTION 2

OBSTRUCTIONS AND USAGE

SECTION:

- 7-2-1: Ice and Snow on Public Sidewalks
- 7-2-2: Obstructions in Streets
- 7-2-3: Street Openings or Excavations
- 7-2-4: Load Limits
- 7-2-5: Parades
- 7-2-6: Regulation of Grass, Weeds, and Trees
- 7-2-7: Requirement of Sewer and Water Main Service Lateral Installation
- 7-2-8: Vehicle Repair on Street
- 7-2-9: Excessive Vehicle Noise

7-2-1: ICE AND SNOW ON PUBLIC SIDEWALKS.

- A. Ice and Snow a Nuisance. All snow and ice remaining upon public sidewalks is hereby declared to constitute a public nuisance and shall be abated by the owner or tenant of the abutting private property within twenty-four (24) hours after such snow or ice has ceased to be deposited.
- B. City to Remove Snow and Ice. The City may cause to be removed from all public sidewalks, beginning twenty-four (24) hours after snow or ice has ceased to fall, all snow or ice which may be discovered thereon, and it shall keep a record of the cost of such removal and the private property adjacent to which such accumulations were found and removed.
- C. Cost of Removal to be Assessed. The City Clerk/Treasurer shall, upon direction of the Council, and on receipt of the information provided for in the preceding Subdivision, extend the cost of such removal of snow or ice as a special assessment against the lots or parcel of ground abutting on walks which were cleared, and such special assessments shall at the time of certifying taxes to the County Auditor be certified for collection as other special assessments are certified and collected.
- D. Civil Suit for Cost of Removal. The City Clerk/Treasurer shall, in the alternative, upon direction of the Council, bring suit in a court of competent jurisdiction to recover from the persons owning land adjacent to which sidewalks were cleared, as provided in Section 7-2-1.B of this Code, the cost of such clearing and the cost and disbursement of a civil action therefore.
- E. City Clerk/Treasurer to Report Sidewalks Cleared. The City Clerk/Treasurer shall present to the Council at its first meeting after snow or ice has been cleared from the sidewalks as provided in Section 7-2-1.B of this Code the report of the

City thereon, and shall request the Council to determine by resolution the manner of collection to be used as provided in Sections 7-2-1.C or 7-2-1.D of this Code.

7-2-2: OBSTRUCTIONS IN STREETS.

- A. Obstructions. It is a misdemeanor for any person to place, deposit, display or offer for sale, any fence, goods or other obstructions upon, over, across or under any street without first having obtained a written permit from the Council, and then only in compliance in all respects with the terms and conditions of such permit, and taking precautionary measures for the protection of the public. An electrical cord or device of any kind is hereby included, but not by way of limitation, within the definition of an obstruction.
- B. Fires. It is a misdemeanor for any person to build or maintain a fire upon a street.
- C. Dumping in Streets. It is a misdemeanor for any person to throw or deposit in any street any nails, dirt, glass or glassware, cans, discarded cloth or clothing, metal scraps, garbage, leaves, grass or tree limbs, paper or paper products, shreds or rubbish, oil, grease or other petroleum products, or to empty any water containing salt or other petroleum products, or to empty any water containing any other injurious chemical thereon. It is a violation of this Section to haul any such material, inadequately enclosed or covered, thereby permitting the same to fall upon streets. It is also a violation of this Section to place or store any building materials or waste resulting from building construction or demolition on any street without first having obtained a written permit from the City.
- D. Signs and Other Structures. It is a misdemeanor for any person to place or maintain a sign, advertisement, or other structure in any street without first having obtained a written permit from the Council. In a district zoned for commercial or industrial enterprises special permission allowing an applicant to erect and maintain signs overhanging the street may be granted upon such terms and conditions as may be set forth in the zoning and construction provisions of the City Code.
- E. Placing Snow or Ice in a Roadway or on a Sidewalk.
 - 1. It is a misdemeanor for any person, not acting under a specific contract with the City or without special permission from the Maintenance Superintendent, to remove snow or ice from private property and place the same in any roadway or on a sidewalk.
 - 2. Where permission is granted by the Maintenance Superintendent the person to whom such permission is granted shall be initially responsible for payment of all direct or indirect costs of removing the snow or ice from

the street or sidewalk. If not paid, collection shall be a civil action or assessment against the benefited property as any other special assessment.

- F. Continuing Violation. Each day that any person continues in violation of this Section shall be a separate offense and punishable as such.
- G. Condition. Before granting any permit under any of the provisions of this Section, the Council may impose such insurance or bonding conditions thereon as it, considering the projected danger to public or private property or to persons, deems proper for safeguarding such persons and property. Such insurance or bond shall also protect the City from any suit, action or cause of action arising by reason of such obstruction.

7-2-3: STREET OPENINGS OR EXCAVATIONS. It is a misdemeanor for any person, except a City employee acting within the course and scope of his employment or a contractor acting within the course and scope of a contract with the City, to make any excavation, opening or tunnel in, over, across or upon a street or other public property without first having obtained a written permit from the City as herein provided.

- A. Application. Application for a permit to make a street excavation shall describe with reasonable particularity the name and address of the applicant, the place, purpose and size of the excavation, and such other information as may be necessary or desirable to facilitate the investigation hereinafter provided for, and shall be filed with the City.
- B. Investigation and Payment of Estimated Costs. Upon receipt of such application, the City Clerk/Treasurer shall cause such investigation to be made as he may deem necessary to determine estimated cost of repair, such as back filling, compacting, resurfacing and replacement, and the conditions as to the time of commencement of work, manner of procedure and time limitation upon such excavation. The foregoing estimated costs shall include permanent and temporary repairs due to weather or other conditions, and the cost of such investigations shall be included in such estimate. Before a permit is issued, the applicant shall deposit with the City either cash or an irrevocable letter of credit in an equal amount to one and one-half times the estimated costs.
- C. Protection of the City and the Public.
 - 1. Non-Completion or Abandonment. Work shall progress expeditiously to completion in accordance with any time limitation placed thereon so as to avoid unnecessary inconvenience to the public. In the event that work is not performed in accordance therewith, or shall cease or be abandoned without due cause, the City may, after six hours notice in writing to the holder of the permit of its intention to do so, correct the work, fill the

excavation and repair the public property, and the cost thereof shall be paid by the person holding the permit.

2. Insurance. Prior to commencement of the work described in the application, the applicant shall furnish the City satisfactory evidence in writing that the applicant will keep in effect public liability insurance of not less than \$100,000.00 for any person, \$300,000.00 for any occurrence and property damage insurance of not less than \$25,000.00, issued by an insurance company authorized to do business in the State of Minnesota on which the City is named as a co-insured.
 3. Indemnification. Before issuance of a permit, the applicant shall, in writing, agree to indemnify and hold the City harmless from any liability for injury or damage arising out of the action of the applicant in performance of the work, or any expense whatsoever incurred by the City incident to a claim or action brought or commenced by any person arising there from.
 4. All excavations shall be adequately guarded with barricades and lights so as to protect the public from hazard as required by the Minnesota Department of Transportation rules and regulations.
- D. Issuance of Permit. The City Clerk/Treasurer shall issue such permit after (1) compensation of such investigation, (2) submission by the applicant in advance of cash or an irrevocable letter of credit in an amount equal to one and one-half times the estimated costs, (3) agreement by the applicant to the conditions of time and manner as aforesaid; (4) agreement in writing by the applicant to pay all actual cost of repairs over and above such estimate, including cost of such investigation, and, (5) agreement in writing by the applicant to be bound by all of the provisions of this Section.
- E. Repairs. All temporary and permanent repairs, including back-filling, compacting and resurfacing shall be made, or contracted for, by the City in a manner prescribed by the City Clerk/Treasurer and an accurate account of costs thereof shall be kept.
- F. Cost Adjustment. Within sixty (60) days following completion of such permanent repairs the City Clerk/Treasurer shall determine actual costs of repairs, including cost of investigation, and prepare and furnish to such permit holder an itemized statement thereof and claim additional payment from, or make refund (without interest) to, the permit holder, as the case may be.
- G. Alternate Method of Charging. In lieu of the above provisions relating to cost and cost adjustment for street openings, the City may charge on the basis of surface square feet removed, excavated cubic feet, on an established unit price uniformly charged.

7-2-4: LOAD LIMITS. The Council, upon the recommendation of the City Engineer, may from time to time impose upon vehicular traffic on any part of all of the streets such load limits as may be necessary or desirable. Such limits, and the specific extent of weight to which loads are limited, shall be clearly and legibly sign-posted thereon. It is a misdemeanor for any person to operate a vehicle on any street in violation of the limitation so posted.

7-2-5: PARADES.

