

SUB-ANALYSIS

Title

CHAPTER 7 STREETS AND SIDEWALKS GENERALLY

(THIS CHAPTER CONTAINS PROVISIONS AS TO DEFINITIONS, APPLICATION AND SCOPE RELATING TO CHAPTERS 8 AND 9 AS WELL AS THIS CHAPTER)

Section	
7.01	Definitions
7.02	Application
7.03	Scope and Orders of Officers <ul style="list-style-type: none">Subd. 1 ScopeSubd. 2 Orders of an Officer
7.04	Traffic and Parking Control <ul style="list-style-type: none">Subd. 1 Council ActionSubd. 2 Temporary RestrictionsSubd. 3 Traffic Restrictions and ProhibitionsSubd. 4 Parking Restrictions and ProhibitionsSubd. 5 Damaging or Moving Markings
7.05	Ice and Snow on Public Sidewalks <ul style="list-style-type: none">Subd. 1 Ice and Snow a NuisanceSubd. 2 City to Remove Snow and IceSubd. 3 Cost of Removal to be AssessedSubd. 4 `Civil Suit for Cost of RemovalSubd. 5 City Administrator to Report Sidewalks Cleared
7.06	Construction and Reconstruction of Roadway Surfacing, Sidewalk, Curb and Gutter <ul style="list-style-type: none">Subd. 1 Methods of ProcedureSubd. 2 Permit RequiredSubd. 3 Specifications and StandardsSubd. 4 Inspection
7.07	Obstructions in Streets <ul style="list-style-type: none">Subd. 1 ObstructionsSubd. 2 FiresSubd. 3 Dumping in StreetsSubd. 4 Signs and Other StructuresSubd. 5 Placing Snow or Ice in a Roadway or on a SidewalkSubd. 6 Continuing ViolationSubd. 7 Condition
7.08	Street Openings or Excavations <ul style="list-style-type: none">Subd. 1 ApplicationSubd. 2 Investigation and Payment of Estimated CostsSubd. 3 Protection of the City and the PublicSubd. 4 Issuance of PermitSubd. 5 RepairsSubd. 6 Cost AdjustmentSubd. 7 Alternate Method of Charging

(3-18-08)

- 7.09 Regulation of Grass, Weeds and Trees
 - Subd. 1 City to Control Tree Planting (Standards)
 - Subd. 2 Permit Required
 - Subd. 3 Duty of Property Owners to Cut Grass and Weeds
 - Subd. 4 City May Order Work Done
 - Subd. 5 Assessment
- 7.10 Load Limits
- 7.11 Requirement of Sewer and Water Main Service Lateral Installation
 - Subd. 1 Requirement of Sewer and Water Laterals
 - Subd. 2 Sewer System Service and Water Main Service Laterals
 - Subd. 3 Waiver
- 7.12 Sidewalk Maintenance and Repair
 - Subd. 1 Primary Responsibility
 - Subd. 2 Construction, Reconstruction and Repair Specifications
 - Subd. 3 Notice – No Emergency
 - Subd. 4 Notice – Emergency
 - Subd. 5 Failure of Owner to Reconstruct or Make Repairs
 - Subd. 6 Inspection
- 7.13 Alley Repair
 - Subd. 1 Alley Defined
 - Subd. 2 Primary Responsibility
 - Subd. 3 Charges
- 7.14-7.98 Reserved
- 7.99 Violation a Misdemeanor or Petty Misdemeanor

(3-18-08)

CHAPTER 7 STREETS AND SIDEWALKS GENERALLY

(THIS CHAPTER CONTAINS PROVISIONS AS TO DEFINITIONS, APPLICATION AND SCOPE RELATING TO CHAPTERS 8 AND 9 AS WELL AS THIS CHAPTER)

SEC. 7.01. 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 City Code, Chapters 7, 8 and 9.

SEC. 7.02. APPLICATION. The provisions of City Code, Chapters 7, 8 and 9, 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.

SEC. 7.03. SCOPE AND ORDERS OF OFFICERS.

