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CHAPTER 7

STREET AND SIDEWALK REGULATIONS

SECTION 7.01. DEFINITIONS.

Except as otherwise defined in the City Code, this Chapter, or where the context clearly indicates a contrary intent, the words and terms defined in Minnesota Statutes, Chapter 169, as it relates to traffic regulations; and Minnesota Statutes 412.221, subdivision 6 as it relates to streets, sewers, sidewalks, and public grounds, shall be applicable to this Chapter.

Subdivision 1. Terms

For the purpose of this chapter, the terms defined in this section shall have the meanings ascribed to them.

1. Vehicle. Every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices used exclusively upon stationary rails or tracks.
2. Motor Vehicle. Any self-propelled vehicle designed and originally manufactured to operate primarily on highways, and not operated exclusively upon railroad tracks. It includes any vehicle propelled or drawn by a self-propelled vehicle and includes vehicles known as trackless trolleys that are propelled by electric power obtained from overhead trolley wires but not operated upon rails. It does not include snowmobiles, manufactured homes, or park trailers. Motor vehicles also do not include an electric personal assistive mobility device or a vehicle moved solely by human power.
3. Passenger Vehicle. A passenger automobile means any motor vehicle designed and used for not carrying more than 15 individuals including the driver.
 - a) Includes pickup trucks and vans, including those vans designed to carry passengers, with a manufacturer's nominal rated carrying capacity of one ton, but does not include commuter vans.
 - 1) Van. Any vehicle of box-like design with no barrier or separation between the operator's area and the remainder of the cargo-carrying area, and with a manufacturer's nominal rated carrying capacity of three-fourths ton or less.

- 2) **Pick-up Truck.** Any truck with a manufacturer’s nominal rated carrying capacity of three-fourths ton or less and commonly known as a pickup truck.
 - b) “Passenger vehicle” does not include a motorcycle, motorized bicycle, bus, school bus, a vehicle designed to operate exclusively on railroad tracks, a farm truck or special mobile equipment as defined in section 168.011.

- 4. **Motorcycle.** Every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, including motor scooters and bicycles with motor attached.

- 5. **Motorized Bicycle.** A bicycle that is propelled by an electric or a liquid fuel motor of a piston displacement capacity of 50 cubic centimeters or less, and a maximum of two brake horsepower, which is capable of a maximum speed of not more than 30 miles per hour on a flat surface.

- 6. **Electric-assisted bicycle.** A motor vehicle with two or three wheels that:
 - a) Has a saddle and fully operable pedals for human propulsion;
 - b) Meets the requirements of federal motor vehicle safety standards in Code of Federal Regulations, title 49, sections 571.01 et seq.; and
 - c) Has an electric motor that has a power output of not more than 1,000 watts, is incapable of propelling the vehicle at a speed of more than 20 miles per hour, is incapable of further increasing the speed of the device when human power alone is used to propel the vehicle at a speed of more than 20 miles per hour, and disengages or ceases to function when the vehicle’s brakes are applied.

- 7. **Recreation vehicle.** A travel trailer including those that telescope or fold down, chassis-mounted campers, motor homes, tent trailers, and converted buses that provide temporary human living quarters.
 “**Recreational Vehicle**” is a vehicle that:
 - a) Is not used as the residence of the owner or occupant;
 - b) Is used while engaged in recreational or vacation activities; and
 - c) Is either self-propelled or towed on the highways incidental to the recreational or vacation activities.

- 8. **Motor Home.** A recreational vehicle designed to provide temporary living quarters. The motor home has a living unit built into as an integral part of, or permanently attached to the chassis of, a motor vehicle or van.

A motor home must contain at least four of the following:

- a) Cooking facility with liquid propane gas supply,
- b) A refrigerator,
- c) A self-contained toilet or a toilet connected to a plumbing system,
- d) A heating or air conditioning system separate from the mother vehicle engine,

- e) A portable water supply system including a sink with a faucet, self-contained or connections for external source; and
 - f) A separate 110-125 volts electrical power supply.
9. Trailer. Any vehicle designed for carrying property or passengers on its own structure and for being drawn by a motor vehicle but does not include a trailer drawn by a truck-tractor semi trailer combination or an auxiliary axle on a motor vehicle which carries a portion of the weight of the motor vehicle to which it is attached.