- A. Definition. The term “parade” means any movement of vehicles, persons or animals, or any combination thereof, which either moves together and as a body so as to in some way impede or affect the free and unobstructed flow of vehicular or pedestrian traffic, or which moves so that some part thereof is in violation of one or more traffic laws or regulations, if such movement is without a permit hereunder.
- B. Permit Required. It is unlawful to sponsor or participate in a parade for which no permit has been obtained from the City, and it is also unlawful to obtain a parade permit and not conduct the same in accordance with the permit granted by the City. Application for such permit shall be made to the City Clerk/Treasurer at least thirty (30) days in advance of the date on which it is to occur and shall state the sponsoring organization or individual, the route, the length, the estimated time of commencement and termination, the general composition, and such application shall be executed by the individuals applying therefore or the duly authorized agent or representative of the sponsoring organization.
- C. Investigation. The City Clerk/Treasurer shall forthwith refer all applications for parades to the Chief of Police for his consideration which shall take no longer than seven (7) days. If any State trunk highways are in the route the Chief of Police shall make all necessary arrangements with the Minnesota Department of Public Safety for alternate routes or whatever may be necessary. If the Chief of Police finds that such a parade will not cause a hazard to persons or property, and will cause no great inconvenience to the public, and if he is able to make arrangements for necessary direction and control of traffic, he shall endorse his acceptance and return the application to the City Clerk/Treasurer. If the Chief of Police finds the parade described in the application to be a hazard, a substantial inconvenience, or if he is unable to make adequate arrangements for direction or control of traffic, he shall return the same to the City Clerk/Treasurer with his findings.
- D. Council Action. The City Clerk/Treasurer shall refer the application and results of investigation to the Council at its next regular meeting. The Council may either (1) deny the permit, (2) grant the permit, or (3) grant the permit on condition that a date, time or route are acceptable to applicant which differ from such as stated

in the application. Applicant shall have three (3) days within which to communicate his acceptance to the City Clerk/Treasurer.

E. Unlawful Acts.

1. It is unlawful for any person to hamper, obstruct, or impede or interfere with any parade, parade assembly or any person, animal or vehicle participating in the parade.
2. It is unlawful for any person to drive a vehicle between the vehicles or persons comprising a parade when such parade is in motion.
3. It is unlawful for any person to enter into a parade without prior authorization from the parade chairman.

F. Exceptions. This Section shall not apply to (1) funeral processions, or (2) a governmental agency acting within the scope of its functions.

7-2-6: REGULATION OF GRASS, WEEDS AND TREES.

- A. City to Control Tree Planting and Landscaping (Standards). The City shall have control and supervision of the placement of Landscaping materials and the planting of shrubs and trees upon, or overhanging, all the streets or other public property. Landscaping materials, include but are not limited to; landscaping timbers, landscaping blocks or bricks, fencing, trees, shrubs, etc. The City may establish and enforce additional uniform standards relating to the kinds and types of trees to be planted and the placement thereof. Such standards shall be kept on file in the office of the City Clerk/Treasurer and may be revised from time to time by action of the Council. (Ord 41, SS, 4-1-1996)
- B. Permit Required. It is a misdemeanor for any person to plant, spray, trim or remove trees or other plants which are upon City property, including rights-of-way, without first procuring from the City a permit in writing to do so.
- C. Duty of Property Owners to Cut Grass and Weeds and Maintain Trees and Shrubs. Every owner of property abutting on any street shall cause the grass and weeds to be cut from the line of such property nearest to such street to the center of such street. If the grass or weeds in such a place attain a height in excess of six (6) inches it shall be prima facie evidence of a failure to comply with this Subdivision. Every owner of property abutting on any street shall, subject to the provisions herein required a permit therefore, trim, cut and otherwise maintain all trees and shrubs from the line of such property nearest to such street to the center of such street.

- D. City May Order Work Done. The City may, in cases of failure to comply with this Section, perform such work with employees of the City, keeping accurate account of the cost thereof for each lot, piece or parcel of land abutting upon such street.
- E. Assessment. If such maintenance work is performed by the City as set forth in the foregoing Subdivision, the City Clerk/Treasurer shall forthwith upon completion thereof ascertain the cost attributable to each lot, piece or parcel of abutting land. The City Clerk/Treasurer shall, at the next regular meeting thereof, present such certificate to the Council and obtain its approval thereof. When such certificate has been approved it shall be extended as to the cost therein stated as a special assessment against such abutting land and such special assessment shall, at the time of certifying taxes to the County Auditor, be certified for collection as other special assessments are certified and collected.

7-2-7: REQUIREMENT OF SEWER AND WATER MAIN SERVICE LATERAL INSTALLATION.

- A. Requirement of Sewer and Water Laterals. No petition for the improvement of a street shall be considered by the Council if such petition contemplates constructing therein any part of a pavement or stabilized base, or curb and gutter, unless all sewer and water main installations shall have been made therein, including the installation of service laterals to the curb, if the area along such street will be served by such utilities installed in the street.
- B. Sewer System Service and Water Main Service Laterals. No sewer system shall be hereafter constructed or extended unless service laterals to platted lots and frontage facing thereon shall be extended simultaneously with construction of mains.
- C. Waiver. The Council may waive the requirements of this Section only if it finds the effects thereof are burdensome and upon such notice and hearing as the Council may deem necessary or proper.

7-2-8: VEHICLE REPAIR ON STREET. It is unlawful for any person to service, repair, assemble, or dismantle any vehicle parked upon a street, or attempt to do so, except to service such vehicle with gasoline or oil or to provide emergency repairs thereon, but in no event for more than twenty-four (24) hours.

7-2-9: EXCESSIVE VEHICLE NOISE. (Ord 183, SS, 5-5-13)

- A. Definitions. For the purpose of this ordinance, the following phrases are defined as follows:
 - 1. Engine Retarding Brake. A Dynamic Brake, Jake Brake, Jacobs Brake, C Brake, Paccar Brake, transmission brake or other similar engine retarding

brake system which alters the normal compression of the engine and subsequently releases that compression.

2. Abnormal or Excessive Noise. A distinct and loudly audible noise that unreasonably annoys, disturbs, injures, or endangers the comfort and repose of any person or precludes their enjoyment of property or affects their property's value, (b) noise in excess of that permitted by Minnesota Statutes Section 169.69, as it may be amended from time to time, which requires every motor vehicle to be equipped with a muffler in good working order, or (c) noise in excess of that permitted by Minnesota Statutes Section 169.693 and Minnesota Rules parts 7030.1000 through 7030.1050, as this statute and these rules may be amended from time to time, which establish motor vehicle noise standards.
- B. Adoption by Reference. Minnesota Statutes Sections 169.69 and 169.693 (motor vehicle noise limits) and Minnesota Rules parts 7030.1000 through 7030.1050, as these statutes and rules may be amended from time to time, are hereby adopted by reference.
- C. Excessive Vehicle Noise.
1. It shall be unlawful for any person to discharge the exhaust or permit the discharge of the exhaust from any motor vehicle except through a muffler that effectively prevents abnormal or excessive noise and complies with all applicable state laws and regulations.
 2. It shall be unlawful for the operator of any truck to intentionally use an engine retarding brake on any public highway, street, parking lot or alley within the city which causes abnormal or excessive noise from the engine because of an illegally modified or defective exhaust system, except in an emergency.
- D. Signing. Signs stating "VEHICLE NOISE LAWS ENFORCED" may be installed at locations deemed appropriate by the City Council to advise motorists of the prohibitions contained in this ordinance, except that no sign stating "VEHICLE NOISE LAWS ENFORCED" shall be installed on a state highway without a permit from the Minnesota Department of Transportation. The provisions of this ordinance are in full force and effect even if no signs are installed.
- E. Amendments. It is the intention of the City Council that all future amendments to any statutes and rules referenced or adopted by reference in this ordinance are also referenced or adopted by reference as if they had been in existence at the time this ordinance was adopted.
- F. Penalty. Anyone found in violation of this section shall be guilty of a petty misdemeanor.

SECTION 3

TRAFFIC

SECTION:

- 7-3-1: Highway Traffic Regulation Act Adopted by Reference
- 7-3-2: Motorized Vehicles Prohibited on Sidewalks
- 7-3-3: U-Turns
- 7-3-4: Exhibition Driving
- 7-3-5: Driving Through Private Property to Avoid Traffic Signal
- 7-3-6: Recreational Motor Vehicles (Including Snowmobiles)

7-3-1: HIGHWAY TRAFFIC REGULATION ACT ADOPTED BY REFERENCE.

Except as otherwise provided in this Chapter, Minnesota Statutes, Chapter 168, Chapter 169 (commonly referred to as the Highway Traffic Regulation Act), Chapter 170 and Chapter 171, and Chapter 327.27 Subd. 2, 2A, as amended from time to time, are incorporated herein and adopted by reference, including the penalty provisions thereof. Any statutory provision which does not proscribe a penalty shall be subject to the penalties described in Section 7-1-4 of this Code. The City Council hereby sets the speed limits in manufactured home parks at fifteen (15) miles per hour. (Ord 47, SS, 7-15-1996; Ord 48, SS, 7-15-1996)

7-3-2: MOTORIZED VEHICLES PROHIBITED ON SIDEWALKS. It is unlawful for any person to drive or operate a motorized vehicle, except a wheelchair powered by electricity and occupied by a handicapped person, on any public sidewalk or public property designated for use as a pedestrian walkway or bicycle trail, except when crossing the same for ingress and egress through a curb cut to property lying on the other side thereof.

Source: City Code

Effective Date: 06-01-1990

7-3-3: U-TURNS. It is unlawful for any person to operate a motor vehicle by turning so as to proceed in the opposite direction upon any street except at a street intersection, and then only if the street intersection is not sign-posted prohibiting a U-turn or otherwise controlled by a traffic signal; provided, that any person making a permitted U-turn shall yield to right-of-way to all other vehicles.

7-3-4: EXHIBITION DRIVING.

