

CHAPTER 7 STREETS/SIDEWALKS

Section 700 - Construction, Repair, Maintenance and Use

700.01 Definition. The term "current service" as used in this Chapter shall mean one or more of the following: snow, ice, or rubbish removal from sidewalks; weed elimination from street grass plots adjacent to sidewalks or from private property; removal or elimination of public health or safety hazards from private property, excluding any hazardous building included in Minnesota Statutes, Section 463.15 to 463.26; installation or repair of water service lines; street sprinkling, street flushing, light street oiling or other dust treatment of streets, repair of sidewalks and alleys; trimming and care of trees and removal of unsound and insect-infested trees from the public streets or private property, and the operation of a street lighting system.

700.02 Sidewalks.

Subd. 1 Construction. No person other than an authorized city employee or contractor shall construct a sidewalk within any public right of way of the City.

Subd. 2 Repairs.

A. The owner of any property within the City abutting a public sidewalk or alley shall keep the sidewalk or alley in repair and safe for pedestrians. Repairs shall be made in accordance with the standard specifications approved by the Council and on file in the office of the Clerk-Treasurer/Administrator.

B. The City Engineer or such other person designated by the Council shall make such inspections as are necessary to determine that public sidewalks and alleys within the City are kept in repair and safe for pedestrians or vehicles. If the Inspector finds that any sidewalk or alley abutting on private property is unsafe and in need of repairs, he or she shall cause a notice to be served by registered or certified mail or by personal service, upon the record owner of the property and the occupant, if the owner does not reside within the City or cannot be found therein, ordering such owner to have the sidewalk or alley repaired and made safe within 30 days and stating that if the owner fails to do so, the City Engineer or such other person designated by the Council will do so on behalf of the City, and that the expense of the repairs must be paid by the owner, and that if unpaid, the expense shall be made a special assessment against the property concerned.

C. If the sidewalk or alley is not repaired within 30 days after receipt of the notice, the City Engineer or such other person designated by the Council shall report the facts to the Council and the Council shall by resolution order the City Engineer or such other person designated by the Council to repair the sidewalk or alley and make it safe, or order the work done by contract in accordance with the law. The City Engineer or such other person designated by the Council 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 Clerk-Treasurer/Administrator, for the purpose of assessing the cost back to the landowner.

Subd. 3 Snow, Ice, Dirt, Rubbish.

A. All snow, ice, dirt and rubbish remaining on a public sidewalk more than 48 hours after its deposit thereon shall be a public nuisance. The owner and the occupant of any property adjacent to a public sidewalk shall use diligence to keep such walk safe for pedestrians. No owner or occupant shall allow snow, ice, dirt or rubbish to remain on the walk longer than 48 hours after its deposit thereon.

B. The city engineer or such other person designated by the Council shall remove from all public sidewalks all snow, ice, dirt and rubbish as soon as possible beginning 12 hours after any such matter has been deposited thereon or after the snow has ceased to fall. The City Engineer or other duly authorized person shall keep a record showing the cost of such removal adjacent to each separate lot and parcel and shall deliver such information to the Clerk-Treasurer/Administrator, for the purpose of assessing the costs back to the landowner.

Subd. 4 Bicycles. No person shall ride or use any bicycle upon any of the sidewalks within the corporate limits of the City.

700.03 Weed Elimination.

Subd. 1 Nuisance Declared. Any weeds, whether noxious as defined by law or not, growing upon any lot or parcel of land outside the traveled portion of any street or alley in the city to a height in excess of 2 inches or which have gone or are about to go to seed are a nuisance. The owner and the occupant shall abate or prevent such nuisance on such property and on land outside the traveled portion of the street or alley abutting on such property.

Subd. 2 Notice. On or before June 1 of each year and at such other times as ordered by resolution of the Council, the City Clerk-Treasurer/Administrator shall publish once in the official newspaper a notice directing owners and occupants of property within the City to destroy all weeds declared by Subd. 1 to be a nuisance and stating that if not destroyed within ten days after publication of the notice, the weeds will be destroyed by the City Engineer or such other person designated by the Council at the expense of the owner and, if not paid, the charge for such work will be made a special assessment against the property concerned.

Subd. 3 Abatement/Assessment. If the owner or occupant of any property in the City fails to comply with the notice within ten days after its publication, the City Engineer or such other person designated by the Council shall cut and remove such weeds. The person who cuts and removes the weeds shall keep a record showing the cost of such

work attributable to each separate lot and parcel and shall deliver such information to the Clerk-Treasurer/Administrator, for the purpose of assessing the removal costs back to the landowner.