Subd. 1. Scope. The provisions of Chapters 7, 8 and 9 relate exclusively to the streets and alleys in the City, and the operation and parking of vehicles refer exclusively to the operation and parking of vehicles upon such streets and alleys.

Subd. 2. 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.

SEC. 7.04. TRAFFIC AND PARKING CONTROL.

Subd. 1. Council Action. No device, sign or signal shall be erected or maintained for traffic or parking control unless the Council shall first have approved and directed the same, except as otherwise provided in this Section; provided, that when traffic and parking control is marked or sign-posted, such marking or sign-posting shall attest to Council action thereon.

Subd. 2. Temporary Restrictions. The City may temporarily restrict traffic or parking for any private, public or experimental purpose.

Subd. 3. 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.

Subd. 4. 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.

Subd. 5. 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.

SEC. 7.05. ICE AND SNOW ON PUBLIC SIDEWALKS.

Subd. 1. 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 24 hours after such snow or ice has ceased to be deposited.

Subd. 2. City to Remove Snow and Ice. The City may cause to be removed from all public sidewalks, beginning 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.

Subd. 3. Cost of Removal to be Assessed. The City Administrator 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.

Subd. 4. Civil Suit for Cost of Removal. The City Administrator 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 Subdivision 2 hereof, the cost of such clearing and the cost and disbursement of a civil action stabilize.

Subd. 5. City Administrator to Report Sidewalks Cleared. The City Administrator shall present to the Council at its first meeting after snow or ice has been cleared from the sidewalks as provided in Subdivision 2 hereof 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 Subdivisions 3 or 4 of this Section.

SEC. 7.06. CONSTRUCTION AND RECONSTRUCTION OF ROADWAY SURFACING, SIDEWALK, CURB AND GUTTER.

Subd. 1. Methods of Procedure.

A. Abutting or affected property owners may contract for, construct or reconstruct roadway surfacing, sidewalk or curb and gutter in accordance with this Section if advance payment is made stabilize or arrangements for payment considered adequate by the City are completed in advance.

B. With or without petition by the methods set forth in the Local Improvement Code of Minnesota Statutes, presently beginning with Section 429.011, as the same may from time to time be amended.

Subd. 2. Permit Required. It is a misdemeanor to construct or reconstruct a sidewalk, curb and gutter, driveway, or roadway surfacing in any street or other public property in the City without a permit in writing from the City Administrator. Application for such permit shall be made on forms approved and provided by the City and shall sufficiently describe the contemplated improvements, the contemplated date of beginning of work, and the length of time required to complete the same, provided, that no permit shall be required for any such improvement ordered installed by the Council. All applications shall be referred by the City Administrator to the Public Works Superintendent and no permit shall be issued until approval has been received from the Public Works Superintendent. All such applications shall contain an agreement by the applicant to be bound by this Chapter and plans and specifications consistent with the provisions of this Chapter and good engineering practices shall also accompany the application. A permit from the City shall not relieve the holder from damages to the person or property of another caused by such work.

Subd. 3. Specifications and Standards. All construction and reconstruction of roadway surfacing, sidewalk and curb and gutter improvements, including curb cuts, shall be strictly in accordance with specifications and standards on file in the office of the City Administrator and open to inspection and copying there. Such specifications and standards may be amended from time to time by the City, but shall be uniformly enforced.

Subd. 4. Inspection. The Public Works Superintendent shall inspect such improvements as deemed necessary or advisable. Any work not done according to the applicable specifications and standards shall be removed and corrected at the expense of the permit holder. Any work done hereunder may be stopped by the Public Works Superintendent if found to be unsatisfactory or not in accordance with the specifications and standards, but this shall not place a continuing burden upon the City to inspect or supervise such work.

SEC. 7.07. OBSTRUCTIONS IN STREETS.

Subd. 1. 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.

Subd. 2. Fires. It is a misdemeanor for any person to build or maintain a fire upon a street.

Subd. 3. 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 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 Council.

Subd. 4. Signs and Other Structures. It is a misdemeanor for any person to place or maintain a permanent 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 or construction provisions of the City Code. A sign in place for more than ten days shall be considered a permanent sign.