- A. Prima Facie Evidence. It is prima facie evidence of exhibition driving when a motor vehicle stops, starts, accelerates, decelerates, or turns at an unnecessary rate of speed so as to cause tires to squeal, gears to grind, soil to be thrown, engine backfire, fishtailing or skidding, or, as to two-wheeled or three-wheeled motor vehicles, the front wheel to lose contact with the ground or roadway surface.
- B. Unlawful Act. It is a misdemeanor for any person to do any exhibition driving on any street, parking lot, or other public or private property, except when an emergency creates necessity for such operation to prevent injury to persons or damage to property; provided, that this Section shall not apply to driving on a racetrack. For purposes of this Section, a “racetrack” means any track or premises whereon motorized vehicles, horses, dogs, or other animals or fowl legally compete in a race or timed contest for an audience, the member of which have directly or indirectly paid a consideration for admission.

7-3-5: DRIVING THROUGH PRIVATE PROPERTY TO AVOID TRAFFIC SIGNAL. It is unlawful for any person to avoid obedience to any traffic control device by driving upon or through any private property.

7-3-6: RECREATIONAL MOTOR VEHICLES (INCLUDING SNOWMOBILES).

- A. Definitions. For the purposes of this Section, the terms defined shall have the meanings given them.
 - 1. “Motorized Bicycle” – A bicycle with fully operable pedals which may be propelled by human power or a motor, or by both, with a motor of a capacity of less than fifty (50) cubic centimeters piston displacement, and a maximum of two break horsepower, which is capable of a maximum speed of not more than thirty (30) miles per hour on a flat surface with not more than one percent grade in any direction when the motor is engaged.
 - 2. “All-Terrain Vehicle” or “ATV” – Trail bikes, amphibious vehicles and similar devices, other than snowmobiles, used at least partially for travel on natural terrain, but not “special mobile equipment” as defined in M.S.A. 168.011, Subd. 22, which is hereby incorporated herein by reference.
 - 3. “Snowmobile” – A self-propelled vehicle designed for travel on snow or ice or natural terrain steered by wheels, skis or runners.
 - 4. “Recreational Motor Vehicle” – Any self-propelled vehicle and any vehicle propelled or drawn by a self-propelled vehicle used for recreational

purposes, including but not limited to a motorized bicycle, all-terrain vehicle, snowmobile, hovercraft, or motor vehicle licensed for highway operation which is being used for off-road recreational purposes.

5. "Owner" – A person, other than a lien holder, having a property interest in, or title to, a recreational motor vehicle, who is entitled to the use or possession thereof.
6. "Operate" – To ride in or on and have control of a recreational motor vehicle.
7. "Operator" – The person who operates or is in actual physical control of a recreational motor vehicle.

B. Recreational Motor Vehicle Operating Restrictions. It is unlawful for any person to operate a recreational motor vehicle as follows:

1. On a public sidewalk or walkway provided or used for pedestrian travel.
2. On private property of another without lawful authority or written permission of the owner or occupant.
3. On any lands owned or occupied by a public body or on frozen waters, including, but not limited to, school grounds, park property, playgrounds, recreational areas, private roads, platted but unimproved roads, utility easements, public trails and golf courses. Provided, however, that the Council may, by resolution, specifically permit use on City property, in which event the shortest route to and from areas so permitted shall be used.
4. While the operator is under the influence of liquor or narcotics, or habit-forming drugs.
5. At a rate of speed greater than reasonable or proper under all of the surrounding circumstances.
6. In a careless, reckless or negligent manner so as to endanger the person or property of another or cause injury or damage thereto.
7. Towing any person or thing on a public street or highway except through the use of a rigid tow bar attached to the rear of an automobile.
8. At a speed greater than 10 miles per hour when within 100 feet of any lakeshore, except in channels, or of a fisherman, ice house, skating rink, or sliding area, nor where the operation would conflict with the lawful use of property or would endanger other persons or property.

9. In a manner so as to create a loud, unnecessary or unusual noise which disturbs, annoys or interferes with the peace and quiet of other persons.
10. Chasing, running over, or killing any animal, wild or domestic.
11. During the hours between 11:00 PM of one day and 7:00 AM of the next following on Sundays through Thursdays, and during the hours of 1:00 AM and 7:00 AM on Fridays and Saturdays, except that during such hours a recreational motor vehicle, if otherwise lawfully operated, may be operated on a public street.
12. Except as permitted in Subdivision 4, in the area marked as a restricted area legally described as shown in Exhibit A.

Source: Ordinance 83, SS
Effective Date: 04-19-2004

C. Owner Responsibility.

1. It is unlawful for the owner of any recreational motor vehicle to permit its operation on private property without the written permission of the owner or occupant, on City property without the written permission of the Council, or on other public property without the written permission of the body in charge thereof.
2. Every person leaving a recreational motor vehicle in a public place shall lock the ignition, remove the key and take the same with him.

D. Additional Snowmobile Operating Regulations.

1. It is unlawful for any person to operate a snowmobile upon the roadway, shoulder or inside bank or slope of any street or highway except as permitted in this Subdivision. Operation in the ditch or on the outside bank within the right-of-way of any street or highway except interstate highways or freeways and excluding the restricted area as noted in Exhibit A, is permitted in conformance with State law and the City Code, unless the roadway directly abuts a public sidewalk or walkway or property used for private purposes. Between the hours of one-half hour after sunset to one-half hour before sunrise, any operation may only be on the right-hand side of such street or highway and in the same direction as the highway traffic on the nearest lane of the roadway adjacent thereto. For local access to trails located outside the City of St. Francis, snowmobiles displaying a City-issued local access sticker may travel on the right hand side of local streets on the paved surface within the curb line for urban streets and between the shoulder points for roads that are not paved or do not have

Insert Exhibit A

curb, or in ditches on a County or State road if available, from the operator's primary place of residence to the nearest trail access outside of St. Francis via the most direct route exclusively within the designated zone including the place of residence. Travel for local access shall be at a rate not to exceed twenty (20) miles per hour. Any return trip must occur in the same manner. Snowmobiles must travel single file in this instance. Snowmobiles may not park in any restricted area except at the owner's premises. Individuals with a local access sticker may not operate their snowmobiles in any restricted area outside their designated zone or in a location that is not the most direct route between residence and trail exclusively within their designated zone. Individuals may not operate on the private property of another without permission within the restricted zone. Individuals may operate on their own private property within the restricted zone subject to all other restrictions in City Code or State law. Notwithstanding any language in Section 7-3-7.D.1 to the contrary, two-way snowmobile operation shall be permitted in the western ditch or on the outside bank within the western right-of-way of State Highway 47 at any time and without a City-issued local access sticker, subject to all other provisions of the City Code or State law, and all conditions imposed by the Commissioner of Transportation or the local road authority. Travel upon any City pathway or sidewalk is strictly prohibited. (Ord. 83, SS, 4-19-2004) (Ord. 135, SS, 11-2-09)

2. A snowmobile may make a direct crossing of a street or highway except an interstate highway or freeway, provided:
 - a. The crossing is made at an angle of approximately ninety (90) degrees to the direction of the street or highway and at a place where no obstruction prevents a quick and safe crossing.
 - b. The snowmobile is brought to a complete stop before crossing the shoulder or main traveled way of the highway.
 - c. The driver yields the right-of-way to all oncoming traffic which constitutes an immediate hazard.
 - d. In crossing a divided street or highway, the crossing is made only at an intersection of such street or highway with another public street or highway.
 - e. If the crossing is made between the hours of one-half (1/2) hour after sunset to one-half (1/2) hour before sunrise or in conditions of reduced visibility, only if both front and rear lights are on.

3. No snowmobile shall enter any uncontrolled intersection without making a complete stop. The operator shall then yield the right-of-way to any vehicles or pedestrians which constitute an immediate hazard.
4. Notwithstanding any prohibition in this Section, a snowmobile may be operated on a public thoroughfare in an emergency during the period of time when, and at locations where, snow upon the roadway renders travel by automobile impractical.
5. No person under fourteen (14) years of age shall operate on streets or highways or make a direct crossing of a street or highway as the operator of a snowmobile. A person fourteen (14) years of age or older, but less than eighteen (18) years of age, may operate a snowmobile on streets or highways as permitted under this Section and make a direct crossing thereof only if he has in his immediate possession a valid snowmobile safety certificate issued by the Commissioner of Conservations as provided by Minnesota Statutes 1969, Section 84.86. It is unlawful for the owner of a snowmobile to permit the snowmobile to be operated contrary to the provisions of this Subparagraph.
6. City Issued Local Access Stickers. St. Francis residents living within the designated zones included in Exhibit A who choose to have local access to trails outside the City of St. Francis shall obtain and display a local access sticker in a highly visible location on both sides of the hood of the snowmobile. Local access stickers shall be obtained from the City on an annual basis and for the fee set by City Council resolution. The City may require each applicant to submit information stating their designated residence for purposes of this Ordinance and the most direct route exclusively within the designated zone including the applicant's place of residence. (Ord 83, SS, 4-19-2004)

Source: City Code

Effective Date: 06-01-1990

- E. Golf Carts. Notwithstanding anything herein to the contrary, a person may operate a Golf Cart on certain designated City streets, subject to the following:
1. For purposes of this subdivision, the term "Golf Cart" shall mean an electric-powered recreational motor vehicle that has four wheels, a speed attainable in one mile of at least twenty (20) miles per hour but not more than twenty-five (25) miles per hour on a paved level surface, is designed for use on golf courses as a means of transporting golfers and golf equipment and is permitted on the Ponds Golf Course.
 2. Golf Carts shall be limited to City streets in an area immediately surrounding the Ponds Golf Course using 237th Avenue as the northern

boundary, 230th Avenue as the southern boundary, the 2400 block as the eastern boundary, and the 3000 block as the western boundary.

