

CITY OF HANOVER
CHAPTER 5: STREET AND SIDEWALK REGULATIONS

ADOPTED:

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11/04/13 - Ordinance No. 2013-05

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SEC. 5.01 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 this chapter.

1. “Anti-icing” shall mean the application of a liquid deicer prior to the onset of a snow event.
2. “Deicer” shall mean any substance used to melt snow and ice or used for its anti-icing effects.

SEC. 5.02 APPLICATION

The provisions of this chapter are applicable to the operation and parking of all vehicles upon streets and alleys in the City.

SEC. 5.03 TRAFFIC AND PARKING CONTROL

- A. 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.
- B. 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.
- C. Parking Restrictions and Prohibitions. It is unlawful for any person to park a vehicle, except an emergency vehicle, contrary to lane restriction or prohibitions painted on any curb, or contrary to sign-posted, fenced, or barricaded restrictions or prohibitions.
- D. Overnight Parking. It is unlawful to park or leave standing any vehicle on any street between the hours of 2:00 o'clock a.m. and 6:00 o'clock a.m. every day from November 1 of each year to April 1 of the year next following.
- E. Restricted Parking During Snowfall & Blowing Snow. No person shall park or leave a motorized vehicle on any street within the City during or after a Snowfall or Blowing Snow until the snow has been cleared from curb to curb. The City has adopted a Snowplowing Policy. Violators of this Ordinance or Snowplowing Policy may be ticketed and/or have their vehicle towed.

SEC. 5.04 ICE AND SNOW ON PUBLIC SIDEWALKS

- A. Ice and Snow a Nuisance. All snow and ice remaining upon public sidewalks is hereby declared to constitute a public nuisance and shall be abated by the owner or tenant of the abutting private property within twenty-four (24) hours after such snow or ice has ceased to be deposited.
- B. City to Remove Snow and Ice. The City may cause to be removed from all public sidewalks, beginning twenty-four (24) hours after snow or ice has ceased to fall, all snow or ice which may be discovered thereon, and it shall keep a record of the cost of such removal and the private property adjacent to which such accumulations were found and removed.
- C. Cost of Removal to be Assessed. The City Clerk 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 be certified for collection as other special assessments are certified and collected.
- D. Civil Suit for Cost of Removal. The City Clerk 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 therefore.
- E. The City Clerk to Report Sidewalks Cleared. The City Clerk 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.
- F. Placing Snow or Ice in a Roadway or on a Sidewalk. It is a misdemeanor for any person not acting under a specific contract with the City to remove snow or ice from private property and place the same in any roadway or on a sidewalk.
- G. Continuing Violation. Each day that any person continues in violation of this Section shall be a separate offense and punishable as such.
- H. Storage of Deicing Materials
1. Indoor operations for the storage of deicing materials must be provided whenever possible to prevent such material from being affected by rain, snow, or melt water.
 2. All salt, sand and other deicing materials stored outdoors must be always covered. When not using a permanent roof, a waterproof impermeable, flexible cover must be placed over all storage piles. The cover must prevent runoff and leachate from being generated by the outdoor storage piles. The cover must be secured to prevent

removal by wind or other storm events. Piles must be formed in a conical shape and covered as necessary to prevent leaching.

3. Facility siting.

- a. The facility must be near the area in which the deicing materials are to be used, if practical.
- b. Each facility must be located outside of floodplains and 200 feet from lakes, river, streams, ditches, storm drains, manholes, catch basins, wetlands, and any other areas likely to absorb runoff. A facility must not be near surface water features, water supplies, wells or drywells.
- c. A facility must be located on impermeable surfaces.
- d. The property's slope must be away from the facility's salt, deicer, and sand storage area.
- e. Salt vulnerable natural areas should be avoided as storage facilities to the extent possible. Where they cannot be avoided, specific measures should be instituted to protect vulnerable areas. Salt vulnerable areas include, but are not limited to:
 - i. Areas with salt sensitive vegetation
 - ii. Areas serving as a source of drinking water (surface water and ground water)
 - iii. Areas with bodies of water with low dilution, low volume, or salt sensitive species
 - iv. Areas associated with ground water recharge zones or shallow water table, with medium to high permeable soils.

4. Snow Piles. Snow piles must be located downslope from salt and deicer storage areas to prevent the snow melt from flowing through storage areas and carrying material to the nearest drainage system or waterway.

5. Transfer of materials. Practices must be implemented to reduce exposure (e.g., sweeping, diversions, and/or containment) when transferring salt or other deicing material.

SEC. 5.05 METHODS AND PROCEDURES FOR PUBLIC IMPROVEMENTS

- A. 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. 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. All applications shall be referred by the City to the City Clerk and no permit shall be issued until approval has been received from the City Clerk. 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 caused by such work.

- B. 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 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.
- C. Inspection. The City Engineer 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 City Engineer 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. 5.06 OBSTRUCTIONS IN STREET

- A. Obstructions. It is a misdemeanor for any person to place, deposit, display, offer for sale or permit any fence, barrier, or other obstructions upon, over, across or under any street or public right-of-way without first having obtained a written permit from the City 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.