700.04 Street Treatments.

Subd. 1 Selection. The Council shall each year determine by resolution what streets and alleys shall be sprinkled, flushed, oiled, or given other dust treatment during the year and the kind of work to be done on each. The Council shall also determine by resolution from time to time the streets on which trees shall be trimmed and cared for, the kind of work to be done, and what unsound trees shall be removed.

Subd. 2 Notice/Hearing.

A. Before any work is done pursuant to this Subsection, the Clerk-Treasurer/Administrator shall, under the Council's direction, publish notice that the Council will meet to consider such projects. Such notice shall be published in the official newspaper at least once no less than 2 weeks prior to the meeting of the Council and shall state the date, time and place of such meeting, the streets affected and the particular projects proposed, and the estimated cost of each project, either in total or on the basis of the proposed assessment per front foot or otherwise.

B. At such hearing or at any adjournment thereof, the Council shall hear property owners with reference to the scope and desirability of the proposed projects. The Council shall then adopt a resolution confirming the original projects with such modifications as it considers desirable and shall provide for the doing of the work by day labor through the City Engineer or such other person designated by the Council, or by contract.

Subd. 3 Assessment. The City Engineer or such other person designated by the Council shall keep a record of the cost and the portion of the cost properly attributable to each lot and parcel of property abutting on the street or alley on which the work is done and shall report such information to the Clerk-Treasurer/Administrator for the purpose of assessing these costs back to the landowner.

700.05 Snow Removal.

Subd. 1 Purpose. The City believes that it is in the best interest of the residents for the City to assume basic responsibility for control of snow and ice on city streets. Reasonable ice and snow control is necessary for routine travel and emergency services. The City shall provide such control in a safe and cost effective manner, keeping in mind safety, budget, personnel, and environmental concerns. The City shall use city employees, equipment and/or private contractors to provide this service.

Subd. 2 Policy. The Street Superintendent shall decide when to begin snow or ice control operations. The criteria for that decision are:

- A. Snow accumulation of 3 inches or more;
- B. Drifting of snow that causes problems for travel;
- C. Icy Conditions which seriously affect travel;
- D. Time of snowfall in relationship to heavy use of streets.

Subd. 3 Plowing. Snow will be plowed in a manner so as to minimize any traffic obstructions. On Main Street from First Avenue West to Second Avenue East, on Central Avenue from South Street to North Street, and on First Avenue Southeast from South Street to North Street, the snow shall be plowed from the sides of the streets to the center. The snow shall then be removed in accordance with the snow removal procedure set forth in the following paragraph. On all other streets, the center of the road way shall be plowed first. The snow shall then be pushed from left to right. The discharge shall go onto the boulevard area of the street. When a plow goes on a bridge, the driver shall slow down so that snow does not go over the bridge if possible. In times of extreme snowfall, streets will not always be able to be completely cleared of snow.

Subd. 4 Snow Hauling. The street superintendent shall determine when snow will be removed by truck from the area. Such snow removal shall occur in areas where there is no room on the boulevard for snow storage and in areas where accumulated piles of snow create a hazardous condition. Snow removal operations shall not commence until other snowplowing operations have been completed. Snow removal operations may also be delayed depending on weather conditions, personnel, and budget availability. The snow shall be removed and hauled to a snow storage area. The snow storage area shall be located so as to minimize environmental problems.

Subd. 5 Priorities and Schedule for which Streets will be Plowed. The City shall classify city streets based on the street function, traffic volume, and importance to the welfare of the community. Those streets classified as "Snow Plow Routes" shall be plowed first. Snow plow routes shall be those streets which are high volume and which connect major sections of the City and provide access for emergency, fire, police, and medical services. The following streets shall be considered snow plow routes: Main Street, Central Avenue, North Street, and South Street. The second priority streets shall be low volume residential streets. The third priority areas shall be alleys and city parking lots. Any street may be reclassified by Council resolution.

Subd. 6 Work Schedule for Snowplow Operators. Snowplow operators shall be expected to work eight hour shifts. In severe snow emergencies, operators may sometimes have to work in excess of 8 hour shifts. However, because of budget and safety concerns, no operator shall work more than a 12 hour shift in any twenty four hour

period. Operators shall take a fifteen minute break every 2 hours with a half hour meal break after four hours. After a twelve hour day, the operators shall be replaced if additional qualified personnel are available.