3. St. Francis residents who live within the designated zone must apply for and obtain a permit from the City of St. Francis prior to the operation of a Golf Cart on City streets. The permit application shall include the name and street address of the owner, the vehicle identification number of the Golf Cart, and evidence of liability insurance in amounts required by state law. Permits shall be obtained from the City on an annual basis and for the fee set by City Council resolution. Individuals must comply with all permit requirements and the requirements of this subdivision. The City may revoke any permit for failure to comply with all permit requirements and the requirements of this subdivision.
4. The following rules shall apply at all times a Golf Cart is being operated on a City street:
 - a. Golf Carts may be operated for the sole purpose of traveling to and from the Ponds Golf Course and operators must use the shortest available route to and from the Ponds Golf Course.
 - b. The operator must follow all laws and regulations otherwise applicable to motor vehicles.
 - c. Operators must be age sixteen (16) or older and possess a valid driver's license.
 - d. Golf Carts may only be operated between the hours of sunrise and sunset.
 - e. Golf Carts must display the slow-moving vehicle emblem provided for in Minnesota Statute Section 169.522.
 - f. The operator and all passengers must be seated at all times.
 - g. All items being carried on the Golf Cart must be securely fastened.

Source: Ordinance 119, SS
Effective Date: 4-21-2008

SECTION 4

PARKING

SECTION:

- 7-4-1: Presumption
- 7-4-2: General Parking Prohibitions
- 7-4-3: Winter Parking
- 7-4-4: Emergency
- 7-4-5: On-Street Recreational Vehicle Parking
- 7-4-6: Unauthorized Removal
- 7-4-7: Direction to Proceed
- 7-4-8: Parallel Parking
- 7-4-9: Angle Parking
- 7-4-10: Streets Without Curb
- 7-4-11: Parking Hours
- 7-4-12: Truck Parking
- 7-4-13: Impounding and Removing Vehicles
- 7-4-14: Parking for the Purpose of Advertising or Selling Merchandise
- 7-4-15: Physically Handicapped Parking

7-4-1: PRESUMPTION. As to any vehicle parking in violation of this Chapter when the driver thereof is not present, it shall be presumed that the owner or lessee of such vehicle parked the same, or that the driver was acting as the agent of the owner or lessee.

7-4-2: GENERAL PARKING PROHIBITIONS. It is unlawful for any person to stop, stand or park a vehicle except when necessary to avoid conflict with other traffic or in compliance with the specific directions of a police officer or traffic control device in any of the following places:

- A. On a sidewalk,
- B. In front of a public or private driveway or directly across there from in such a manner as to impede the access to said driveway,
- C. Within an intersection,
- D. Within ten (10) feet of a fire hydrant,
- E. On a crosswalk,

- F. Within twenty (20) feet of a crosswalk at an intersection or within twenty (20) feet of a mid-block crosswalk properly marked,
- G. In a sign-posted fire lane,
- H. Within thirty (30) feet upon the approach to any flashing beacon, stop sign or traffic control signal located at the side of a roadway,
- I. Between a safety zone and the adjacent curb or within thirty (30) feet of points on the curb immediately opposite the ends of a safety zone, unless the City has indicated different length by signs or markings,
- J. Within twenty (20) feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within seventy-five (75) feet of said entrance when properly sign-posted,
- K. Alongside or opposite any street excavation or obstruction when such stopping, standing or parking would obstruct traffic,
- L. On the roadway side of any vehicle stopped or parked at the edge or curb of a street,
- M. Upon any bridge or other elevated structure upon a street,
- N. At any place where official signs prohibit or restrict stopping, parking or both,
- O. In any alley, except for loading or unloading and then only so long as reasonably necessary for such loading and unloading to or from adjacent premises, or,
- P. In any block where fire apparatus has stopped in answer to a fire alarm, or in such a manner as to obstruct fire apparatus which has stopped in answer to a fire alarm.
- Q. Parking on Public Property. Whenever any public school lands or the lands and areas of any public governing body or authority customarily or usually open to traffic by the public are posted by order of the school board or other governing body or authority in control of such lands, then it shall be unlawful to drive, operate, stop, leave standing or park any vehicle on such lands contrary to such posting.

Source: Ordinance 4, SS
 Effective Date: 04-15-1991

7-4-3: WINTER PARKING.

- A. Winter Parking Restrictions. (Ord. 200, SS, 11-3-14, Effective 12-7-14)
1. During the winter months, commencing on the first day of November of any year, to and including the first day of May of the following year, it is unlawful for any person to stop, park or leave standing a vehicle on any street or highway between the hours of 1:00 AM to 11:00 AM.
 2. Vehicles shall also be removed from any street or highway when the snow depth exceeds two (2) inches until that time that the street has been completely plowed. Snow depth shall be determined by one of the following methods:
 - a. As reported by the National Weather Service.
 - b. As measured and documented by an officer or other duly appointed representative of the City.
- B. Snow Emergency Declaration. Whenever, in the opinion of the Mayor, an emergency exists in the City because of snow, freezing rain, sleet, ice, snow drives, or other natural phenomena, which create or are likely to create hazardous road conditions impeding or likely to impede, the free movement of fire, health, police emergency or other vehicular traffic, or the safety and welfare of the community, the Mayor may declare an emergency to exist for a seventy-two (72) hour period, or for such shorter period if sooner terminated. Notice of such snow emergency shall be given by radio, television or press. Said notice shall specify the hour that said emergency commences and there shall be an interval of at least six (6) hours between the first time that such notice is given and the commencement of such emergency.
- C. Snow Emergency Routes. The Council shall determine by resolution which streets in the City shall be designated as Snow Emergency Routes, and shall direct that signs indicating that parking is prohibited on such streets during a snow emergency be posted on the streets.
- D. Parking During Snow Emergency. During the period of a declared emergency, it is unlawful to park or leave standing any vehicle on any portion of the posted snow emergency streets until they have been cleared. Parking may be resumed on individual streets in this area as soon as the snow has been removed from the streets, except in areas where parking is otherwise prohibited. (Ord. 200, SS, 11-3-14, Effective 12-7-14)

7-4-4: EMERGENCY.

- A. Definition. For purposes of this Section, the term “emergency” means a condition created on City streets because of the presence of snow, freezing rain, sleet or ice thereon, or other natural phenomenon which create or are likely to create hazardous road conditions or impede or are likely to impede the free movement of fire, health, police, emergency or other vehicular traffic, when the same has been duly declared.
- B. Declaration of an Emergency. Whenever in the discretion of the Mayor, or his designated agent, an emergency exists, he may declare the same and the City Clerk/Treasurer shall cause an announcement thereof to be made over the local news media.
- C. Beginning and Duration of Emergency.
 - 1. The emergency shall begin at the hour specified in the notice and there shall be an interval of at least six (6) hours between the first time that such notice is given and the commencement of such emergency.
 - 2. Once declared, the emergency shall remain in effect for the ensuing seventy-two (72) hours, or for such shorter period if sooner terminated. Provided, that the emergency may, in the same manner, be re-declared for subsequent like periods of time.
- D. Unlawful Act. During an emergency it is unlawful to park or leave standing any vehicle upon a snow emergency route designated and duly sign-posted as such.
- E. Exceptions. This Section shall not apply to (1) persons in charge of wreckers or authorized emergency vehicles while actually servicing mechanical, fire, police or medical emergencies, or (2) any street when it has been fully and completely (curb-to-curb) cleared, sanded, salted, or cleaned.

7-4-5: ON-STREET RECREATIONAL VEHICLE PARKING. It is unlawful for any person to leave or park a recreational camping vehicle, utility trailer, or boat (as defined in Section 10-16-5.D) on or within the limits of any street or right-of-way for a continuous period in excess of twenty-four (24) hours. Provided, however, that during such twenty-four (24) hour period, such vehicle shall not be occupied as living quarters. (See also Section 10-16-5.D of the Zoning Ordinance.) (Ord 88, SS, 4-21-2005)

7-4-6: UNAUTHORIZED REMOVAL. It is unlawful for any person to move a vehicle not owned, leased or under the control of such person into any prohibited area or away from a curb such distance as is unlawful.

7-4-7: DIRECTION TO PROCEED. It is unlawful for any person to stop or park a vehicle on a street when directed or ordered to proceed by any police officer invested by law with authority to direct, control or regulate traffic.

7-4-8: PARALLEL PARKING. Except where angle parking is specifically allowed and indicated by curb or street marking or sign-posting, or all or any of them, each vehicle stopped or parked upon a two-way road where there is an adjacent curb shall be stopped or parked with the right-hand wheels of the vehicle parallel with, and within twelve inches of, the right-hand curb, and, where painted markings appear on the curb or the street, such that upon a one-way roadway all vehicles shall be so parked, except that the left-hand wheels of the vehicle may be parallel with and within twelve inches from the left-hand curb, but the front of the vehicle in any event and with respect to the remainder of the vehicle, shall be in the direction of the flow of traffic upon such one-way street; and it is unlawful to park in violation of this Section.