SECTION 7.02 INFRASTRUCTURE CONSTRUCTION AND MAINTENANCE

Subdivision 1. Curb and Gutter, Street and Sidewalk Painting or Coloring.

1. It is unlawful for any person to paint, letter or color any street, sidewalk or curb and gutter for advertising purposes, or to paint or color any street, sidewalk or curb and gutter for any purpose, except as the same may be done by City employees acting within the course or scope of their employment. Provided, however, that this provision shall not apply to uniformly coloring concrete or other surfacing, or uniformly painted house numbers, as such coloring may be approved by the Council.
2. Damaging or Moving Markers. It is unlawful 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.

Subdivision 2. Construction and Reconstruction of Roadway Surfacing, Sidewalk, Curb and Gutter

1. Permit Required. It unlawful 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. 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 to the City Clerk-Treasurer and the Street Superintendent and no permit shall be issued until approval has been received from the City Clerk-Treasurer and the Street 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.

2. 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 therefore 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.
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 Clerk-Treasurer 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.
4. Inspection. The Building Official 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 Building Official 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.

Subdivision 3. Sewer and Water Main Service Lateral Installation Requirements.

- 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.
- 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.
- 3. Waiver. The Council may waive the requirements of this Section only if it finds the effects thereof are **impractical and cause significant financial hardship**, and upon such notice and hearing as the Council may deem necessary or proper.

Subdivision 4. Obstructions in Streets and Sidewalks

1. Obstructions. It is unlawful 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.
2. Fires. It is unlawful for any person to build or maintain a fire upon a street.
3. Dumping in Streets. It is unlawful 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.
4. Signs and Other Structures. It unlawful 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 or construction provisions of the City Code.
5. Placing Snow, Ice, Leaves or Grass in a Roadway or on a Sidewalk.
 - A. It is unlawful for any person, not acting under a specific contract with the City or without special permission from the Council, to remove snow, ice, leaves or grass from private property and place the same in any roadway or on a sidewalk.
 - B. Where permission is granted by the Council the person to whom such permission is granted shall be initially responsible for payment of all direct or indirect costs of removing the snow, ice, leaves or grass 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.
6. Continuing Violation. Each day that any person continues in violation of this Section shall be a separate offense and punishable as such.

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 person or property. Such insurance or bond shall also protect the City from any suit, action or cause of action arising by reason of such obstruction.

Subdivision 5. Street Openings or Excavations.

It is unlawful for any person, except a City employee acting within the course and scope of 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 excavation permit from the City as provided for in City Code, Chapter 7, Section 16.

SECTION 7.03 SIDEWALK REGULATIONS

Subdivision 1. Snow and Ice on Sidewalks.

1. The owner of any property abutting a public sidewalk shall keep, or cause to be kept, such sidewalks free of snow and ice, and safe for pedestrians.
2. It is the duty of the City to make such inspections as are necessary to determine that such public sidewalks are kept free of snow and ice and safe for pedestrians. If it is found that any sidewalk abutting on private property is not free of snow and ice, and is unsafe for public travel, the City shall cause a notice to be served by certified mail, or by personal service, upon the record owner of the property, or the occupants, ordering such owner to have the sidewalk free of snow and ice, and made safe for public travel within 24 hours and stating that if the owner fails to do so, the City will do so, and the expense thereof must be paid by the owner in single installment; and that if unpaid, it will be made a special assessment against the property concerned.
3. If the sidewalk is not so made free of snow and ice within 24 hours after receipt of the notice, the City shall remove any snow or ice there from, and make it safe for pedestrians, or order the work done by contract. The City Clerk shall keep record of the total cost of snow and ice removal, attributable to each lot or parcel of property, and report such information to the Council.

Subdivision 2. Bicycles Prohibited.

It is unlawful for any person to ride a bicycle on a sidewalk in a Downtown Commercial zoning district.

Subdivision 3. Motorized Vehicles Prohibited.

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.