Subd. 7 Weather Conditions. Snow and ice control operations shall be conducted only when weather conditions do not endanger the safety of city employees and equipment. Factors that may delay snow and ice control operations include: severe cold, significant winds, and limited visibility.

Subd. 8 Use of Sand, Salt and other Chemicals. The City shall use sand, salt, and other chemicals when there are hazardous ice or slippery conditions. The City is concerned about the effect of such chemicals on the environment and will limit its use for that reason.

Subd. 9 Specific Sidewalks. Abutting property owners are responsible for keeping the sidewalks free of snow and ice. However, the city shall remove accumulated snow from some of the sidewalks in the City. These sidewalks are on Main Street, Central Avenue, North Street, South Street, First Avenue East, First Avenue West, Second Avenue East, Second Avenue West. As there is limited number of personnel available, the City shall only remove the snow from these sidewalks after all primary snow removal has been completed. Also, snow removal operations from the designated sidewalks may be delayed depending on weather conditions and budget availability.

700.06 Snow Emergencies.

Subd. 1 Definitions. For the purposes of Subdivisions 1 to 5, the following terms shall have the meanings given them:

A. "Due Notice to the Public" shall mean 6 hours notice be given to the public by all media available and/or posting notice on Main Street.

B. "Snow Emergency" means a period after a snow fall during which intensive unobstructed snow removal shall be necessary to clean the streets.

Subd. 2 Declaration of "Snow Emergency". If in the judgement of the street superintendent intensive unobstructed snow removal is necessary, the Clerk-Treasurer/Administrator shall declare a "snow emergency" and give "due notice to the public" that the parking of motor vehicles on certain streets shall be prohibited at the times specified in the public notice.

Subd. 3 Parking of Vehicles. No person shall park a motor vehicle on any street on which parking has been prohibited for a snow emergency and due notice to the public of the prohibition has been given.

Subd. 4 Violating Vehicle. Any motor vehicle parked in violation of Subdivision 3 may be removed by the City without notice to the owner or operator and the cost of removal and storage of any vehicle removed under this section shall be assessed against the owner or operator of the vehicle. These costs shall be a lien against the vehicle.

Subd. 5 Penalty. Any person violating any provision of Subdivisions 1 to 4 and any person interfering with a city employee in the performance of duties under Subdivisions 1 to 4 shall be guilty of a misdemeanor.

700.07 Mailbox Placement.

Subd. 1 Council Approval. Any person that desires to install a rural mailbox or similar receptacle in the City may only do so with approval of the Council, and such approval shall be sought by application of the person or persons wishing to install the mailbox or similar receptacle. Any permission or license granted by this provision, shall only be given to the individual who applies for approval. Should the property be sold or otherwise conveyed or rented, or should the person with approval for the mailbox cease to use the property as his or her residence, the approval shall cease. Such mailbox or similar receptacle shall be dismantled by the person having had approval. Should the mailbox not be dismantled, the City, following fourteen days notice to the person having had approval, shall dismantle the mailbox. Any subsequent owner, tenant, or other similar persons may not continue the use of the rural mailbox or similar receptacle and must apply to the Council for approval.

Subd. 2 Restriction. No rural mailboxes or similar receptacles shall be placed or located in the City within the area bounded on the West by State Highway No. 71, on the East by Third Avenue, on the North by North Street, and on the South by South Street. Location or installation of rural mailboxes or similar receptacles within this area is hereafter prohibited.

700.08 Personal Liability.

Subd. 1 Billing. The owner of property on which or adjacent to which a current service has been performed shall be personally liable for the cost of such service. As soon as the service has been completed and the cost determined, the Clerk-Treasurer/Administrator or other designated official shall prepare a bill and mail it to the owner and the amount shall be immediately due and payable at the office of the Clerk-Treasurer/Administrator.

Subd. 2 Assessment. On or before September 1 of each year, the Clerk-Treasurer/Administrator shall list the total unpaid charges for each type of current service against each separate lot or parcel to which they are attributable under this Chapter. After notice and hearing as provided in Minnesota Statutes Section 429.061, the Council may then spread the charges against property benefitted as a special assessment under Minnesota Statutes, Section 429.101 and other pertinent statutes for certification to the County Auditor and collection along with current taxes the following year or in annual installments, not exceeding ten, as the Council may determine in each case.