Obstructions include plowing, pushing or blowing snow out onto or across the street.

- B. Fires. It is a misdemeanor for any person to build or maintain a fire upon a street.
- C. Dumping in Streets. It is a misdemeanor for any person to throw or deposit in any street or public right-of-way, 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.

- D. Signs or Other Structures. It is a misdemeanor for any person to place or maintain a sign, advertisement, or other structure in any street or public right-of-way 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.

SEC. 5.07 PUBLIC RIGHT OF WAY REGULATIONS

- A. Application and scope. This Section shall apply exclusively to excavations and obstructions within public rights-of-way by any person who owns or controls, or intends to own or control, any utility service facility therein. All other excavations or obstructions are regulated elsewhere in this Code.
- B. Definitions. The following words, terms and phrases, as used herein, shall have the following meanings:
1. “Abandoned facility” means: (1) a facility no longer in service or physically disconnected from any other facility that is in use or still carries service; and that is deemed abandoned by the owner of the facility.
 2. “Applicant” means any public right-of-way user required to obtain a permit under this Section.
 3. “City” means City of Hanover, Minnesota.
 4. “City management costs” means the actual costs incurred by the City for public rights-of-way management, including, but not limited to, costs incurred in connection with the registration process, the excavation or obstruction permit process, the inspection of project work and restoration and enforcement and correction of non-complying project work, mapping of public right-of-way users and maintenance and regulation of public right-of-ways occupied by public right-of-way users.
 5. “Degradation” means a decrease in the useful life of the right-of-way caused by excavation in or disturbance of the right-of-way, resulting in the need to reconstruct such right-of-way earlier than would be required if the excavation or disturbance did not occur.
 6. “Degradation Cost” subject to Minnesota Rules 7819.1100 means the cost to achieve a level of restoration as determined by the city at the time the permit is issued, not to exceed the maximum restoration shown in plates 1 to 13, set forth in Minnesota Rules parts 7819.9900 to 7819.9950.
 7. “Degradation Fee” means the estimated fee established at the time of permitting by

the city to recover costs associated with the decrease in the useful life of the right-of-way caused by the excavation, and which equals the degradation cost.

8. “Director” means the City of Hanover City Engineer and his/her designee.
9. “Emergency” means a condition that (1) immediately endangers the life or safety of persons; (2) cause an immediate threat of significant loss or injury to property; or (3) requires immediate repair or replacement in order to restore service to customers.
10. “Equipment” means anything tangible used to install, repair or maintain facilities in any public right-of-way.
11. “Excavate or excavation” means to dig into or in any way remove or physically disturb or penetrate any public right-of-way ground surface, or any portion thereof.
12. “Excavation permit” means a permit which is issued by the City authorizing the permittee to excavate in a public right-of-way as specifically described in the permit.
13. “Facility or facilities” means anything tangible, including equipment, which is required to provide utility services.
14. “Hole” means an excavation having a length that is equal to or less than the width of the public right-of-way for the section of the roadway where the work is occurring.
15. “Local representative” means a person or designee of such person authorized by a public right-of-way user to accept service and to act and make decisions regarding matters within the scope of this Section on behalf of the public right-of-way user.
16. “Obstruct or obstruction” means to place or the placement of any object in a public right-of-way, or to remove or the removal of an existing structure, or any portion thereof, from a public right-of-way, for an aggregate period of eight (8) hours or more.
17. “Obstruction permit” means a permit which is issued by the City authorizing the permittee to obstruct a public right-of-way as specifically described in the permit.
18. “Patch or patching” means a method of roadway surface replacement or restoration that consists of: (1) the compaction of the sub-base and aggregate base; and (2) the replacement, in kind, of the existing roadway surface for a minimum of two (2) feet beyond the edges of the excavation in all directions.
19. “Permittee” means a person to whom an excavation or obstruction permit has been issued by the City under this Section.

20. “Person” means an individual or entity subject to the laws and rules of this state, however organized, whether public or private, whether domestic or foreign, whether for profit or nonprofit, and whether natural, corporate, or political.
21. “Project or project work” means any activity, including construction, reconstruction, installation, maintenance, relocation, or replacement of any facility or a public right-of-way in which the facility is located and restoration of the public right-of-way that is regulated under this Section.
22. “Public right-of-way or public rights-of-way” means the surface, air space above the surface and the area below the surface of any public street, highway, lane, path, alley, sidewalk, trail, avenue, boulevard, drive, court, concourse, bridge, tunnel, park, parkway, skyway, waterway, dock, bulkhead, wharf, pier, easement or similar property or waters within the City owned by or under control of the City, or dedicated or otherwise conveyed to the City for general public use, including, but not limited to, any riparian right, which, consistent with the purposes for which it was created, obtained or dedicated, may be used for the purpose of installing, operating and maintaining utility service facilities No reference herein to a "public right-of-way" shall be deemed to be a representation or guarantee by the City that its interest or other right to control or use such property is sufficient to permit its use for the purpose of installing, operating and maintaining utility service facilities.
23. “Public right-of-way user” means any person or entity which owns or controls a facility that is located, or is sought or intended to be located, in a public right-of-way including persons who have installation and maintenance responsibilities by contract, lease, sublease or assignment.
24. “Restore or restoration” means the process, including patching, by which a public right-of-way and surrounding area, including pavement and foundation, is returned to the same condition that existed before any project work.
25. “Restoration cost” means the amount of money paid to the City by a permittee to meet restoration requirements in accordance with plates 1 to 13 of the PUC rules.
26. “Trench” means an excavation in the roadway surface having a length that is equal to or in excess of the width of the roadway or sections of roadway where the work is occurring.
27. “Utility service” means services provided by: (1) a public utility as defined in Minnesota Statutes; (2) a telecommunications, pipeline, community antenna television, fire and alarm communications, water, sewer, electricity, light, heat, cooling energy, or power services; (3) a corporation organized for the purposes set forth in Minnesota Statutes; (4) a district heating or cooling system; or (5) a cable communication systems as defined in Minnesota Statutes.