Subdivision 4. Repair of Sidewalks.

- A. Owner's Responsibility. The owner of any property within the City abutting a public sidewalk shall keep the sidewalk in repair and safe for pedestrians. Repairs shall be made in accordance with standard specifications approved by the Council and on file in the office of the City Clerk-Treasurer.
- B. Inspection and Notice. In addition to the procedure allowing a petition for improvements by abutting owners, it shall be the duty of the Street Superintendent to make such inspections as are necessary to determine that public sidewalks within the City are kept in repair and safe for pedestrians. If the Street Superintendent finds that any sidewalk abutting on private property is unsafe and in need of repairs, he shall cause a notice to be served, by registered mail or by personal service, upon the record owner of the property, or the occupant, if the owner does not reside within the City, or cannot be found therein, ordering such owner to have the sidewalk repaired and made safe within 40 days (during construction season), and stating that if the owner fails to do so, that the Street Superintendent will do so on behalf of the City; that the expense thereof must be paid by the owner in a single installment; and that if unpaid, it will be made a special assessment against the property concerned.
- C. Repair. If the sidewalk is not repaired within 40 days after receipt of the notice, the Street Superintendent shall repair the sidewalk and make it safe for pedestrians, or order the work done by contract in accordance with law. The Street Superintendent shall keep a record of the total cost of the repair attributable to each lot or parcel of property, and report such information to the City Clerk-Treasurer.
- D. Personal Liability. The owner of property on which sidewalk repair has been performed shall be personally liable for the cost of such repair. As soon as the service has been completed and the cost determined, the City Clerk-Treasurer shall prepare a bill and mail it payable at the office of the City Clerk-Treasurer.
- E. Assessment. On or before September 1, of each year, the Clerk-Treasurer shall list the total unpaid charges for sidewalk repair against each separate lot or parcel to which they are attributable under this Section. The Council may then spread the charges against the property as a special assessment under Minnesota Statutes Section 429.101, and other pertinent statutes, for certification to the County Auditor for collection the following year along with current taxes.

SECTION 7.04-7.14 RESERVED FOR FUTURE

SECTION 7.15 INTERSECTIONS

Subdivision 1. Clear View Triangle.

On property at any corner formed by intersecting streets, it shall be unlawful for the owner or occupant to install, set out, maintain or to permit the installation or maintenance of any sign, fence, hedge, tree, shrubbery, natural growth, building, construction or other obstructions to a clear view to a height greater than three feet above the level of the center of the adjacent intersection within the triangle of land formed on the corner of the lot by measuring a distance of 15 feet along each lot line from the street-property line intersection. It is hereby declared that any such installation or construction within the clear view triangle as herein is a public nuisance and encumbrance and obstruction to the public streets.

Subdivision 2. Exceptions.

The foregoing provision of this Article shall not apply to existing permanent buildings, public utility poles, trees with trunks less than 12 inches in diameter and trimmed to a height at least eight feet above the level of the intersection shall not apply to plant species of open growth habits not planted in the form of a hedge and which are so planted and trimmed as to allow, at all seasons, a clear and unobstructed cross-view; it shall not apply to supporting members of appurtenances to permanent buildings heretofore existing, to official warning signs or signals, or to signs mounted ten feet or more above the ground and whose supporting members do not constitute an obstruction as hereinbefore defined.

Subdivision 3. Notice to Correct.

The owner of any property which does not conform to the foregoing provisions of this Article is required after notice to remove such obstructions or make necessary corrections and improvements as state in such notice. The notice shall describe the property involved, the conditions constituting a violation, the necessary corrective action to be taken and shall state a time limit in which the corrections are to be made. The time limit shall be not less than 30 days from the date of service of the notice. Service may be made personally or by mail addressed to the owner at his last known address as shall appear upon the records of the City of Westbrook.

Subdivision 4. Correction by the City.

Upon failure of the owner to make the corrections prescribed, the City Council may direct the performance of the necessary corrections or improvements pursuant to the provisions of law governing local improvement. When undertaken by the City, the actual benefit of such improvement, which shall not exceed the cost, shall be charged against the owner of the premises and shall become a lien upon the premises.