Section 705 - Right-of-Way Regulations

705.01 Election. The City hereby elects to manage rights-of-way within its jurisdiction.
(Ord. 08-01-22-01, passed 1-22-08)

705.02 Definitions. The definitions in Minnesota Statutes, Section 237.162, Minnesota Rules, Part 7819.0100, subparts 1-23, and Minnesota Rules, Part 7560.0100, subparts 1-12, together with any amendments thereto, are hereby adopted by reference and incorporated into this Section.
(Ord. 08-01-22-01, passed 1-22-08)

705.03 Permit Requirements. Except as provided in this Section, no person may excavate any right-of-way without first having obtained a permit from the City.

Subd. 1 Excavation Permit. An excavation permit is required to excavate any part of a right-of-way, and which excavation may hinder free and open passage over a specified portion of the right-of-way, to the extent and for the duration specified in the permit.

Subd. 2 Permit Extensions. No person may excavate the right-of-way beyond the date specified in the permit unless such person: (i) makes a supplementary application for another right-of-way permit before expiration of the initial permit; and (ii) a permit extension is granted.

Subd. 3 Delay Penalty. In accordance with Minnesota Rule, Part 7819.1000, subpart 3, and notwithstanding Subd. 2 of this Subsection, the City may establish and impose, by appropriate resolution, a delay penalty for unreasonable delays in right-of-way excavation, patching or restoration.

Subd. 4 Permit Availability. Permits issued under this Chapter shall be available at all times at the indicated work site and available for inspection.
(Ord. 08-01-22-01, passed 1-22-08)

705.04 Permit Applications. An application for a permit shall contain the following information and materials:

A. Submission of a completed permit application form, including all required attachments, scaled drawings showing the location and area of the proposed project, and the location of all known existing and proposed facilities, and the following information: each permittee's name, Gopher One Call registration certificate number, address and e-mail address, if applicable, and telephone and facsimile numbers. Current information regarding how to contact the local representative in an emergency shall be provided at the time of registration.

B. A certificate of insurance verifying that an insurance policy has been issued to the permittee by an insurance company licensed to do business in the State of Minnesota, which includes the following terms:

1. The permittee is insured against claims for personal injury, including death, as well as claims for property damage arising out of: (i) the use and occupancy of the right-of-way by the permittee, its officers, agents and employees; and (ii) the placement and use of facilities and equipment in the right-of-way by the permittee, its officers, agents and employees, including but not limited to, protection against liability arising from completed operations, damage of underground facilities and collapse of property;
2. Naming the City as an additional insured; and
3. Requiring that the City be notified promptly as to cancellation of the policy or material modification of the coverage term.

C. If the person is a corporation, a copy of the certificate required to be filed under Minnesota Statutes, Section 300.06, as recorded and certified to by the Secretary of State.

D. 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.

E. Payment of money due the City for permit fees, estimated restoration costs and other management costs; prior obstructions or excavations; any undisputed loss, damage or expense suffered by the City because of applicant's prior excavations or obstructions of the right-of-way, or any emergency actions taken by the City; and applicable franchise fees or other charges.
(Ord. 08-01-22-01, passed 1-22-08)

705.05 Issuance of Permit. If the applicant has satisfied the requirements of this Section, the City shall issue a permit.

Subd. 1 Conditions. The City may impose reasonable conditions upon the issuance of the permit and the performance of the applicant, to protect the health, safety and welfare of persons or property, or when necessary to protect the right-of-way and its current use. A permittee shall comply with all requirements of local, state and federal laws.

Subd. 2. Trenchless Excavation. Permittees employing trenchless excavation methods, such as 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 may be determined by the City.
(Ord. 08-01-22-01, passed 1-22-08)

705.06 Permit Fees. The City shall establish by resolution a permit fee in an amount sufficient to

recover City management costs and degradation costs, if applicable. Fees paid for a permit that the City has revoked are not refundable. Unless otherwise agreed to, management costs may be charged separately from, and in addition to, the franchise fees imposed on a right-of-way user.
(Ord. 08-01-22-01, passed 1-22-08)

705.07 Right-of-Way Restoration.

Subd. 1 Time. All work to be done under the excavation permit, including restoration of the right-of-way, must be completed within the dates specified in the permit, increased by as many days as work could not be done because of circumstances beyond the control of the permittee, or when work was prohibited as unseasonable or unreasonable.

Subd. 2 Patching and Restoration. The City may choose either to itself restore the right-of-way or to have the permittee restore the right-of-way.