- C. Franchises. The City may, in addition to the requirements of this Section, require any public utility or cable operator who has or seeks to have facilities or equipment located in any public right-of-way to obtain a franchise.
- D. Registration requirement.
1. Registration. As of the effective date of this Section, any public right-of-way user, which owns or controls a facility within any public right-of-way, or any portion thereof, shall register with the City. Registration shall be deemed completed upon the public right-of-way user submitting to the City a completed registration form furnished by the City and paying the registration fee. A right-of-way user is required to update its registration within 60 days of any change of the information contained in a current registration statement.
 2. Transfer of ownership or interest. Whenever any public right-of-way user transfers, sells, assigns or otherwise conveys ownership or interest in facilities or equipment to another person, the registered public right-of-way user shall notify the City of the date of the conveyance and the name of the transferee within thirty (30) days of the conveyance.
- E. Permit requirement.
1. Permit required.

Except as otherwise provided in this Code, no person or public right-of-way user may obstruct or excavate any public right-of-way without first having obtained the appropriate permit from the City unless another reporting process is approved by the Director or his/her designee.

An excavation permit is required for any excavation. An obstruction permit is required for any obstruction in connection with the installation, relocation, operation or maintenance of a utility service.

Any public right-of-way user, which owns or controls a facility within any public right-of-way, or any portion thereof, on the effective date of this Section, that subsequently excavates or otherwise obstructs any public right-of-way, or any portion thereof, shall first obtain a permit therefore as required under this Section.
 2. Permit applications.
 - a. An application for a permit shall be on a form furnished by the City and completed and submitted to the City with the following information:
 - 1) The applicant's name; Gopher One-Call registration certificate number; address; e-mail address; telephone number; and facsimile number.

- 2) The local representative's name; address; e-mail address; telephone number; facsimile number; and current information regarding how to contact the local representative in an emergency.
- 3) The name, address and telephone number of the person(s) or entities, other than the applicant, to perform the project work or any portion thereof.
- 4) A certificate of insurance or self-insurance verifying the coverage as required in this Section.
- 5) All mapping data and information in form and substance as required in this Section, except a registrant who is not applying for an excavation or obstruction permit need not provide this information.
- 6) A detailed description and drawing to a scale as required by the City of the proposed project and project work, including identification of the obstructions to be placed, the size and depth of any excavation, the schedule for commencement and completion of the proposed project, and the location and size of any trees impacted in the designated work area.

2. Issuance of permit.

The City may deny a permit for the following reasons:

- a. The applicant failed to fully comply with the application requirements herein.
- b. The City has initiated revocation of a prior permit issued under this Section against the applicant.
- c. The applicant has violated within the past two (2) years any requirements of this Section.
- d. The time schedule for the project will conflict or interfere with a community exhibition, celebration, festival or any other similar community event in the area of the project.
- e. The time schedule for the project conflicts with scheduled public improvement of the public right-of-way.
- f. The proposed project violates a provision of this Code.
- g. The proposed project is adverse to the public health, safety and welfare, by

interfering with the safety and convenience of ordinary travel over the public right-of-way, or endangers the public right-of-way and its users based on one or more of the following factors:

- 1) The extent of public right-of-way area available;
- 2) The competing demands for the particular proposed area space in the public right-of-way;
- 3) The availability of other locations in the public right-of-way or in other public rights-of-way for the facility(s) or equipment of the permit applicant;
- 4) The applicability of an ordinance or other regulation that affect the location of a facility or equipment in the public right-of-way;
- 5) The applicant's prior compliance with the terms and conditions of its franchise, this Section and other applicable ordinances and regulations;
- 6) The condition and age of the public right-of-way and the City's scheduled reconstruction thereof; and
- 7) The costs of disruption to the public and damage to the public right-of-way balanced against any benefits to the public served by an expansion into additional parts of the public right-of-way for facilities or equipment.