Subd. 5. Placing Snow or Ice in a Roadway or on a Sidewalk.

A. It is a misdemeanor for any person, not acting under a specific contract with the City or without special permission from the City Administrator, to remove snow or ice from private property and place the same in any roadway or on a sidewalk.

B. Where permission is granted by the City Administrator 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 by civil action or assessment against the benefited property as any other special assessment.

Subd. 6. Continuing Violation. Each day that any person continues in violation of this Section shall be a separate offense and punishable as such.

Subd. 7. 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.

SEC. 7.08 MANAGEMENT OF PUBLIC RIGHT-OF-WAY. In accordance with Minnesota Statutes, section 237.163 subdivision 2(b), the City hereby elects to manage right-of-ways within its jurisdiction. (Repealed and Replaced, Ord. 117, Second Series, 08/01/2012)

Subd. 1. Definitions. The definitions in Minnesota Rules 7819.0100, subparts 1 through 23 are hereby adopted by reference.

Subd. 2. Permit Required.

A. No person may obstruct or perform work in any public right-of-way without first having obtained a permit from the City.

1. A person seeking to obstruct or perform work in the improved and traveled portion of any right-of-way, or seeking to install new facilities in any portion of the right-of-way, shall obtain a permit specifying the location of the affected right-of-way, describing the work to-be performed or facilities to be installed, and the duration of the work requiring a permit.

2. A person seeking to perform periodic maintenance or repair work on facilities located in a right-of-way but outside the improved and traveled portion shall obtain an annual maintenance permit requiring notice to the public works director prior to initiation of any maintenance or repair work.

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B. No person may work in a right-of-way beyond the date specified in the applicable permit without applying for a permit extension. The City may impose a reasonable delay penalty for unreasonable delays in completion of work in the right-of-way. The City council shall establish the amount of the delay penalty from time to time by resolution. No delay penalty may be imposed if the delay is due to circumstances beyond the permittee's control.

C. Permits issued under this section shall be available for inspection at all times at the indicated work site.

Subd. 3. Applications. A permit application shall contain the following:

A. A completed application form including plans or drawings of the project;

B. The applicant's Gopher One-Call registration certificate number, address, e-mail address, and telephone number.

C. A certificate of self-insurance or certificate of insurance naming the City as an additional insured, verifying that the applicant is insured against claims for personal injury, death, or property damages associated with work in the right-of-way, and requiring thirty (30) days notice to the City of cancellation or material modification of the policy.

D. Payment of a permit fee covering the City's administrative and management costs and any associated costs such as the cost of any right-of-way restoration that the City will complete.

Subd. 4. Permit Conditions. The City may deny a permit if a completed application is not filed, if the requirements and conditions of this ordinance are not met, or if the City determines that the denial is necessary to protect the health, safety, and welfare or to protect the right-of-way. The City may impose reasonable conditions upon the issuance of the permit to protect the public health, safety and welfare or the right-of-way. Such conditions may include a requirement that the permittee post a construction performance bond in conformance with Minnesota Rules, part 7819.3000.

Subd. 5. Permit Fees. The City shall establish an appropriate permit fee schedule. Unless otherwise agreed to in a franchise, right-of-way permit fees are separate from and in addition to franchise fees imposed on a right-of-way user.

Subd. 6. Work Standards. All work performed in the right-of-way shall be done in conformance with Minnesota Rules, part 7819.1100 and applicable local requirements.

Subd. 7. Right-of-Way Restoration. A permittee shall promptly patch and restore the right-of-way to a condition equivalent to that prior to its work. The permittee shall complete restoration according to Minnesota Rules, part 7819.1100. If the pavement settles and the City corrects the problem, the permittee shall pay to the City all costs associated with correcting the problem within thirty (30) days of billing. If the permittee fails to restore the right-of-way as required, the City may complete the work at permittee's expense including by making claim against any construction performance bond.