A. If the City restores the right-of-way, the permittee shall pay the costs thereof within 30 days of billing.

B. If the permittee restores the right-of-way, it may be required by the City to post a construction performance bond.

Subd. 3 Standards. The permittee shall perform patching and restoration according to the standards and with the materials specified by the City, and shall comply with Minnesota Rules, Part 7819.1100.

Subd. 4. Duty to Correct Defects. The permittee shall correct defects in patching or restoration performed by it or its agents. Upon notification from the City, the permittee shall correct all defective restoration work consistent with the terms stated by City. Work shall be completed within five calendar days of receipt of the notice, 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.

Subd. 5 Failure to Restore. If permittee fails to restore the right-of-way in the manner and to the condition required by City, or fails to satisfactorily and timely complete all restoration, the City, at its option, may do such work. In that event, permittee shall pay to the City, within 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 a construction performance bond.

(Ord. 08-01-22-01, passed 1-22-08)

Subd. 1 Area. A right-of-way permit is valid only for the area specified in the permit. No permittee may do any work outside the specified area. Any permittee, which determines that an area greater than that specified in the permit must be obstructed or excavated, must, before working in the greater area: (i) make application for a permit extension and pay any additional fees; and (ii) be granted a new permit or permit extension.

Subd. 2 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 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. If the obstruction or excavation of the right-of-way begins later or ends sooner than the date given on the permit, the permittee shall notify the City of the accurate information as soon as it is known.

(Ord. 08-01-22-01, passed 1-22-08)

705.09 Denial of permit. The City may deny a permit for failure to meet the requirements and conditions of this Section, or if the City determines that the denial is necessary to protect the health, safety and welfare of persons or property, or when necessary to protect the right-of-way and its current use.

(Ord. 08-01-22-01, passed 1-22-08)

705.10 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, Part 7819.1100, and other applicable local requirements, in so far as they are not inconsistent with the Minnesota Statutes, Sections 237.162 and 237.163.

Subd. 1 All work done under the provisions of this Chapter, and any permit issued thereunder, shall be done only by a licensed and insured contractor who maintains all required current licensing or permits in connection with such work.

(Ord. 08-01-22-01, passed 1-22-08)

705.11 Inspection.

Subd. 1 When the work under any permit is completed, the permittee shall furnish a completion certificate in accordance with Minnesota Rules, Part 7819.1300.

Subd. 2 Permittee shall make the work site available to City personnel and to all others, as authorized by law, for inspection at all reasonable times.

Subd. 3 The City may order the immediate cessation of any work that poses a serious threat to the life, health, safety or well-being of the public. The City 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 days after issuance of the order, the permittee shall present proof to the City that the violation has been corrected. If such proof has not been presented within the required time, the City may revoke the permit consistent with this Section.

(Ord. 08-01-22-01, passed 1-22-08)

705.12 No Permit Work. No excavation permit shall be required in the following instances:

Subd. 1 Emergency. Each person with facilities in the right-of-way shall immediately notify the City of any event considered an emergency. The owner of the facilities may take whatever actions are necessary to respond to the emergency. Within two business days after the occurrence of the emergency, the owner shall apply for the necessary permits, pay the required fees, and fulfill the rest of the requirements necessary to bring itself into compliance.

If it becomes aware of an emergency regarding facilities, the City will attempt to contact the local representative of each facility owner 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 person whose facilities occasioned the emergency.

Subd. 2 Utility Pole. For any excavation it makes for the sole purpose of installing a utility pole, anchor or guide wire, a public utility company shall notify City of the location of any such installation.

Any person who, without having the appropriate permit, excavates a right-of-way must subsequently obtain a permit; and, as a penalty, pay double the normal fee for such permit, pay double all the other fees required by this Section, 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 Section.

(Ord. 08-01-22-01, passed 1-22-08)

705.13 Revocation of Permits. The City reserves the right to revoke any right-of-way permit 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:

- A. The violation of any material provision of the right-of-way permit;
- B. An evasion or attempt to evade any material provision of the right-of-way permit;

2008 S-11

7-6E

City of Eagle Bend

**Chapter 7 Streets/Sidewalks
Right-of-Way Regulations**

- C. Any material misrepresentation of fact in the application for a right-of-way permit;
- D. 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
- E. The failure to correct, in a timely manner, nonconforming work as duly noticed by the City.