F. Conditions of permit and registration. All permits issued and all registrations made under this Section shall be subject to the following requirements:

1. All permits issued under this Section, or a copy of the permit shall be conspicuously displayed or otherwise available at all times at the indicated project work site and shall be available for inspection immediately upon request by the Director or his/her designee.
2. If the obstruction or excavation of the public right-of-way begins later or ends sooner than the dates specified in the permit, the permittee shall promptly notify the Director.
3. Installation, placement, location, and relocation of equipment and facilities shall comply with all federal, state and local laws.
4. Public right-of-way restoration shall be in accordance with the restoration regulations set forth in this Section.

5. Installation of all underground utilities shall be in accordance with the underground utilities regulations set forth in this Section and all other applicable federal, state and local laws.
6. Precautions shall be taken as are necessary to avoid creating unsafe or unsanitary conditions and a permittee shall not obstruct a public right-of-way, except as expressly authorized by the permit, so as to hinder the natural free and clear passage of water through the gutters or other waterways. Personal vehicles of those doing work in the public right-of-way may not be parked within or next to a permit area, unless parked in conformance with City parking regulations. The loading or unloading of trucks must be done solely within the defined permit area unless specifically authorized by the permit.
7. Project operations and work shall be conducted in a manner so as to insure the least obstruction to and interference with present and continued use of the public right-of-way.
8. Precautions shall be taken to assure the safety of the general public, employees, invitees and those who require access to abutting property, including appropriate signage.
9. The permittee shall notify abutting property owners with a 48-hour written notice prior to commencement of any project work that may disrupt the use of and access to the abutting property.
10. The permittee involved in underground projects shall register with Gopher State One Call and comply with the requirements thereof.
11. The permittee shall comply with the Uniform Traffic Manual for Traffic Control at all times during any project work and shall protect and identify excavations and work operations with barricade flags in the daylight hours and by warning lights at dusk and night.
12. The permittee shall comply with all conditions of the permit.
13. When any trail or drive has been cut, the appropriate signage must be kept in place and maintained until restoration is complete.
14. The permittee shall provide proper trench protection as required by O.S.H.A. to prevent any cave-in; injury to property or persons; or enlargement of the excavation.
15. Excavations, trenches and jacking pits off the roadway surface area or adjacent to the roadway or curbing shall be sheathed and braced. When unattended, all excavations, trenches and jacking pits shall be protected to prevent surface drainage.

16. The permittee shall protect the root growth of significant trees and shrubbery located within the public right-of-way and adjacent thereto.
 17. The permittee shall coordinate project work and installation of facilities in co-locations involving other public right-of-way users.
 18. The permittee shall maintain access to all properties and cross streets during project work, including emergency vehicle access.
 19. The permittee shall physically locate property lines abutting the project work. The permittee shall replace, with the services of a Minnesota-licensed surveyor, any property corners or monuments disturbed as a result of the project.
 20. The permittee shall complete restoration of the public right-of-way in conformance with this Section.
 21. No permittee, or any agent, subcontractor or employee thereof, shall use lugs (steel tracks) on any roadway surfaces.
 22. The permittee shall remove daily all dirt or debris from sidewalks, trails, public and private roadway surfaces and curbs and gutters during project work.
 23. The permittee shall obtain all other necessary permits, licenses and approvals, pay all required fees therefore and comply with all requirements of local, state and federal laws.
 24. The permittee shall not do any work outside the project area as specified in the permit.
 25. Permittee shall pay all City costs, including but not limited to fire, law enforcement, and public works if, during the course of work allowed under the permit, a public health or safety situation arises that requires a response by the City.
- G. County or state right-of-ways. Any public right-of-way user who is required to obtain any county or state permit for excavation or obstruction in any Wright County, Hennepin County or Minnesota Department of Transportation right-of-way must provide notification of permitting to the City within one week of obtaining the permit but no less than 48 hours before the excavation would begin.
- H. Installation of underground facilities within public right-of-ways. The permittee shall comply with the following requirements when installing underground facilities:
1. Underground facilities shall, where reasonably possible, be installed outside the paved or surface area. If unable to install outside the surfaced area, the installation shall be as close to the edge of the roadway surface as possible to allow access