Subd. 8. Completion and Inspection. The permittee shall notify the City in writing when the work under a permit is completed. The City personnel may inspect the work site at any time during or upon completion of the work. The City may order cessation of work which poses a serious threat to the life, health, safety or well being of the public.

Subd. 9. Work Without a Permit. Except in an emergency, any person who performs work in a right-of-way without the necessary permit must immediately obtain a permit and pay double the normal permit fee.

Subd. 10. Revocation of Permit. The City may revoke any right-of-way permit without 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. Prior to revocation, the City shall make a written demand upon the permittee to remedy such violation. Within twenty-four (24) hours of receipt, the permittee shall provide a plan acceptable to the City to cure the violation or breach. The permittee's failure to timely respond or implement an approved plan shall be cause for immediate revocation of the permit.

Subd. 11. Location of Facilities. The City may impose reasonable restrictions on the location of any equipment or facilities to-be located in the right-of-way. The City may assign specific locations within the right-of-way for each type of facility. Permits issued by the City may designate the location for the facilities at issue. The City may prohibit the placement of facilities within the right-of-way if necessary to protect health, safety, and welfare, or protect the right-of-way and its current use.

Subd. 12. Relocation of Facilities. Upon the City's written request, a person with facilities in the right-of-way shall promptly, and at its own expense, remove and relocate its facilities as necessary to prevent interference in connection with a public project, and not merely for the convenience of the City, or as necessary to further public health or safety.

Subd. 13. Indemnification and Liability. By applying for and accepting a permit under this ordinance, a permittee agrees to defend and indemnify the City in accordance with the provisions of Minnesota Rules, part 7819.1250.

Subd. 14. Abandoned Facilities. Unless waived by the City, any person who has abandoned facilities in any right-of-way shall remove them from that right-of-way if necessary to accommodate other right-of-way repair, excavation, or construction.

Subd. 15. Appeal. A right-of-way user may have any City decision or action on a right-of-way permit reviewed by the City Council upon written request made within thirty (30) days of such decision or action. The City Council decision will be writing and supported by written findings.

Subd. 16. Reservation of Regulatory and Police Powers. A permittee's rights are subject to the City's regulatory and police powers, including the power to adopt and enforce general ordinances to protect the public health, safety and welfare.

SEC. 7.09. REGULATION OF GRASS, HEEDS AND TREES.

Subd. 1. City to Control Tree Planting (Standards). The City shall have control and supervision of planting shrubs and trees upon, or overhanging, all the streets or other public property. The City may establish and enforce 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 Administrator and may be revised from time to time by action of the Council upon the recommendation of the City Administrator.

Subd. 2. Permit Required. It is unlawful 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.

Subd. 3. Duty of Property Owners to Cut Grass and Weeds. (Ord. 63; Repealed, Ord. 89, Second Series, 3-18-08; Added, Ord. 89, Second Series, 3-18-08)

A. Every owner of a parcel of property totaling less than two acres and abutting a street shall cut and maintain the grass and weeds on such parcel to a height not exceeding six inches.

B. Every owner of a parcel of property totaling two or more acres and abutting a street shall cut and maintain the grass and weeds on such parcel to a height not exceeding six inches in the front yard of such parcel, and 20 inches on the remainder of such parcel.

C. The foregoing requirements shall not apply to:

- 1.** gardens;
- 2.** agricultural land that is actively farmed;
- 3.** areas that are infeasible to mow, cut and maintain due to natural conditions such as rock outcroppings, excessive slope, wet soils or lands with pervasive moisture, or other similar conditions as determined by the weed inspector.

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(Rev. 2008)

D. Every owner of a parcel of property abutting on a street, sidewalk or other public right-of-way shall trim, cut or otherwise maintain trees and shrubs located thereon from the abutting property line to the center of such street or right-of-way provided, however, that the City may complete such work without advance notice in order to protect the public health, safety or welfare or to ensure safe and convenient travel on streets, sidewalks or other public rights-of-way.

E. The weed inspector, or designated representative, is authorized to carry out enforcement of this Section 7.09, Subdivision 3.