Subd. 1 Written Notice. The City shall make a written demand upon the permittee to remedy any

violation. The demand shall state that continued violations might be cause for revocation of the permit. A substantial breach will allow the City, at its discretion, to place additional or revised conditions on the permit to mitigate and/or remedy the breach.

Subd. 2 Response. Within two days of receiving notification of the breach, permittee shall provide the City with a plan, acceptable to the City, which will cure the breach. Permittee's failure to so contact the City, or the permittee's failure to submit an acceptable plan, or permittee's failure to reasonably implement the approved plan, shall be cause for immediate revocation of the permit.

Subd. 3 Reimbursement. If a permit is revoked, the permittee shall also reimburse the City for its costs, including restoration and collection costs, and reasonable attorney fees incurred in connection with such revocation.

(Ord. 08-01-22-01, passed 1-22-08)

705.14 Mapping Data.

Subd. 1 Each permittee shall provide mapping information required by the City in accordance with Minnesota Rules, Parts 7819.4000 and 7819.4100.

Subd. 2 All permits issued for the installation or repair of service laterals, other than minor repairs as defined in Minnesota Rules, Part 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 City reasonably requires it. Permittees or their subcontractors shall submit to the City evidence of the installed service lateral locations. Compliance with this subdivision and applicable Gopher State One Call law and Minnesota Rules governing service laterals installed after December 31, 2005, shall be a condition of any City approval necessary for: (i) payments to contractors working on a public improvement project; and (ii) City approval of performance under development agreements, or other subdivision or site plan approval under Minnesota Statutes, Chapter 462. The City shall reasonably determine the appropriate method of providing such information. Failure to provide prompt and accurate information on the service laterals installed may result in the revocation of the permit issued for the work, or of future permits issued to the offending permittee or its subcontractors.

(Ord. 08-01-22-01, passed 1-22-08)

2008 S-11

7-6F

City of Eagle Bend

Chapter 7 Streets/Sidewalks Right-of-Way Regulations

705.15 Location of Facilities. Placement, location and relocation of facilities must comply with all appropriate law, including Minnesota Rules, Parts 7819.3100, 7819.5000 and 7819.5100, to the extent the rules do not limit authority otherwise available to cities.

Subd. 1 The City may assign specific corridors within the right-of-way, or any particular segment thereof, for each type of facility that is, or the City expects will someday be, located within the right-of-way. All excavation, obstruction or other permits issued by the City involving the installation or replacement of facilities shall designate the proper corridor for the facilities at issue.

Subd. 2 To protect health, safety and welfare of persons or property, or when necessary to protect the right-of-way and its current use, the City shall have the power to prohibit a facility within the right-of-way. The City shall attempt to accommodate all existing and potential users of the

right-of-way. The City shall be guided primarily by considerations of the public interest, the public's need 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.

(Ord. 08-01-22-01, passed 1-22-08)

705.16 Damage to Other Facilities. When the City finds it necessary to maintain, support or move a facility within the right-of-way to protect the facility, the City shall promptly notify the facility owner. The costs associated therewith will be billed to that facility owner, and must be paid within 30 days from the date of billing. Each facility owner shall be responsible for the cost of repairing any facilities in the right-of-way that it or its facility damages. Each facility owner shall be responsible for the cost of repairing any damage to other facilities caused during the City's response to an emergency occasioned by that owner's facility.

(Ord. 08-01-22-01, passed 1-22-08)

705.17 Right-of-Way Vacation. If the City vacates a right-of-way that contains facilities, the facility owner's rights in the vacated right-of-way are governed by Minnesota Rules, Part 7819.3200.

(Ord. 08-01-22-01, passed 1-22-08)

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

(Ord. 08-01-22-01, passed 1-22-08)

705.19 Abandoned Facilities. Any person who has abandoned facilities in any right-of-way shall remove them from that right-of-way, if required in conjunction with right-of-way repair, excavation or construction, unless the City waives this requirement.

(Ord. 08-01-22-01, passed 1-22-08)

2008 S-11

7-6G

City of Eagle Bend

Chapter 7 Streets/Sidewalks Right-of-Way Regulations

705.20 Appeal. A right-of-way user that: (i) has been denied a permit; (ii) has had a permit revoked; (iii) believes that the fees imposed are invalid; or (iv) disputes a determination of the City, may have the denial, revocation, fee imposition, or decision reviewed upon written request by the Council. The Council shall act in a timely written request at its next regularly scheduled meeting. A decision by the Council affirming the denial, revocation or fee imposition will be in writing and supported by written findings establishing the reasonableness of the decision.