- thereto without unnecessarily disturbing paved areas of the roadway;
2. Public right-of-way alignment and grade shall be maintained;
 3. Fiber facilities shall be buried in a proper conduit and at a depth of no less than three (3) feet deep and no more than four (4) feet; copper facilities below concrete or bituminous paved roadway surfaces shall be buried no less than three (3) feet deep and no more than four (4) feet deep, and all other copper facilities shall be buried no less than thirty (30) inches deep and no more than four (4) feet deep;
 4. All underground facilities which cross streets or hard surfaced driveways shall be bored and installed in conduit when requested by the City. Gas does not need to be installed in conduit.
 5. When required, the permittee shall excavate an observation hole over a City utility to ensure that a City utility is not damaged;
 6. If the project work involves an open cut, the permittee shall install visual tracers twelve (12) inches over buried facilities. If other construction methods are used, substitute location methods may be used upon approval by the City;
 7. During plowing or trenching of facilities, a warning tape shall be placed at a depth of twelve (12) inches above copper cables with over two hundred (200) pairs and fiber facilities and a locating wire or conductive shield shall be installed above buried telecommunication facilities, except for di-electric cables.
 8. Restoration of areas disturbed by facilities will include returning the right-of-way to the same condition that existed before excavation as per MN Rules 7519.1100 Subject to this standard, plates 1 to 13, shown in parts 7519.9900 to 7519.9950, indicate maximum limits of restoration methods and area requirements the local government unit can impose when a right-of-way user excavates in the public right-of-way. The local government unit and right-of-way user may agree to a lesser requirement. The right-of-way user is responsible for all of its work done in the public right-of-way, whether by employees, agents, or independent contractors. All levels of restoration include compaction of the materials placed in the excavation of the sub-grade and aggregate base, plus pavement replacement, in kind. If required by the local government unit, all work must be performed according to the local government unit's specifications and drawings.
 9. All facilities shall be located so as to not interfere with existing and potential future traffic signals and signs;
 10. Unless approved by the City, all above ground appurtenances shall be located no closer than ten (10) feet to City hydrants, waterline valves, manholes, lift stations, catch basins; not in front of or within visual sight lines of any City sign, monument or amenity for facilities or parks; and no closer than two (2) feet from sidewalks

and trails;

11. Underground facilities shall not be installed between a hydrant and an auxiliary valve;
12. Where utility easements exist beyond the roadway surface area of the public right-of-way and space is available therein, underground facilities shall not be installed within five (5) feet of hydrants, waterline valves, lift stations, manholes or catch basins. In those areas in which no utility easement exists, placement of an underground facility shall be between the edge of pavement and no closer than three (3) feet to an existing City utility appurtenance, unless approved by the City.
13. The location and installation of telecommunications facilities shall comply with the National Electric Safety Code, as incorporated by reference in Minnesota Statutes.

I. Supplement permit or permit extension.

1. Limitation on area. No permittee shall obstruct or excavate an area greater than that specified in the permit without first obtaining a new permit or permit extension therefore by the City.
2. Limitation on dates. No permittee shall begin its work before the permit start date or, except as provided herein, continue working after the completion date.

J. Revocation of permits.

1. Grounds for revocation. The City may revoke a permit issued hereunder on the following grounds:
 - a. A material provision or condition of the permit or City Code was substantially breached.
 - b. A material misrepresentation in the application for a permit.
 - c. The permittee failed to maintain the required bonds or other security and insurance.
 - d. The permittee failed to complete the project work within the time specified in the permit unless the failure to complete work is due to reasons beyond the permittee's control.
 - e. The permittee failed in a timely manner to correct work that does not conform to applicable standards, conditions, federal, state or local laws.
 - f. An evasion or attempt to evade any material provision of the public right-of-way permit, or the perpetration or attempt to perpetrate any fraud or

deceit upon the City.

2. Notice of revocation. If the Director determines that grounds for revocation exist, the Director shall provide written notice to the permittee. If the permittee's violation is related to non-complying project work, the Director shall notify the permittee of the actions necessary to remedy such violation within a reasonable period of time or be subject to potential revocation of the permit. The Director may impose additional or revised conditions on the permit to mitigate or remedy the violation.
3. Right to hearing by City Council. In the event that the permittee fails to remedy the violation for which the Director gave the permittee notice, a revocation of permit hearing shall be held before the City Council at the immediately next City Council meeting. The purpose for the hearing shall be to determine whether any of the grounds for revocation as set forth herein exist against the permittee. No suspension or revocation shall take effect, until the permittee has been afforded a hearing as provided in this subparagraph. Such hearing shall be set by the City Council upon written notice to the permittee served by U.S. Mail not less than fifteen (15) days prior to the hearing date, specifically stating the date, time and purpose thereof.
4. Revocation costs. If a permit is revoked, the permittee shall reimburse the City for its reasonable costs (including restoration costs) incurred in connection with the revocation.

K. Permit fees.

All permit fees shall be submitted to the City with the application. Permit fees shall be set to recover the City management costs and, where applicable, restoration costs. The permit fees shall be established by City Council resolution. No permit fee shall be refundable. No permit fees shall be required for any obstruction or excavation permit issued to the City, although the City shall be allocated its full portion of the City management costs in calculating the permit fees. Except where an extension permit has been granted, the permittee shall, as a delay penalty, be required to obtain a new permit and pay the associated fee for failure to complete the project work under the initial permit within the required time period. Applicants may jointly apply for permits to excavate or obstruct the right-of-way at the same place and time. There shall be a single permit and permit fee for joint excavation and obstruction permit applications. Applicants must agree among themselves as to the portion each will pay and indicate the same on the application.

L. Public right-of-way restoration.

1. Timing. All project work under a permit shall be completed within the dates specified in the permit, unless the project work could not be completed due to circumstances beyond permittee's control, including seasonal weather prohibitions or inclement weather.