7-4-9: ANGLE PARKING. Where angle parking has been established by Council resolution, and is allowed, as show by curb or street marking or sign-posting, or all or any of them, each vehicle stopped or parked shall be at an angle of approximately 45 to 60 degrees with the front wheel touching the curb and within any parking lines painted on the curb or street, provided that the front wheel not touching the curb shall be the portion of the vehicle furthest in the direction of one-way traffic; and it is unlawful to park in violation of this Section.

7-4-10: STREETS WITHOUT CURB. Upon streets not having a curb each vehicle shall be stopped or parked parallel and to the right of the paving, improved or main traveled part of the street; and it is unlawful to park in violation of this Section.

7-4-11: PARKING HOURS. Parking on streets shall be limited as follows:

- A. It is unlawful for any person to stop, park or leave standing any vehicle upon any street for a continuous period in excess of twenty-four (24) hours.
- B. The Chief of Police may, when authorized by resolution of the Council, designate certain streets, blocks or portions of streets or blocks as prohibited parking zones, or five-minute, ten-minute, fifteen-minute, thirty-minute, one-hour, two-hour, four-hour, six-hour, eight-hour, morning or afternoon rush hour limited parking zones and shall mark by appropriate signs and zones so established. Such zones shall be established whenever necessary for the convenience of the public or to minimize traffic hazards and preserve a free flow of traffic. It is unlawful for any person to stop, park or leave standing any vehicle in a prohibited parking zone, for a period of time in excess of the sign-posted limitation, or during sign-posted hours of prohibited parking.

7-4-12: TRUCK PARKING. It is unlawful to park a truck (other than a truck of twelve thousand (12,000) gross vehicle weight or less), a truck tractor, semi-trailer, bus, construction equipment, construction trailers, or manufactured home within the Urban

Service areas of the City that are zoned and/or used for residential purposes, except for the purpose of loading or unloading the same, and then only during such time as is reasonably necessary for such activity. (Ord 9, SS, 11-4-1991)

7-4-13: IMPOUNDING AND REMOVING VEHICLES. When any police officer finds a vehicle standing upon a street or City-owned parking lot in violation of any parking regulation, such officer is hereby authorized to require the driver or other person in charge of such vehicle to remove the same to a position in compliance with this Chapter. When any police officer finds a vehicle unattended upon any street or City-owned parking lot in violation of any parking regulation, such officer is hereby authorized to impound such unlawfully parked vehicle and to provide for the removal thereof and to remove the same to a convenient garage or other facility or place of safety; provided, that if any charge shall be placed against such vehicle for cost of removal or storage, or both, by anyone called upon to assist therewith the same shall be paid prior to removal from such place of storage or safekeeping.

7-4-14: PARKING FOR THE PURPOSE OF ADVERTISING OR SELLING MERCHANDISE. It is unlawful for any person to park a vehicle on any street or public property for the purpose of advertising such vehicle for sale, for the purpose of advertising for sale or selling merchandise thereon or therein, or advertising any merchandise for sale or for a forthcoming event. It is unlawful to park a vehicle on private property for the purpose of advertising such vehicle for sale unless the owner thereof also owns the private property or holds a license to sell such vehicle. It is unlawful for any one person to park more than one vehicle on private property for the purpose of advertising such vehicle for sale at any one time.

7-4-15: PHYSICALLY HANDICAPPED PARKING.

- A. Statutory parking privileges for physically handicapped shall be strictly observed and enforced. Police officers are authorized to tag vehicles on either private or public property in violation of such statutory privileges.
- B. It is unlawful for any person, whether or not physically handicapped, to stop, park, or leave standing, a motor vehicle (1) in a sign-posted fire land at any time, or (2) in lanes where, and during such hours as, parking is prohibited to accommodate heavy traffic during morning and afternoon rush hours.

7-4-16: VIOLATIONS. Any violation of this section may result in removal and/or impounding of vehicles as set forth in Section 7-4-13, a citation notifying of a violation as set forth in Section 7-1-4, and/or any other procedure permitted in the City Code. (Ord. 200, SS, 11-3-14, Effective 12-7-14)

SECTION 5

RIGHT-OF-WAY MANAGEMENT

SECTION:

- 7-5-1: Findings, Purpose, and Intent
- 7-5-2: Election to Manage the Public Rights-of-Way
- 7-5-3: Definitions
- 7-5-4: Administration
- 7-5-5: Registration and Right-of-Way Occupancy
- 7-5-6: Registration Information
- 7-5-7: Permit Requirement
- 7-5-8: Permit Applications
- 7-5-9: Issuance of Permit; Conditions
- 7-5-10: Permit Fees
- 7-5-11: Right-of-Way Patching and Restoration
- 7-5-12: Joint Trench Applications
- 7-5-13: Supplementary Applications
- 7-5-14: Other Obligations
- 7-5-15: Denial of Permit
- 7-5-16: Installation Requirements
- 7-5-17: Inspection
- 7-5-18: Work Done Without a Permit
- 7-5-19: Supplementary Notification
- 7-5-20: Revocation of Permits
- 7-5-21: Mapping Data
- 7-5-22: Location and Relocation of Facilities
- 7-5-23: Pre-Excavation Facilities Location
- 7-5-24: Damage to Other Facilities
- 7-5-25: Right-of-Way Vacation
- 7-5-26: Indemnification and Liability
- 7-5-27: Abandoned and Unusable Facilities
- 7-5-28: Appeal
- 7-5-29: Severability

7-5-1: FINDINGS, PURPOSE AND INTENT. To provide for the health, safety and welfare of its citizens, and to ensure the integrity of its streets and the appropriate use of the rights-of-way, the City strives to keep its rights-of-way in a state of good repair and free from unnecessary encumbrances. Accordingly, the City hereby enacts this new chapter of this code relating to right-of-way permits and administration. This chapter imposes reasonable regulation on the placement and maintenance of facilities and equipment currently within its rights-of-way or to be placed therein at some future time. It is intended to complement the regulatory roles of state and federal agencies.

Under this chapter, persons excavating and obstructing the rights-of-way will bear financial responsibility for their work. Finally, this chapter provides for recovery of out-of-pocket and projected costs from persons using the public rights-of-way. This chapter shall be interpreted consistently with 1997 Session Laws, Chapter 123, substantially codified in Minnesota Statutes Sections 237.16, 237.162, 237.163, 237.79, 237.81, and 238.086 (the “Act”) and the other laws governing applicable rights of the City and users of the right-of-way. This chapter shall also be interpreted consistent with Minnesota Rules 7819.0050 – 7819.9950 where possible. To the extent any provision of this chapter cannot be interpreted consistently with the Minnesota Rules, that interpretation most consistent with the Act and other applicable statutory and case law is intended. This chapter shall not be interpreted to limit the regulatory and police powers of the City to adopt and enforce general ordinances necessary to protect the health, safety and welfare of the public.

7-5-2: ELECTION TO MANAGE THE PUBLIC RIGHTS-OF-WAY. Pursuant to the authority granted to the City under state and federal statutory, administrative and common law, the City hereby elects, pursuant to Minn. Stat. §237.163, subd. 2(b), to manage rights-of-way within its jurisdiction.

7-5-3: DEFINITIONS. The following definitions apply to this chapter of this code. References hereafter to “sections” are, unless otherwise specified, references to sections in this chapter. Defined terms remain defined terms, whether or not capitalized.

- A. “Abandoned Facility” means a facility no longer in service or physically disconnected from a portion of the operating facility, or from any other facility, that is in use or still carries service.
- B. “Applicant” means any person requesting permission to excavate or obstruct a right-of-way.
- C. “City” means the City of St. Francis, Minnesota. “City” also means its elected officials, officers, employees and agents.
- D. “Commission” means the State Public Utilities Commission.
- E. “Congested Right-of-Way” means a crowded condition in the subsurface of the public right-of-way that occurs when the maximum lateral spacing between existing underground facilities does not allow for construction of new underground facilities without using hand digging to expose the existing lateral facilities in conformance with Minnesota Statutes § 216D.04, subd. 3, over a continuous length in excess of five hundred (500) feet.

- F. “Construction Performance Bond” means any of the following forms of security provided at permittee’s option:
1. Individual project bond;
 2. Cash deposit;
 3. Letter of Credit in a form acceptable to the City;
 4. A blanket bond for projects within the City, or other form of construction bond, for a time specified and in a form acceptable to the City.
- G. “Degradation” means a decrease in the useful life of the right-of-way caused by excavation in or disturbance of the right-of-way, resulting in the need to reconstruct such right-of-way earlier than would be required if the excavation or disturbance did not occur.
- H. “Degradation Cost” subject to Minnesota Rules 7819.1100 means the cost to achieve a level of restoration, as determined by the City at the time the permit is issued, not to exceed the maximum restoration shown in plates 1 to 13, set forth in Minnesota Rules parts 7819.9900 to 7819.9950.
- I. “Degradation Fee” means the estimated fee established at the time of permitting by the City to recover costs associated with the decrease in the useful life of the right-of-way caused by the excavation, and which equals the degradation cost. This fee is in addition to the permittee’s obligation to fully restore the right-of-way.
- J. “Department” means the department of public works of the City.
- K. “Department Inspector” means any person authorized by the City to carry out inspections related to the provisions of this chapter.
- L. “Director” means the director of the department of public works of the City, or her or his designee.
- M. “Delay Penalty” is the penalty imposed as a result of unreasonable delays in right-of-way excavation, obstruction, patching, or restoration as established by permit.
- N. “Emergency” means a condition that (1) poses a danger to life or health, or of a significant loss of property; or (2) requires immediate repair or replacement of facilities in order to restore service to a customer.
- O. “Equipment” means any tangible asset used to install, repair or maintain facilities in any right-of-way.
- P. “Excavate” means to dig into, directionally bore, or in any way remove or physically disturb or penetrate any part of a right-of-way.

