

**CHAPTER 8: STREETS AND SIDEWALKS; TRAFFIC**

Section

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## CHAPTER 8: STREETS AND SIDEWALKS; TRAFFIC

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## **SECTION 800: TRAFFIC AND PARKING**

800.01 Definitions. Any terms used in this chapter and defined in Minn. Stat. § 169.01, as it may be amended from time to time, has the meaning given it by that section.

800.02 Violation a Petty Misdemeanor. Conviction of a violation of any of the following subdivisions shall be a petty misdemeanor. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues. (Ord #18-04 adopt 5-31-18 pub 6-14-18)

800.03 Parking Regulations.

Subd. 1 Streets with a Curb. Every vehicle parked upon any street with a curb shall be parked parallel to the curb and with the curb side wheel of the vehicle within twelve (12) inches of the curb unless otherwise posted.

Subd. 2 Streets with No Curbs. On other streets a vehicle shall be parked to the right of the main traveled portion of the road and parallel to it unless otherwise posted. Parking shall be in a manner so that it does not interfere with the free flow of traffic.

Subd. 3 Disabled Vehicle Exception. This subsection shall not apply to any vehicle disabled upon any street. The City shall be authorized to require the person in charge of the disabled vehicle to move it to a place of safety. Upon neglect or failure to move the vehicle or in the case of any motor vehicle being left alone or abandoned in any such position, the officer shall be authorized to provide for the removal of the vehicle to the nearest convenient garage or other place of safe keeping. The removal and storage charge shall be paid by the owner of the vehicle.

Subd. 4 House Trailer Parking. No person shall leave or park a house trailer on any street or in the street right-of-way for more than 48 hours. (Ord #18-04 adopt 5-31-18 pub 6-14-18)

Subd. 5 No Parking Places. At any time, it shall be unlawful to permit any vehicle to stand at any place where official signs prohibit parking, except when necessary in the case of an emergency or in compliance with the directions of law enforcement officer.

Subd. 6 Loading and Unloading Purposes Only. No person shall park a commercial vehicle on a public street in an area zoned as a residential district within the City limits of the City, except for loading and unloading purposes.

Subd. 7 No More Than Forty-Eight (48) Consecutive Hours. No person shall park any vehicle or equipment, whether licensed or unlicensed, upon any public street, highway or alley in the City limits for more than forty-eight (48) consecutive hours. This provision shall not be evaded or nullified by an inconsequential moving of the vehicle or equipment. Inconsequential moving includes movement of the vehicle within the same block for the purposes of defeating the provision.

Subd. 8 Removal of Vehicles or Equipment in Violation. The City is authorized to order the removal of any vehicle or equipment parked in violation of this subsection. The vehicle or equipment shall be surrendered only to the duly identified owner or the owner's lawfully constituted agent upon the payment of all necessary costs and expenses of towing and the removal and storage of the vehicle. The impounding of a vehicle or equipment pursuant to this subsection shall not prevent or preclude the institution and prosecution for violation of this subsection against the owner or operator of the impounded vehicle.

Subd. 9 Regulating Parking in City Parks. (Ord #18-04 adopt 5-31-18 pub 6-14-18)

A. It shall be unlawful for any person to park a vehicle within the limits of any City Park from and between the hours of 10:00 p.m. to 6:00 a.m.

B. This regulation shall not be limited to motor vehicles, but shall include motorcycles, mobile homes and camper vehicles.

Subd. 10 Downtown Parking Restrictions. No vehicle may be parked in any area so marked by signs for more than the restricted posted time. (Ord #18-04 adopt 5-31-18 pub 6-14-18)

800.04 Prohibition of Unnecessary Acceleration. No person shall start or accelerate any motor vehicle with an unnecessary exhibition of speed on any public or private way within the City limits. Prima facie evidence of the unnecessary exhibition of speed shall be unreasonable squealing or screeching sounds emitted by the tires or the throwing of sand and gravel by the tires of the vehicle, or both. A violation of this subsection shall be a petty misdemeanor. (Ord #18-04 adopt 5-31-18 pub 6-14-18)

## **SECTION 805: SNOW AND ICE REMOVAL**

805.01 Snow and Ice to Be Removed. No owner or occupant of any property in front of which, or adjacent to which, a sidewalk has been constructed for the use of the public, shall allow any accumulation of snow or ice to remain upon the sidewalk longer than twenty-four (24) hours after the snow or ice has ceased to fall on the premises. All snow and ice not removed as provided in this subsection shall constitute a public nuisance.

805.02 Removal by City. Any snow or ice which is not removed in accordance with Subsection 805.01 may be removed by the City, at the expense of the owner or occupant of the adjoining property. The officer or employee in charge of this removal work shall keep a record of the cost of the work done opposite each parcel of land.

805.03 Recovery of Cost of Removal by City. The cost of the removal may be recovered by the Council, at its discretion, either by: (1) A civil suit against the owner or occupant of the adjacent property; or by (2) Extending the cost of the work as a special assessment against the abutting property, which shall be certified to the County Auditor for collection as other special taxes.