2. Restoration costs. The permittee shall restore the public right-of-way and assume all costs therefore unless otherwise agreed upon. The right-of-way user shall remain responsible for replacing and compacting the sub-grade and aggregate base material in the excavation. The City, at its option, may choose to perform its own restoration including any paving. If the City performs the restoration pursuant to this paragraph, the permittee shall pay to the City all costs thereof within thirty (30) days of billing. If following such restoration, the roadway surface, boulevard, sidewalk, curb or related infrastructure settles due to permittee's improper back-filling; the permittee shall, at its option either correct the defect or pay to the City all costs associated with correcting the defective work within thirty (30) days of billing. If the permittee restores the public right-of-way, the City may require, and the permittee shall provide at the time of application for the permit, a City specified type of security, in accordance with PUC rules, to cover the cost of repair and restoration. If within twenty-four (24) months after completion of restoration of the right-of-way, the Director determines the right-of-way has been properly restored, the posted security will be released.
3. Standards. All restoration shall be in accordance with the standards and materials specified by the City. The City shall establish written procedures and standards for public right-of-way restoration, which shall comply with PUC standards. Subject to PUC rules, the City shall have the authority to prescribe additional restoration procedures and standards on a case by case basis based on the following considerations:
 - a. The number, size, depth and duration of the excavation, disruption or damage to the public right-of-way;
 - b. The traffic volume carried by the public right-of-way;
 - c. The character of the neighborhood surrounding the public right-of-way;
 - d. The pre-project condition of the public right-of-way;
 - e. The remaining life-expectancy of the public right-of-way due to the project;
 - f. The costs of the restoration method in relation to the prevention of an accelerated depreciation of the public right-of-way that could result due to the project work in the public right-of-way; and
 - g. The likelihood that the particular restoration method would be effective in slowing the depreciation of the public right-of-way that would otherwise occur.
4. Duty to correct defects. The permittee shall guarantee the restoration of the public right-of-way for twenty-four (24) months following its completion (twelve (12) months for turf establishment). During the 24-month period, the permittee shall,

upon written notification from the City, correct all non-complying restoration work, using the method required by the City. The correction work shall be completed within ten/ (10) calendar days of the receipt of the notice from the City, not including days during which work cannot be done due to circumstances constituting force majeure or of unseasonable or inclement weather.

5. As Built drawings. The permittee shall, if not already provided through another filing made within one year of completion of the project, annually submit to the City “as-built” drawings in a format usable by the City, as per State Statutes, incorporating project work and restoration.

M. Inspection.

1. Site inspection. The permittee shall make the project work site available to the Director, and all others authorized by law, for inspection at all reasonable times during the execution and upon completion of the project work.
2. Inspection findings and requirements.
 - a. The Director may order the immediate cessation of any project work which poses a serious immediate threat to the life, health, safety or welfare of the public.
 - b. The Director may order the permittee to correct any project work to comply with the terms of the permit or other applicable standards, conditions or laws. The order shall state the violation, the terms of correcting the violation and that failure to correct the violation within the stated time limits shall be cause for revocation of the permit. If the violation is not corrected within the stated time limits, the Director may initiate revocation of the permit.
3. Notice of Completion. The permittee shall sign a certificate of project completion stating the completion date, identification of the installer and designer of record and certifying that the project work was completed in accordance with the requirements herein.

N. Permissible work without a permit.

1. Emergency exception. All persons with facilities in the public right-of-way shall include the City in its list of those to be notified immediately of any event regarding its facilities that may be considered as an emergency. The owner of the facilities may proceed to take whatever actions are necessary to respond to the emergency, but shall apply for the necessary permits, pay the fees associated therewith and fulfill all requirements as set forth in this Section within two business days after the occurrence of the emergency. These permitting requirements shall not apply if the repair is made within the hole of the permitted excavator.

If the City becomes aware of an emergency regarding facilities, the City will attempt to contact the local representative of each facility affected, or potentially affected, by the emergency. The City may take whatever action it deems necessary to respond to the emergency, the cost of which shall be assumed and paid by the owner of the facility which occasioned the emergency.

O. Mapping data.

1. Information Required. All permittees shall provide mapping information in accordance with Minnesota Rules and as follows:

- a. The location of underground and above ground appurtenances of the public right-of-way user's mains, cables, conduits, switches and related equipment and facilities, identified by:
 - 1) Offsets from property lines, distances from the centerline of the public right-of-way and curb lines and/or other reference points as requested by the City; or
 - 2) Coordinates derived from the coordinate system being used by the City.
- b. The type, quantity and size of the equipment;
- c. A dimensional description of above-ground appurtenances;
- d. A legend explaining symbols, characters, abbreviations, scale and other data shown on the map; and
- e. The location of any facilities that were abandoned in conformance with Minnesota Statutes.

2. Submittal requirements.

- a. Within six (6) months after the effective date of this Section, all public right-of-way users which own or control facilities within public right-of-ways within the City on the effective date of this Section shall submit detailed mapping data in accordance with this Subdivision for all facilities and equipment located within the public right-of-way. Following initial mapping, all right-of-way users shall submit details mapping data by April 1st of every year for all new facilities located within public rights-of-way in the City during the preceding calendar.
- b. At the request of any public right-of-way user, information required by the City which qualifies as "trade secret" data under the Minnesota Data Practices Act shall be protected accordingly.