- Q. “Facility” or “Facilities” means any tangible asset in the right-of-way required to provide Utility Service.
- R. “Five-year project plan” shows projects adopted by the City for construction within the next five years.
- S. “High Density Corridor” means a designated portion of the public-right-of-way within which telecommunications right-of-way users having multiple and competing facilities may be required to build and install facilities in a common conduit system or other common structure.
- T. “Hole” means an excavation in the pavement, with the excavation having a length less than the width of the pavement.
- U. “Local Representative” means a local person or persons, or designee of such person or persons, authorized by a registrant to accept service and to make decisions for that registrant regarding all matters within the scope of this chapter.
- V. “Management Costs” means the actual costs the City incurs in managing its rights-of-way, including such costs, if incurred, as those associated with registering applicants; issuing, processing, and verifying right-of-way permit applications; inspecting job sites and restoration projects; maintaining, supporting, protecting, or moving user facilities during right-of-way work; determining the adequacy of right-of-way restoration; restoring work inadequately performed after providing notice and the opportunity to correct the work; and revoking right-of-way permits. Management costs do not include payment by a telecommunications right-of-way user for the use of the right-of-way, the fees and costs of litigation relating to the interpretation of Minnesota Session Laws 1997, Chapter 123; Minnesota Statutes Sections 237.162 or 237.163; or any ordinance enacted under those sections, or the City fees and costs related to appeals taken pursuant to this chapter.
- W. “Obstruct” means to place any tangible object in a right-of-way so as to hinder free and open passage over that or any part of the right of way.
- X. “Patch” or “Patching” means a method of pavement replacement that is temporary in nature. A patch consists of (1) the compaction of the sub-base and aggregate base, and (2) the replacement, in kind, of the existing pavement for a minimum of two feet beyond the edges of the excavation in all directions.
- Y. “Pavement” means any type of improved surface that is within the public right-of-way and that is paved or otherwise constructed with bituminous, concrete, aggregate, or gravel.
- Z. “Permit” has the meaning given “right-of-way permit” in Minnesota Statutes Section 237.162.

- AA. "Permittee" means any person to whom a permit to excavate or obstruct a right-of-way has been granted by the City under this chapter.
- BB. "Person" means an individual or entity subject to the laws and rules of this state, however organized, whether public or private, whether domestic or foreign, whether for profit or nonprofit, and whether natural, corporate or political.
- CC. "Probation" means the status of a person that has not complied with the conditions of this chapter. (Note: This paragraph is included as an option for your City.)
- DD. "Probationary Period" means one year from the date that a person has been notified in writing that they have been put on probation. (Note: This paragraph is included as an option for your City.)
- EE. "Public Right-of-Way" means the area on, below, or above a public roadway, highway, street, cartway, bicycle lane or public sidewalk in which the City has an interest, including other dedicated rights-of-way for travel purposes and utility easements of the City. A right-of-way does not include the airwaves above a right-of-way with regard to cellular or other non-wire telecommunications or broadcast service. Public right-of-way includes outlots, parks and drainage and utility easements.
- FF. "Registrant" means any person who (1) has or seeks to have its equipment or facilities located in any right-of-way, or (2) in any way occupies, or uses, or seeks to occupy or use, the right-of-way or place its facilities or equipment in the right-of-way.
- GG. "Restore" or "Restoration" means the process by which an excavated right-of-way and surrounding area, including pavement, foundation, sidewalk and trail is returned to the same condition and life expectancy that existed before excavation.
- HH. "Restoration Cost" means the amount of money paid to the City by a permittee to achieve the level of restoration according to plates 1 to 13 of Minnesota Public Utilities Commission rules.
- II. "Right-of-Way User" means (1) a telecommunications right-of-way user as defined by Minnesota Statutes, section 237.162, subd. 4; or (2) a person owning or controlling a facility in the right-of-way that is used or intended to be used for providing utility service, and who has a right under law, franchise, or ordinance to use the public right-of-way.
- JJ. "Service" or "Utility Service" includes (1) those services provided by a public utility as defined in Minn. Stat. 21613.02, subd. 4 and 6; (2) services of a

telecommunications right-of-way user, including transporting of voice or data information; (3) services of a cable communications systems as defined in Minn. Stat. Chapter. 238; (4) natural gas or electric energy or telecommunications services provided by the City; (5) services provided by a cooperative electric association organized under Minn. Stat., Chapter 308A; and (6) water, and sewer, including service laterals, steam, cooling or heating services.

- KK. "Service Lateral" means an underground facility that is used to transmit, distribute, or furnish gas, electricity, communications, or water from a common source to an end-use customer. A service lateral is also an underground facility that is used in the removal of wastewater from a customer's premises.
- LL. "Supplementary Application" means an application made to excavate or obstruct more of the right-of-way than allowed in, or to extend, a permit that had already been issued.
- MM. "Temporary Surface" means the compaction of sub-base and aggregate base and replacement, in kind, of the existing pavement only to the edges of the excavation.
- NN. "Trench" means an excavation in the pavement, with the excavation having a length equal to or greater than the width of the pavement.
- OO. "Telecommunication right-of-way user" means a person owning or controlling a facility in the right-of-way, or seeking to own or control a Facility in the right-of-way, that is used or is intended to be used for transporting telecommunication or other voice or data information. For purposes of this chapter, a cable communication system defined and regulated under Minn. Stat. Chap. 238, and telecommunication activities related to providing natural gas or electric energy services whether provided by a public utility as defined in Minn. Stat. Sec. 21613.02, a municipality, a municipal gas or power agency organized under Minn. Stat. Chaps. 453 and 453A, or a cooperative electric association organized under Minn. Stat. Chap. 308A, are not telecommunications right-of-way users for purposes of this chapter.

7-5-4: ADMINISTRATION. The director is the principal City official responsible for the administration of the rights-of-way, right-of-way permits, and the ordinances related thereto. The director may delegate any or all of the duties hereunder.

7-5-5: REGISTRATION AND RIGHT-OF-WAY OCCUPANCY.

- A. Registration. Each person who occupies or uses, or seeks to occupy or use, the right-of-way or place any equipment or facilities in or on the right-of-way, including persons with installation and maintenance responsibilities by lease,

sublease or assignment, must register with the City. Registration will consist of providing application information and paying a registration fee.

- B. Registration Prior to Work. No person may construct, install, repair, remove, relocate, or perform any other work on, or use any facilities or any part thereof, in any right-of-way without first being registered with the City.
- C. Exceptions. Nothing herein shall be construed to repeal or amend the provisions of City ordinances concerning boulevard plantings or gardens in the area of the right-of-way between their property and the street curb. However, nothing herein relieves a person from complying with the provisions of the Minn. Stat. Chap. 2161), Gopher One-Call Law.

7-5-6: REGISTRATION INFORMATION.

- A. Information Required. The information provided to the City at the time of registration shall include, but not be limited to:
 - 1. Each registrant's name, Gopher One-Call registration certificate number, address and e-mail address, if applicable, and telephone and facsimile numbers.
 - 2. The name, address and e-mail address, if applicable, and telephone and facsimile numbers of a local representative. The local representative or designee shall be available at all times. Current information regarding how to contact the local representative in an emergency shall be provided at the time of registration.
 - 3. A certificate of insurance:
 - a. Verifying that an insurance policy has been issued to the registrant by an insurance company licensed to do business in the State of Minnesota acceptable to the City; and
 - b. Verifying that the registrant is insured against claims for personal injury, including death, as well as claims for property damage arising out of the (i) use and occupancy of the right-of-way by the registrant, its officers, agents, employees and permittees, and (ii) placement and use of facilities and equipment in the right-of-way by the registrant, its officers, agents, employees and permittees, including, but not limited to, protection against liability arising from completed operations, damage of underground facilities and collapse of property; and

- c. Naming the City and its engineering consultants as an additional insured as to whom the coverages required herein are in force and applicable and for whom defense will be provided as to all such coverages; and
 - d. Requiring that the City be notified thirty (30) days in advance of cancellation of the policy or material modification of a coverage term; and
 - e. Indicating comprehensive liability coverage, automobile liability coverage, workers compensation and umbrella coverage. The limits of the coverage shall not be less than \$1,000,000.00.
- 4. The City will require a copy of the actual insurance policies.
 - 5. If the person is a corporation, a copy of the certificate is required to be filed under Minn. Stat. 300.06 as recorded and certified to by the Secretary of State.
 - 6. The registrant shall submit a construction performance bond, cash deposit, letter of credit, or blanket bond in the amount of \$10,000.00 to the City of St. Francis. The security is to insure compliance with the approved plan.
 - 7. A copy of the person's order granting a certificate of authority from the Minnesota Public Utilities Commission or other applicable state or federal agency, where the person is lawfully required to have such certificate from said commission or other state or federal agency.
- B. Notice of Changes. The registrant shall keep all of the information listed above current at all times by providing to the City information as to changes within fifteen (15) days following the date on which the registrant has knowledge of any change.

7-5-7: PERMIT REQUIREMENT.