805.04 Prosecution. In addition to paying the cost of the removal as described in the preceding subsection, any person violating any provision of this Subsection 805.01 shall be guilty of a misdemeanor.

805.05 Snow and Ice Removal from Highway 61. The Council authorizes and instructs its officers and employees to work with the County Highway Department for the removal of snow from Pine County Highway Number 61 within the City.

805.06 Parking Regulations During a Snow Emergency and Snow Removal.

Subd. 1 Snow Emergency Defined. During the period from November 1 of each year through March 31 of the following year, the City may declare a snow emergency to exist in this City whenever snow falls to a depth of three (3) inches or more during any twenty-four (24) hours or less or the snowfall constitutes a serious public hazard impairing transportation, the movement of food and supplies, medical care, fire, health and police protection and vital municipal functions. The emergency shall continue for a period of twenty-four (24) hours from the time it is announced or until the earlier time as snow plowing operations have been declared completed. An emergency shall commence when the proper City official, designated by the Council, causes the announcement of the emergency to be made at least one (1) time per the City's noticing procedures, whose normal operating range covers the area within the corporate limits of this City.

Subd. 2 Removal. Snow will be removed in a snow emergency in accordance with policies developed by the City.

Subd. 3 Vehicles in Violation. Any motor vehicle found in violation of this subsection may be immediately removed and impounded by any police officer or person designated by the Council. The vehicle shall be surrendered only to the duly identified owner, or the owner's agent and upon payment of the cost of towing and storage. Any damage occasioned to any towed vehicles by the towing operations shall be the responsibility of the owner or operator of the vehicle. No liability for damages shall be imposed against, nor shall any damage be assumed by, the City.

Subd. 4 Violation a Petty Misdemeanor. Any person violating the provisions of this

subsection shall be guilty of a petty misdemeanor.

805.07 Parking regulations during months of November, December, January, February and March of each year. There shall be no parking between the hours of 2:00 a.m. and 6:00 a.m. on any City streets between November 1 and March 31. Signs will be posted to this effect on approaches to the City. Failure to obey this subsection shall result in a fine prescribed in Subsection 100.11. The vehicle may be towed away under provisions of Subsection 805.06, Subd. 3, concerning parking during snow removal. If any vehicle is parked, abandoned or left standing in violation of the sections or provisions of this subsection, the same may be summarily removed without notice to the owner, at the direction of the City, to a place of safekeeping, where it shall be stored. Any vehicle so removed shall not be released to its owner or operator until all costs of removal, towing and storage have been paid. The costs of removal shall be as duly set by the Council and noted in the fee schedule. The fees and charges herein provided for shall be paid to the City

### **SECTION 810: TRIMMING TREES, GRASS, AND WEEDS**

810.01 Owners and Occupants to Trim Trees, Grass, and Weeds. (Ord #18-04 adopt 5-31-18 pub 6-14-18)

Subd. 1 It shall be the duty of every owner and every occupant of property to keep the grass and weeds on the property cut. If the property abuts upon any public street or sidewalk, the owner and the occupant shall also keep the grass and weeds cut on the abutting street or sidewalk out as far as the center of the street.

Subd. 2 Every owner and occupant of property shall keep all trees, on the property owned or occupied by the person, but overhanging any sidewalk or street, trimmed so that no branches are closer to the street than fifteen (15) feet, and so that no branches are closer to the sidewalk than eight (8) feet.

Subd. 3 All limbs of trees or bushes not kept trimmed, as provided in this subsection, are declared to constitute a public nuisance and will be removed by the City to ensure that the right of way is clear of obstructions to promote the proper flow of traffic and to eliminate visual barriers for all intersections and traffic signs.

Subd. 4 Work to be done at expense of owner or occupant. Whenever any trees, grass, or weeds are not cut as required in this section, the work may be done by an officer or employee of the City as is directed by the Council. This work will be done at the expense of the owner or occupant. Failure to pay will result in it being placed as a special assessment on the property owners tax rolls.

### **SECTION 815: RIGHT-OF-WAY CONSTRUCTION**

815.01 Findings, Purpose, and Intent. To provide for the health, safety, and welfare of its citizens, and to ensure the integrity of its streets and the appropriate use of the rights of way, the city strives to keep its rights of way in a state of good repair and free from unnecessary encumbrances. (Ord #18-04 adopt 5-31-18 pub 6-14-18)

This chapter imposes reasonable regulation on the placement and maintenance of facilities and equipment currently within its rights of way or to be placed therein at some future time. It is intended to complement the regulatory roles of state and federal agencies. Under this chapter, persons excavating and obstructing the rights of way will bear financial responsibility for their work. Finally, this chapter provides for recovery of out-of-pocket and projected costs from persons using the public rights of way.