(Ord. 08-01-22-01, passed 1-22-08)

705.21 Reservation of Regulatory and Police Powers. A permittee's rights are subject to 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.

(Ord. 08-01-22-01, passed 1-22-08)

2008 S-11

7-6H

710 - Highway Use and Traffic Regulations

710.01 Highway Traffic Regulation.

Subd. 1 Adoption. The regulation provisions of Minnesota Statutes, Ch. 169, as amended, regulating the use of highways, streets, and alleys within the City are hereby adopted and incorporated in and made part of this Code as completely as if set out here in full.

Subd. 2 Penalty. Any violation of the provisions adopted by reference in Subdivision 1 shall be a violation of this Section and shall be punished by such penalty as is prescribed by the statutes.

710.02 U-Turns. No person shall turn any vehicle on any street or street intersection so as to reverse direction, where "NO U TURN" signs are posted. The Council may by resolution determine which streets or intersections shall be posted "No U-Turn".

710.03 Parking.

Subd. 1 Opposite Side Parking. No person driving in the left lane of the following designated street areas shall park a vehicle by driving the vehicle across the right lane of the street and no person driving in the right lane of the following designated street areas shall park a vehicle by driving the vehicle across the left lane of the street:

- A. On Main street between State Highway No. 71 and 2nd. Avenue East, and
- B. On Central Avenue between North Street and South Street.

Subd. 2 Handicapped Parking. There shall be maintained in the City spaces for handicapped parking. Such spaces shall be determined by the Council in compliance with all state and federal laws and identified by a sign incorporating the international symbol of access in white on blue. Such parking spaces shall be for the exclusive use of handicapped persons with vehicles displaying the required certificate, license plates, or insignia. It shall be unlawful for any person to park in a handicapped parking space unless that person's vehicle displays the required certificate, license plate, or insignia. Any person violating this ordinance shall be guilty of a misdemeanor and shall be punished in accordance with Minnesota Statute 169.346.

Subd. 3 Winter Parking. Between the dates of October 31 and March 31, no parking shall be permitted on any city street between the hours of 2:00 a.m. and 6:00 a.m.
(Am. Ord. 23-08-21-01, passed 8-21-23)

710.04 Petty Misdemeanor. Any person convicted of violating any of the other provisions of 710.02 or 710.03, Subd. 1 or Subd. 3 of this Code shall be guilty of a petty misdemeanor and shall be punished by a fine not to exceed \$100.00.
(Am. Ord. 23-08-21-01, passed 8-21-23)

710.05 Exhibition Driving.

Subd. 1 Definition. Exhibition driving is defined as driving which is not the result of an emergency and which involves any of the following, the committing of which shall be prima facie evidence of exhibition driving:

A. Driving of a motor vehicle in such a manner as to cause unreasonable acceleration of the vehicle and which causes squealing or screeching sounds to be made by the tires of the vehicle.

B. Driving of a motor vehicle in such a manner as to cause the throwing of sand, gravel, snow, or any other material upon the surface of the road, street, alley, sidewalk, parking lot or public right-of-way or public property by the tires of such vehicle.

C. Driving of a motor vehicle in such a manner as to cause the rapid or heavy or unreasonable acceleration of a motor vehicle which causes unnecessarily loud or prolonged or disturbing engine or muffler noise to emit from the vehicle.

D. Driving of a motor vehicle in such a manner as to cause rubber marks to be left upon the pavement of the road, street, alley, sidewalk, parking lot, or other public right-of-way or public property by the tires of the vehicle regardless of whether or not such driving also causes squealing or screeching sounds to be made by the tires and regardless of whether such driving causes loud, prolonged or disturbing engine or muffler noise to emit from the vehicle.

E. Driving of a motor vehicle in such a manner as to cause the sudden and unreasonable braking of the vehicle which causes squealing or screeching or other sound by the tires of such vehicle.

F. Driving of a motor vehicle in such a manner as to cause the sudden and unreasonable braking of the vehicle which causes the throwing or displacement of sand, gravel, or other material upon the road, street, alley, sidewalk, parking lot or other public right-of-way or public property by the tires of such vehicle.

G. Driving of a motor vehicle in such a manner as to cause the fishtailing, sliding, or skidding of the vehicle, regardless of whether such driving causes squealing or screeching sounds made by the tires and regardless of whether such driving causes the throwing of sand, gravel, snow or other materials by the tires, and regardless of whether such driving causes loud, prolonged or disturbing engine or muffler noise.