SECTION 7.16 EXCAVATION

It is unlawful 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, or private property to which a municipal utility (as defined in City Code, Chapter 3) is connected, without first having obtained a written permit from the Public Works Director as herein provided.

Subdivision 1. Application.

Application for a permit to make an excavation shall describe with reasonable particularity the name and address of the applicant, the place, purpose and size of the excavation or opening, and such other information as may be necessary or desirable to facilitate the investigation hereinafter provided for, and shall be filed with the City Administrator or his assistant at least eight (8) working days before work is commenced. While time is of the essence, such time requirement may be waived by the Public Works Director.

Subdivision 2. Investigation and Payment of Estimated Costs.

Upon receipt of such application, the City Administrator shall cause such investigation to be made as he may deem necessary to determine placement of municipal utilities, or connections therewith, which may be affected by such opening or investigation.

Subdivision 3. Excavations in Streets and on Public Property.

1. Non-Completion or Abandonment. Work in streets and on property owned or controlled by the City 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 such 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. License - Contractor's performing work in City of Westbrook must be State or City licensed. City licenses require a \$500.00 refundable deposit and are good for one year from the date of issuance. A certificate of insurance is required in the amount of \$100,000 per person and \$300,000 for each accident, worker's compensation, and a policy insuring the applicant against liability imposed by law on account of damage or destruction of property in the amount of \$50,000. (Contractor's without workmen's compensation coverage must fill out a "Certification of Compliance" form.) Work requiring a contractor's license includes:
 - Excavating
 - Moving & Wrecking of Buildings
 - Private Utility repair & placement
 - Cement & Masonry involving Excavating
 - Tree Removal & Trimming
 - Driveway Installation
3. Insurance. Prior to commencement of work in streets and on property owned or controlled by the City, 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.
4. Indemnification. Before issuance of a permit to make excavations in streets and on property owned or controlled by the City, 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.
5. Backfilling and Compacting. All street openings, and other excavations where, in the opinion of the City the circumstances require, shall be backfilled and compacted by the Contractor and approved by the street department prior to the surfacing being placed.

Subdivision 4. Issuance of Permit.

The City Clerk-Treasurer shall issue such permit only after:

1. Completion of such investigation;
2. Agreement by the applicant to the conditions of time and manner as aforesaid;
3. Agreement in writing by the applicant to be bound by all of the provisions of this Section;
4. Payment of all fees for investigation and permit; and,
5. Advising applicant as to the location of any municipal utility, or connection therewith, that may be affected by such opening or excavation.

Subdivision 5. Fixing Fees and Policies.

The Council shall, by resolution, fix all fees and charges for investigation and permits issued under this Section, including, but not limited to, backfilling and compacting. Such resolution shall be kept on file in the office of the City Clerk-Treasurer and uniformly enforced. The Council may, by resolution, establish policies to supplement the regulations set forth in this Section, which policies may include, but not by way of limitation, bonding and advance payment requirements.

Subdivision 6. Excavators Responsibility

It shall be the responsibility of the excavator to contact the Gopher State One Call for location and placement of all utilities. Contacting Gopher State at 1-800-252-1166, 811, www.gopherstateonecall.org.

It is the responsibility of the excavator to maintain safety by all means to include but not limited to barricades, signs, cones and all other means. The City of Westbrook Street Department shall maintain and advise to acceptable safety signage.

It shall be the responsibility of the property owner/excavator for the disposal of all dirt and debris created as a result of the excavation operations.

Subdivision 7. Permit Revocation.

The City Clerk may, where terms of the permit or policies duly adopted are not complied with, revoke the permit and stop the work performed by the permittee.

SECTION 7.99. VIOLATION A MISDEMEANOR OR PETTY MISDEMEANOR.

Every person violates a section, subdivision, paragraph or provision of this Chapter when performing 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:

Subdivision 1.

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

Subdivision 2.

As to any violations not constituting a misdemeanor under the provisions of Subdivision 1 hereof, the violator shall be punished as for a petty misdemeanor.

Subdivision 3.

As to any violation of a provision adopted by reference, the violator shall be punished as specified in such provision, so adopted.