- A. Permit Required. Except as otherwise provided in this code, no person may obstruct or excavate any right-of-way without first having obtained the appropriate right-of-way permit from the City to do so.
 - 1. Permit. A permit is required by a registrant to excavate or directionally bore that part of the right-of-way described in such permit and to hinder free and open passage over the specified portion of the right-of-way by placing facilities described therein, to the extent and for the duration specified therein.

- B. Permit Extensions. No person may excavate or obstruct the right-of-way beyond the date or dates specified in the permit unless (i) such person makes a supplementary application for another right-of-way permit before the expiration of the initial permit, and (ii) a new permit or permit extension is granted.
- C. Delay Penalty. In accordance with Minnesota Rule 7819.1000 subd. 3 and notwithstanding Chapter 7, Section 2 of this Code, the City shall establish and impose a delay penalty for unreasonable delays in right-of-way excavation, obstruction, patching, or restoration. The delay penalty shall be established from time to time by City Council resolution.
- D. Permit Display. Permits issued under this chapter shall be conspicuously displayed or otherwise available at all times at the indicated work site and shall be available for inspection by the City.

7-5-8: PERMIT APPLICATIONS. Application for a permit is made to the City. Right-of-way permit applications shall contain, and will be considered complete only upon compliance with, the requirements of the following provisions:

- A. Registration with the City pursuant to this chapter.
- B. Submission of a completed permit application form, including all required attachments, and scaled drawings showing the location and area of the proposed project and the location of all known existing and proposed facilities.
- C. Payment of money due the City for:
 - 1. permit fees, estimated restoration costs, and other management costs;
 - 2. prior obstructions or excavations;
 - 3. any undisputed loss, damage, or expense suffered by the City because of applicant's prior excavations or obstructions of the rights-of-way or any emergency actions taken by the City;
 - 4. franchise fees or other charges, if applicable.
- D. Payment of disputed amounts due the City by posting security or depositing in an escrow account an amount equal to at least one hundred ten (100) percent of the amount owing.
- E. Posting an additional or larger construction performance bond for additional facilities when applicant requests an excavation permit to install additional

facilities and the City deems the existing construction performance bond inadequate under applicable standards.

7-5-9: ISSUANCE OF PERMIT AND CONDITIONS.

- A. Permit Issuance. If the applicant has satisfied the requirements of this chapter, the City shall issue a permit.
- B. Conditions. The City may impose reasonable conditions upon the issuance of the permit and the performance of the applicant there under to protect the health, safety and welfare or when necessary to protect the right-of-way and its current use.

7-5-10: PERMIT FEES.

- A. Permit Fee. The City shall establish a Permit fee in an amount sufficient to recover the following costs:
 - 1. The City management costs;
 - 2. Degradation costs, if applicable;
 - 3. City labor and engineering costs.
- B. Payment of Permit Fees. No permit shall be issued without full payment of the permit fees.
- C. Non Refundable. Permit fees that were paid for a permit that the City has revoked for a breach as stated in Section 7-5-20 of this Code are not refundable.
- D. Application to Franchises. Unless otherwise agreed to in a franchise, management costs may be charged separately from and in addition to the franchise fees imposed on a right-of-way user in the franchise.

7-5-11: RIGHT-OF-WAY PATCHING AND RESTORATION.

- A. Timing. The work to be done under the permit, and the patching and restoration of the right-of-way as required herein, must be completed within the dates specified in the permit, increased by as many days as work could not be done because of circumstances beyond the control of the permittee.
- B. Patch and Restoration. Permittee shall patch and restore its own work. The City may choose to restore the right-of-way itself if the work is not completed in accordance with the deadlines outlined in the permit.

1. City Restoration. If the City restores the right-of-way, permittee shall pay the costs thereof within thirty (30) days of billing. If, following such restoration, the pavement settles due to permittee's improper backfilling, the permittee shall pay to the City, within thirty (30) days of billing, all costs associated with correcting the defective work.
 2. Permittee Restoration. If the permittee restores the right-of-way itself, it shall at the time of application for an excavation permit post a construction performance bond in accordance with the provisions of Minnesota Rule 7819.3000.
- C. Standards. The permittee shall perform excavation, backfilling, patching and restoration according to the standards and with the materials specified by the City and shall comply with Minnesota Rule 7819.1100.
- D. Duty to Correct Defects. The permittee shall correct defects in patching or restoration performed by permittee or its agents. The permittee upon notification from the City, shall correct all restoration work to the extent necessary, using the method required by the City. Said work shall be completed within five (5) calendar days of the receipt of the notice from the City, 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.
- E. Failure to Restore. If the permittee fails to restore the right-of-way in the manner and to the condition required by the City, or fails to satisfactorily and timely complete all restoration required by the City, the City 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 restoring the right-of-way. If permittee fails to pay as required, the City may exercise its rights under the construction performance bond.

7-5-12: JOINT TRENCH APPLICATIONS.

- A. Joint Application. Registrants may jointly apply for permits to excavate or obstruct the right-of-way at the same place and time.
- B. Shared Fees. Registrants who apply for permits for the same excavation, which the City does not perform, may share in the payment of the permit fee. In order to obtain a joint permit, registrants must agree among themselves as to the portion each will pay and indicate the same on their applications.
- C. With City Projects. Registrants who join in a scheduled excavation performed by the City, whether or not it is a joint application by two (2) or more registrants or a single application, are not required to pay the permit fee, but a permit would still be required.

7-5-13: SUPPLEMENTARY APPLICATIONS.

- A. Limitation on Area. A right-of-way permit is valid only for the area of the right-of-way specified in the permit. No permittee may do any work outside the area specified in the permit, except as provided herein. Any permittee which determines that an area greater than that specified in the permit must be obstructed or excavated must before working in that greater area (i) make application for a permit extension and pay any additional fees required thereby, and (ii) be granted a new permit or permit extension.
- B. Limitation on Dates. A right-of-way permit is valid only for the dates specified in the permit. No permittee may begin its work before the permit start date or, except as provided herein, continue working after the end date. If a permittee does not finish the work by the permit end date, it must apply for a new permit for the additional time it needs, and receive the new permit or an extension of the old permit before working after the end date of the previous permit. This supplementary application must be submitted before the permit end date

7-5-14: OTHER OBLIGATIONS.

- A. Compliance With Other Laws. Obtaining a right-of-way permit does not relieve permittee of its duty to obtain all other necessary permits, licenses, and authority and to pay all fees required by the City or other applicable rule, law or regulation. A permittee shall comply with all requirements of local, state and federal laws, including but not limited to Minnesota Statutes, Section 216D.01-.09 (Gopher One Call Excavation Notice System) and Minnesota Rules Chapter 7560. 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.
- B. Prohibited Work. Except in an emergency, and with the approval of the City, no right-of-way obstruction or excavation may be done when seasonally prohibited or when conditions are unreasonable for such work.
- C. Interference with Right-of-way. A permittee shall not so obstruct a right-of-way that the natural free and clear passage of water through the gutters or other waterways shall be interfered with. Private vehicles of those doing work in the right-of-way may not be parked within or next to a permit area, unless parked in conformance with City parking regulations. The loading or unloading of trucks must be done solely within the defined permit area unless specifically authorized by the permit.
- D. Trenchless Excavation. As a condition of all applicable permits, permittees employing trenchless excavation methods, including but not limited to Horizontal Directional Drilling, shall follow all requirements set forth in Minnesota Statutes,

Chapter 216D and Minnesota Rules Chapter 7560, and shall require potholing or open cutting over existing underground utilities before excavating, as determined by the director.

7-5-15: DENIAL OF PERMIT. The City may deny a permit for failure to meet the requirements and conditions of this chapter or if work is not completed on a previous permit issued to the same applicant, or if the City determines that the denial is necessary to protect the health, safety, and welfare or when necessary to protect the right-of-way and its current use.

7-5-16: INSTALLATION REQUIREMENTS. The excavation, backfilling, patching and restoration, and all other work performed in the right-of-way shall be done in conformance with Minnesota Rules 7819.1100 and 7819.5000 and other applicable local requirements, in so far as they are not inconsistent with the Minnesota Statutes, Sections 237.162 and 237.163. Installation of service laterals shall be performed in accordance with Minnesota Rules Chapter 7560 and these ordinances. Service lateral installation is further subject to those requirements and conditions set forth by the City in the applicable permits and/or agreements referenced in Section 7-5-20 of this Code.

7-5-17: INSPECTION.

- A. Notice of Completion. When the work under any permit hereunder is completed, the permittee shall furnish a completion certificate in accordance with Minnesota Rule 7819.1300.
- B. Site Inspection. Permittee shall make the work-site available to the City and to all others as authorized by law for inspection at all reasonable times during the execution of and upon completion of the work.
- C. Authority of Director.
 - 1. At the time of inspection, the director may order the immediate cessation of any work which poses a serious threat to the life, health, safety or well-being of the public.
 - 2. The director may issue an order to the permittee for any work that does not conform to the terms of the permit or other 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 director that the violation has been corrected. If such proof has not been presented within the required time, the director may revoke the permit.

7-5-18: WORK DONE WITHOUT A PERMIT.