3. Fees. If mapping data is provided to the City which is GIS compatible and, in a format, used by the City, the mapping portion of the excavation fee is waived.

P. General public right-of-way regulations.

1. Undergrounding facilities. Any new facilities or equipment shall be located underground or contained within buildings or on other structures unless prohibited/restricted in accordance with all applicable federal, state or local laws. Permanent replacement, relocation or reconstruction of an existing facility must be located and maintained underground, with due regard for seasonal working conditions. For purposes of this section, “reconstruction” means any substantial repair of or any improvement to existing facilities. Undergrounding is required whether a replacement, relocation, or reconstruction is initiated by the right-of-way user owning or operating the facilities, or by the City in connection with (1) the present or future use by the City or other local government use of the right-of-way for a public project, (2) the public health, safety or welfare, or (3) the safety and convenience of travel over the right-of-way.
2. Corridors. The City may assign specific corridors within the public right-of-way, or portion thereof, as may be necessary for each type of facility. All permits issued by the City involving the installation or replacement of facilities shall designate the proper corridor for the facility at issue.
3. Limitation of Space. To protect the health, safety, and welfare of the City or when necessary to protect the public right-of-way and its current use, the City may prohibit public right-of-way users from a particular right-of-way after consideration of the public interest, the public's needs for the particular utility service, the condition of the public right-of-way, the time of year with respect to essential utilities, the protection of existing facilities in the public right-of-way, and future City plans for public improvements and development projects which have been determined to be in the public interest.
4. Relocation of Facilities. A public right-of-way user shall promptly, and at its own expense, with due regard to seasonal working conditions, permanently remove and relocate any facility in the public right-of-way when it is necessary to prevent interference and not merely for the convenience of the City, in connection with: (1) a present or future City use of the public right-of-way for a public project; (2) the public health or safety; or (3) the safety and convenience of travel over the public right-of-way. The public right-of-way user shall restore any public rights-of-way in accordance with this Section. A right-of-way user is not required to remove or relocate its facilities from a right-of-way that has been vacated and in favor of a non-governmental entity unless and until the reasonable costs to do so are first paid to the right-of-way user.
5. Damage to other facilities. Public right-of-way users shall be subject to all

restoration requirements provided in this Section. Every public right-of-way user shall be responsible for the cost of repairing any facility it damages. This provision is intended to include costs for damages to boulevard amenities placed by adjacent property owners, (e.g. sprinkler systems, etc.). Each facility owner shall be responsible for the cost of repairing any damage to the facilities of another occasioned by an emergency related to that owner's facilities.

Q. Public right-of-way vacation.

1. Reservation of right. If the City vacates a public right-of-way which contains the equipment or facilities of a public right-of-way user and the vacation does not require the relocation of the equipment or facilities, the City shall reserve, to and for itself and the public right-of-way user, the right to install, maintain and operate any equipment and facilities in the vacated public right-of-way and to enter upon such public right-of-way at any time for the purpose of reconstruction, inspecting, maintaining or repairing the same.
2. Relocation of facilities. If the vacation requires the relocation of the public right-of-way user's equipment or facility; and the vacation proceedings are initiated by the public right-of-way user or the City, for a public project, the public right-of-way user shall pay the relocation costs. If the vacation proceedings are initiated by a person or persons other than the public right-of-way user, the initiating person or persons shall pay the relocation costs.

R. Indemnification and liability.

1. Limitation of Liability. Upon the issuance of a public right-of-way permit, the City does not assume any liability (i) for injuries to persons, damage to property or loss of service claims by parties other than the registrant or the City, or (ii) for claims or penalties of any sort resulting from the installation, presence, maintenance or operation of equipment or facilities by registrants or permittees or activities of registrants or permittees.
2. Indemnification. A registrant or permittee shall indemnify, keep and hold the City, its officials, employees and agents, free and harmless from any and all costs, liabilities, and claims for damages of any kind arising out of the construction, presence, installation, maintenance, repair or operation of its equipment and facilities, or out of any activity undertaken in or near a public right-of-way, whether or not any act or omission complained of is authorized, allowed or prohibited by a public right-of-way permit. The foregoing does not indemnify the City for its own negligence except for claims arising out of or alleging the City's negligence in issuing the permit or in failing to properly or adequately inspect or enforce compliance with a term, condition or purpose of a permit. This section is not, as to third parties, a waiver of any defense or immunity otherwise available to the registrant, permittee or the City, and the registrant or permittee, in defending any action on behalf of the City, shall be entitled to assert in any action every defense

or immunity that the City could assert on its own behalf.

If the registrant or permittee is required to indemnify and defend, it shall thereafter have control of the litigation, but the registrant or permittee may not settle the litigation without the consent of the City. Such consent will not be unreasonably withheld.