H. Driving of a motor vehicle in such a manner as to simulate a race or temporary race.

I. Driving of a motor vehicle in such a manner as to cause the vehicle or another vehicle to sway or turn away abruptly or to otherwise impede traffic.

Subd. 2 Nuisance. Exhibition driving of any motor vehicle upon any public or private street, alley, sidewalk, parking lot, or other public right-of-way or public property within the City is hereby declared to be a public nuisance is prohibited.

Subd. 3 Penalty. Any person violating any provision of this Section shall be guilty of a misdemeanor and shall be punished by a fine of not to exceed \$700.00 or by imprisonment for a period not to exceed 90 days, or both.

710.06 Obstructions.

Subd. 1 Permit Required. No person or persons, or corporation shall incumber or obstruct any street, sidewalk, alley or other public place within the corporate limits of the City by placing or causing to be placed therein any building material, carriages, carts, wagons, sleighs, boxes, fire wood awnings or other material or substance whatever without first having obtained a written permit therefor from the City but in no case shall permission be given to any person to place in any public alley any obstructing material of any kind or nature.

Subd. 2 Prohibited Obstructions. No person shall obstruct any of the streets, alleys, sidewalks, or crossings of the City by allowing to remain thereon any wagon, cart, dray, sled, sleigh; steam engine, car or vehicle of any description or any term, horse, mule, or ox, or other animal which prevents the free use of the street, sidewalk, alley or crossing. An exception may be made only in case of necessity.

Subd. 3 Illegal Deposits. No person shall throw or deposit, or permit to be thrown or deposited, any dirt, paper, filth or ashes, shavings, filthy water, offal, strawwood, stones, earth, matter or rubbish of any kind on or into any street, sidewalk, alley, or other public place or ground in the City.

Subd. 4 Fences. No person shall build, place, or maintain any building, fence, or other obstruction either in whole or in part upon, in, or across any street, sidewalk, alley, or other public place within the City.

Subd. 5 Excavation No person shall dig or carry away or cause the same to be done, on any earth, sand, or gravel from any street, sidewalk, alley, or public ground of the City.

710.07 Building Moving. No person shall remove or cause to be removed any building through the streets in the City without written permission from the Council.

710.08 Bicycles. No person shall ride or use any bicycle upon any of the public streets within the corporate limits of the City at a greater or higher rate of speed than eight (8) miles per hour.

720 - Naming of Streets

720.01 Naming and Renaming of Streets.

Subd. 1 Wells Street. The road located in the City of Eagle Bend, County of Todd, State of Minnesota, which is described as follows shall be officially known as "Wells Street":

A. Beginning at a point sixty-six feet North of the Northeast corner of Lot One Block One in Andrew Abbot's First Addition to the Village of Eagle Bend according to the recorded plat thereof now on file in the office of the Register of Deeds in and for the aforesaid County and State thence North 272 feet, more or less, to the eighth line between the North East Quarter of the South West Quarter (NE1/4 SW1/4) and the South East Quarter of the South West Quarter (SE1/4 SW1/4) of Section 12, Township 131, Range 35, thence East on the above described eighth line 286 1/2 feet, more or less, to a point 66 feet directly East of the starting point, thence west 66 feet to place of beginning.

B. Beginning at a point 33 feet East of the NW corner of the SW1/4 of the SE1/4 of Section 12, Wykeham Twp., thence East along the Quarter line a distance of 860 feet, thence South at right angles, 20 feet, thence West, at right angles, 793 feet, thence at right angles, a distance of 67 feet, thence at right angles, 33 feet to the point of beginning, EXCEPT THE PART KNOWN AS THIRD STREET NORTHEAST.

Section 730 - Violations

730.01 Penalty. Any person who maintains a nuisance or who otherwise violates this Chapter, and any person who interferes with a City employee or other authorized person in the performance of any current service under this Chapter is unless otherwise specifically provided for, guilty of a misdemeanor. If convicted of such violation, such person shall be subject to a fine of not more than \$700 or imprisonment for not more than 90 days, and the costs of prosecution in either case may be added.

730.02 Separability. If any section or provision of this Chapter shall be found invalid by a court of competent jurisdiction, the invalidity shall extend only to the section affected and other sections of this Chapter shall continue in full force and effect.