1. Emergency Situations. Each registrant shall immediately notify the director of any event regarding its facilities that it considers to be an emergency. The registrant may proceed to take whatever actions are necessary to respond to the emergency. Excavators' notification to Gopher State One-Call regarding an emergency situation does not fulfill this requirement. Within two (2) business days after the occurrence of the emergency, the registrant shall apply for the necessary permits, pay the fees associated therewith, and fulfill the rest of the requirements necessary to bring itself into compliance with this chapter for the actions it took in response to the emergency. If the City becomes aware of an emergency regarding a registrant's facilities, the City will attempt to contact the local representative of each registrant affected, or potentially affected, by the emergency. In any event, the City may take whatever action it deems necessary to respond to the emergency, the cost of which shall be borne by the registrant whose facilities occasioned the emergency.
2. Non-Emergency Situations. Except in an emergency, any person who, without first having obtained the necessary permit, obstructs or excavates a right-of-way must subsequently obtain a permit and, as a penalty, pay double the normal fee for said permit, pay double all the other fees required by the City code, deposit with the City the fees necessary to correct any damage to the right-of-way, and comply with all of the requirements of this chapter.

7-5-19: SUPPLEMENTARY NOTIFICATION. If the obstruction or excavation of the right-of-way begins later or ends sooner than the date given on the permit, permittee shall notify the City of the accurate information as soon as this information is known.

7-5-20: REVOCATION OF PERMITS.

- A. Substantial Breach. The City reserves its right, as provided herein, to revoke any right-of-way permit without a fee refund, if there is a substantial breach of the terms and conditions of any statute, ordinance, rule or regulation, or any material condition of the permit. A substantial breach by permittee shall include, but shall not be limited to, the following:
 1. The violation of any material provision of the right-of-way permit;
 2. An evasion or attempt to evade any material provision of the right-of-way permit, or the perpetration or attempt to perpetrate any fraud or deceit upon the City or its citizens;
 3. Any material misrepresentation of fact in the application for a right-of-way permit;

4. The failure to complete the work in a timely manner, unless a permit extension is obtained or unless the failure to complete work is due to reasons beyond the permittee's control; or
 5. The failure to correct, in a timely manner, work that does not conform to a condition indicated on an order issued by the City.
- B. **Written Notice of Breach.** If the City determines that the permittee has committed a substantial breach of a term or condition of any statute, ordinance, rule, regulation or any condition of the permit, the City shall make a written demand upon the permittee to remedy such violation. The demand shall state that continued violations may be cause for revocation of the permit. A substantial breach, as stated above, will allow the City, at its discretion, to place additional or revised conditions on the permit to mitigate and remedy the breach.
- C. **Response to Notice of Breach.** Within twenty-four (24) hours of receiving notification of the breach, permittee shall provide the City with a plan, acceptable to the City, that will cure the breach. Permittee's failure to so contact the City, or permittee's failure to timely submit an acceptable plan, or permittee's failure to reasonably implement the approved plan, shall be cause for immediate revocation of the permit. Further, permittee's failure to so contact the City, or permittee's failure to submit an acceptable plan, or permittee's failure to reasonably implement the approved plan, shall automatically place the permittee on probation for one (1) full year.
1. **Cause for Probation.** From time to time, the City may establish a list of conditions of the permit, which if breached will automatically place the permittee on probation for one full year, such as, but not limited to, working out of the allotted time period or working on right-of-way grossly outside of the permit authorization.
 2. **Automatic Revocation.** If a permittee, while on probation, commits a breach as outlined above, permittee's permit will automatically be revoked and permittee will not be allowed further permits for one full year, except for emergency repairs.
 3. **Reimbursement of City costs.** If a permit is revoked, the permittee shall also reimburse the City for the City's reasonable costs, including restoration costs and the costs of collection and reasonable attorneys' fees incurred in connection with such revocation.

7-5-21: MAPPING DATA.

- A. Information Required. Each registrant and permittee shall provide mapping information required by the City in accordance with Minnesota Rules 7819.4000 and 7819.4100. Within ninety (90) days following completion of any work pursuant to a permit, the permittee shall provide the director accurate maps and drawings certifying the “as-built” location of all equipment installed, owned and maintained by the permittee. Such maps and drawings shall include the horizontal and vertical location of all facilities and equipment and shall be provided consistent with the City's electronic mapping system, when practical or as a condition imposed by the director. Failure to provide maps and drawings pursuant to this subsection shall be grounds for revoking the permit holder's registration.

- B. Service Laterals. All permits issued for the installation or repair of service laterals, other than minor repairs as defined in Minnesota Rules 7560.0150 subpart 2, shall require the permittee's use of appropriate means of establishing the horizontal locations of installed service laterals, and the service lateral vertical locations in those cases where the director reasonably requires it. Permittees or their subcontractors shall submit to the director evidence satisfactory to the director of the installed service lateral locations. Compliance with Section 7-5-21.B of this Code and with applicable Gopher State One Call law and Minnesota Rules governing service laterals install after December 31, 2005, shall be a condition of any City approval necessary for 1) payments to contractors working on a public improvement project including those under Minnesota Statutes, Chapter 429, and 2) City approval of performance under development agreements, or other subdivision or site plan approval under Minnesota Statutes, Chapter 462. The director shall reasonably determine the appropriate method of providing such information to the City. Failure to provide prompt and accurate information on the service lateral installed may result in the revocation of the permit issued for the work or for future permits to the offending permittee or its subcontractors.

7-5-22: LOCATION AND RELOCATION OF FACILITIES.

- A. Placement of Facilities. Placement, location, and relocation of facilities must comply with the Act, with other applicable law, and with Minnesota Rules 7819.3100, 7819.5000 and 7819.5100, to the extent the rules do not limit authority otherwise available to cities.

- B. Corridors. The City may assign a specific area within the right-of-way, or any particular segment thereof as may be necessary, for each type of facilities that is or, pursuant to current technology, the City expects will someday be located within the right-of-way. All excavation, or other permits issued by the City involving the installation or replacement of facilities shall designate the proper corridor for the facilities at issue. Any registrant who has facilities in the right-of-way in a position at variance with the corridors established by the City 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 registrant.

- C. Nuisance. One year after the passage of this chapter, any facilities found in a right-of-way that have not been registered shall be deemed to be a nuisance. The City may exercise any remedies or rights it has at law or in equity, including, but not limited to, abating the nuisance or taking possession of the facilities and restoring the right-of-way to a useable condition.
- D. Limitation of Space. To protect health, safety, and welfare, or when necessary to protect the right-of-way and its current use, the City shall have the power to prohibit or limit the placement of new or additional facilities within the right-of-way. In making such decisions, the City 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.

7-5-23: PRE-EXCAVATION FACILITIES LOCATION. In addition to complying with the requirements of Minn. Stat. 216D.01-.09 (“One Call Excavation Notice System”) before the start date of any right-of-way excavation, each registrant who has facilities or equipment in the area to be excavated shall mark the horizontal and vertical placement of all said facilities. Any registrant whose facilities are less than twenty (20) inches below a concrete or asphalt surface shall notify and work closely with the excavation contractor to establish the exact location of its facilities and the best procedure for excavation.

7-5-24: DAMAGE TO OTHER FACILITIES. When the City does work in the right-of-way and finds it necessary to maintain, support, or move a registrant's facilities to protect it, the City shall notify the local representative as early as is reasonably possible. If the registrant does not maintain support or move the facilities a the City request and the City maintain, support or move the facilities, the costs associated therewith will be billed to that registrant and must be paid within thirty (30) days from the date of billing. Each registrant shall be responsible for the cost of repairing any facilities in the right-of-way which it or its facilities damage. Each registrant shall be responsible for the cost of repairing any damage to the facilities of another registrant caused during the City's response to an emergency occasioned by that registrant's facilities.

7-5-25: RIGHT-OF-WAY VACATION. Reservation of right. If the City vacates a right-of-way that contains the facilities of a registrant, the registrant's rights in the vacated right-of-way are governed by Minnesota Rules 7819.3200.

7-5-26: INDEMNIFICATION AND LIABILITY. By registering with the City, or by accepting a permit under this chapter, a registrant or permittee agrees to defend and indemnify the City in accordance with the provisions of Minnesota Rule 7819.1250.

7-5-27: ABANDONED AND UNUSABLE FACILITIES.

- A. Discontinued Operations. A registrant who has determined to discontinue all or a portion of its operations in the City must provide information satisfactory to the City that the registrant's obligations for its facilities in the right-of-way under this chapter have been lawfully assumed by another registrant.
- B. Removal. Any registrant who has abandoned facilities in any right-of-way shall remove it from that right-of-way if required in conjunction with other right-of-way repair, excavation, or construction, unless this requirement is waived by the City.

7-5-28: APPEAL. A right-of-way user that: (1) has been denied registration; (2) has been denied a permit; (3) has had a permit revoked; (4) believes that the fees imposed are not in conformity with Minn. Stat. § 237.163, Subd. 6; or (5) disputes a determination of the director regarding Section 7-5-20 of this Code may have the denial, revocation, fee imposition, or decision reviewed, upon written request, by the City Council. The City Council shall act on a timely written request at its next regularly scheduled meeting, provided the right-of-way user has submitted its appeal with sufficient time to include the appeal as a regular agenda item. A decision by the City Council affirming the denial, revocation, or fee imposition will be in writing and supported by written findings establishing the reasonableness of the decision.

7-5-29: SEVERABILITY. If any portion of this chapter is for any reason held invalid by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions thereof. Nothing in this chapter precludes the City from requiring a franchise agreement with the applicant, as allowed by law, in addition to requirements set forth herein.

Source: Ordinance 128, SS
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