Subd. 4. City May Order Work Done. In the event of failure to comply with this Section 7.09, the City may perform grass and weed mowing, cutting and maintenance work keeping an accurate account of the cost thereof for each lot or parcel of land. Prior to the City's completion of the work, the weed inspector must send written notice of non-compliance to the property owner, or property taxpayer identified in current County records. If the owner or taxpayer does not comply within ten business days of the date of notice, the weed inspector may post notice at the property and proceed with completion of the work. (Repealed, Ord. 89, Second Series, 3-18-08; Added, Ord. 89, Second Series, 3-18-08)

Subd. 5. Assessment. The City may assess the cost of mowing, cutting or otherwise maintaining property under this Section 7.09 in accordance with Section 10.42, Subdivision 5 of the City Code. (Repealed, Ord. 89, Second Series, 3-18-08; Added, Ord. 89, Second Series, 3-18-08)

SEC. 7.10. LOAD LIMITS. The City may, from time to time, impose upon vehicular traffic on any part or all of the streets such load limits as may be necessary or desirable. Such limits, and the specific extent or 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.

SEC. 7.11. REQUIREMENT OF SEWER AND WATER MAIN SERVICE LATERAL INSTALLATION.

Subd. 1. 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.

Subd. 2. 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.

Subd. 3. 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.

(03-18-08)

SEC. 7.12. SIDEWALK MAINTENANCE AND REPAIR.

Subd. 1. Primary Responsibility. It is the primary responsibility of the owner of property upon which there is abutting any sidewalk to keep and maintain such sidewalk in safe and serviceable condition.

Subd. 2. Construction, Reconstruction and Repair Specifications. All construction, reconstruction or repair of sidewalks shall be done in strict accordance with specifications on file in the office of the City Administrator.

Subd. 3. Notice - No Emergency. Where, in the opinion of the City Administrator, no emergency exists, notice of the required repair or reconstruction shall be given to the owner of the abutting property. Such notice shall require completion of the work within 90 days, and shall be mailed to the owner or owners shown to be such on the records of the County Officer who mails tax statements.

Subd. 4. Notice - Emergency. Where, in the opinion of the City Administrator, an emergency exists, notice of the required repair or reconstruction shall be given to the owner of the abutting property. Such notice shall require completion of the work within ten days, and shall be mailed to the owner or owners shown to be such on the records of the County Officer who mails tax statements.

Subd. 5. Failure of Owner to Reconstruct or Make Repairs. If the owner of the abutting property fails to make repairs or accomplish reconstruction as herein required, the City Administrator shall report such failure to the Council and the Council may order such work to be done under its direction and the cost thereof assessed to the abutting property owner as any other special assessment.

Subd. 6. Inspection. The Public Works Superintendent shall make such inspections as are necessary to determine that sidewalks are kept in safe and serviceable condition.

SEC. 7.13. ALLEY REPAIR.

Subd. 1. Alley Defined. For the purpose of this Section, the term "alley" means a street abutting upon the rear of any lot or parcel of land.

Subd. 2. Primary Responsibility. It is the primary responsibility of each owner of property abutting upon any alley to bear the cost of repair of such alley.

Subd. 3. Charges. Cost for the repair or reconstruction of an alley may be assessed by the City against abutting owners. (7-1-90)

(Sections 7.14 through 7.98, inclusive, reserved for future expansion.)

SEC. 7.99. VIOLATION A MISDEMEANOR OR PETTY MISDEMEANOR. Every person violates a section, subdivision, paragraph or provision of this Chapter when they perform an act thereby prohibited or declared unlawful, or fail to act when such failure is thereby prohibited or declared unlawful, and upon conviction thereof, shall be punished as follows:

Subd. 1. Where the specific section, subdivision, paragraph or provision specifically makes violation a misdemeanor, they 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, they shall be punished as for a misdemeanor; where they stand 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 12-month period for the third or subsequent time, they shall be punished as for a misdemeanor.

Subd. 2. As to any violation not constituting a misdemeanor under the provisions of Subdivision 1 hereof, they shall be punished as for a petty misdemeanor. (7-1-90)