S. Abandoned facilities.

1. Notification. A public right-of-way user shall notify the City when facilities are abandoned. The public right-of-way user shall submit to the Director a plan for the removal of the abandoned equipment or facility. The Director may require the public right-of-way user to post a bond in an amount sufficient to reimburse the City for reasonably anticipated costs to be incurred in removing the equipment and facilities if the public right-of-way user fails to do so.

2. Removal of abandoned facilities.

a. A right-of-way user shall notify the City when facilities are to be abandoned. A right-of-way user that has abandoned facilities in the right-of-way shall remove them from that right-of-way if required in conjunction with other right-of-way repair, excavation or construction, unless the City waives this requirement.

T. Appeal.

A public right-of-way user that: (1) has been denied registration; (2) has been denied a permit; (3) has had permit revoked; or (4) believes that the fees imposed are invalid, may have the denial, revocation, or fee imposition reviewed by the City Council upon written request. The City Council shall act on a written request at its next regularly scheduled meeting. The decision by the City Council shall be in writing and supported by written findings establishing the reasonableness of the decision.

U. Insurance.

All certificate(s) of insurance or self-insurance required under this Section shall provide the following: (1) that an insurance policy has been issued to the applicant by an insurance company licensed to do business in the State of Minnesota, or a form of self insurance acceptable to the Director; (2) verify that the applicant is insured against claims for personal injury, including death, as well as claims for property damage arising out of the (i) use and occupancy of the public right-of-way by the permittee, its officers, agents, employees and permittees, and (ii) placement and use of facilities and equipment in the public right-of-way by the permittee, its officers, agents, employees and permittees, including, but not limited to, protection against liability arising from completed operations, damage of underground facilities and collapse of property; (3) name the City as an additional insured as to whom the coverages required herein are in force and applicable and for whom defense

will be provided as to all such coverages; (4) require that the Director be notified thirty (30) days in advance of cancellation of the policy or material modification of a coverage term; (5) indicate comprehensive liability coverage, automobile liability coverage, workers compensation and umbrella coverage established by the Director in amounts sufficient to protect the City and the public and to carry out the purposes and policies of this chapter:

GENERAL LIABILITY:	Public Liability, including premises, products and complete operations.
	Bodily Injury Liability - \$1,000,000 each person, \$3,000,000 each occurrence
	Property Damage Liability - \$3,000,000 each occurrence
	In lieu of (1) and (2) Bodily Injury and Property Damage Combined - \$3,000,000 single limit
	Automobile Liability Insurance, including owned, non-owned and hired vehicles
COMPREHENSIVE:	Bodily Injury Liability - \$1,000,000 each person, \$3,000,000 each occurrence
	Property Damage Liability - \$3,000,000 each occurrence
	In lieu of (1) and (2) Bodily Injury and Property Damage Combined - \$3,000,000 single limit

The City may require a copy of the actual insurance policies. If the person is a corporation, a copy of the certificate required to be filed under Minn. Stat. 300.06 as recorded and certified to by the Secretary of State. A copy of the person's order granting a certificate of authority from the Minnesota Public Utilities Commission or other applicable state or federal agency, where the person is lawfully required to have such certificate from said commission or other state or federal agency. A Franchise agreement may exempt a permittee from this paragraph.

SEC. 5.08 PRIMARY RESPONSIBILITY FOR SIDEWALKS

- A. 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.
- B. 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 Clerk.
- C. Notice - No Emergency. Where, in the opinion of the City, 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 ninety (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 statement.

- D. Notice – Emergency. Where, in the opinion of the City, 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 (10) 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.
- E. 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 Clerk 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.

SEC. 5.09 MOTORIZED VEHICLES PROHIBITED ON SIDEWALKS.

It is unlawful for any person to drive or operate a motorized vehicle 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 to private property lying on the other side thereof.

SEC. 5.10 MAILBOX CLUSTERS

- A. Mailbox Clusters. Where mailbox clusters are present, residents are required to use the existing designated mailbox for their postal deliveries. Residents are prohibited from moving the mailbox locations without prior City approval.
- B. Mailbox Replacement. Residents whose mailboxes are damaged due to snow plowing will be replaced by the City in accordance with the City's Snowplowing Policy.

SEC. 5.11 VIOLATION OF MISDEMEANOR OR PETTY MISDEMEANOR

Every person violates a section, subdivision, paragraph or provision of this Chapter when he performs an act thereby prohibited or declared unlawful, or fails to act when such failure is thereby prohibited or declared unlawful, and upon conviction thereof, shall be punished as follows:

- A. Where the specific section, subdivision, paragraph or provision specifically makes violation a misdemeanor, the individual 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 individual shall be punished as for a misdemeanor; where he stands convicted of violation of any provision of this Chapter, exclusive of

violations relating to the standing or parking of an unattended vehicle, within the immediate preceding 12-month period for the third or subsequent time, the individual shall be punished as for a misdemeanor.

- B. As to any violation not constituting a misdemeanor under the provisions of Subdivision A hereof, the individual shall be punished as for a petty misdemeanor.