This chapter shall be interpreted consistently with 1997 Session Laws, Chapter 123, substantially codified in Minn. Stat. §§ 237.16, 237.162, 237.163, 237.79, 237.81, and 238.086 (the "Act") and 2017 Minn. Laws, Ch. 94, art. 9, amending the Act, and the other laws governing applicable rights of the city and users of the right of way. This chapter shall also be interpreted consistent with Minn. R. 7819.0050–7819.9950 and Minn. R., Ch. 7560 where possible. To the extent any provision of this chapter cannot be interpreted consistently with the Minnesota Rules, that interpretation most consistent with the Act and other applicable statutory and case law is intended. This chapter shall not be interpreted to limit the regulatory and police powers of the city to adopt and enforce general ordinances necessary to protect the health, safety, and welfare of the public.

815.02 Election to Manage the Public Right-of-Way. In accordance with the authority granted to the City under State and Federal statutory, administrative and common law, the City hereby elects pursuant to this chapter to manage rights-of-ways within its jurisdiction.

815.03 Definitions and Adoption of Rules by Reference. Minn. Rules Ch. 7819, as may be amended from time to time, is hereby adopted by reference and is incorporated into this code as if set out in full. The definitions included in Minn. Rules Part 7819.0100, Subps. 1 through 25, as it may be amended from time to time, are the definitions of the terms used in the following provisions of this subchapter.

815.04 Registration and Right of Way Occupancy. (Ord #18-04 adopt 5-31-18 pub 6-14-18)

Subd.1 Registration. Each person who occupies or uses, or seeks to occupy or use, the right of way or place any equipment or facilities in or on the right of way, including persons with installation and maintenance responsibilities by lease, sublease, or assignment, must register with the city. Registration will consist of providing application information. (Ord #18-04 adopt 5-31-18 pub 6-14-18)

Subd. 2. Registration Prior to Work. No person may construct, install, repair, remove, relocate, or perform any other work on, or use any facilities or any part thereof, in any right of way without first being registered with the city. (Ord #18-04 adopt 5-31-18 pub 6-14-18)

Subd. 3. Exceptions. Nothing herein shall be construed to repeal or amend the provisions of a city ordinance permitting persons to plant or maintain boulevard plantings or gardens in the area of the right of way between their property and the street curb. Persons planting or maintaining boulevard plantings or gardens shall not be deemed to use or occupy the right of way and shall not be required to obtain any permits or satisfy any other requirements for planting or maintaining such boulevard plantings or gardens under this chapter. However, nothing herein relieves a person from complying with the provisions of the Minn. Stat. Ch. 216D, Gopher One Call Law. (Ord #18-04 adopt 5-31-18 pub 6-14-18)

#### 815.05 Registration Information.

Subd. 1 Information Required. 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 provided to the city at the time of registration shall include, but not be limited to:

- A. Each applicant's name, Gopher State One Call registration certificate number, address and e-mail address, if applicable, and telephone and facsimile numbers.
- B. The name, address and e-mail address, if applicable, and telephone and facsimile numbers of a local representative. The local representative or designee shall be available at all times. Current information regarding how to contact the local representative in an emergency shall be provided at the time of registration.
- C. A certificate of insurance or self-insurance:
  1. Verifying 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 City.
  2. Verifying that the applicant is insured against claims for personal injury, including death, as well as claims for property damage arising out of the use and occupancy of the right-of-way by the applicant, its officers, agents, employees and permittees, and placement and use of facilities and equipment in the right-of-way by the registrant, its officers, agents, employees and permittees, including, but not limited to protection against liability arising from completed operations, damage of underground facilities and collapse of property.
  3. Naming 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 coverages.

4. Requiring that the City be notified thirty (30) days in advance of cancellation of the policy or material modification of a coverage term.
5. Indicating comprehensive liability coverage, automobile liability coverage, workers compensation and umbrella coverage established by the City in amounts sufficient to protect the City and the public and to carry out the purposes and policies of this chapter.
6. The City may require a copy of the actual insurance policies. (Ord #18-04 adopt 5-31-18 pub 6-14-18)
7. If the applicant is a corporation, a copy of the certificate required to be filed under Minn. Stat. § 300.06, as it may be amended from time to time as recorded and certified to by the Secretary of State. (Ord #18-04 adopt 5-31-18 pub 6-14-18)
8. A copy of the applicant'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 the certificate from the Commission or other State or Federal agency. (Ord #18-04 adopt 5-31-18 pub 6-14-18)

Subd. 2 Notice of Changes. The registrant shall keep all of the information listed above current at all times by providing to the city information as to changes within fifteen (15) days following the date on which the registrant has knowledge of any change. (Ord #18-04 adopt 5-31-18 pub 6-14-18)

#### 815.06 Permit Requirement.

Subd. 1 Permit Required. Except as otherwise provided in this code, no person may obstruct or excavate any right-of-way without first having obtained the appropriate permit from the City.

- A. Excavation Permit. An excavation permit is required to excavate that part of the right-of-way described in the permit and to hinder free and open passage over the specified portion of the right-of-way by placing facilities described therein, to the extent and for the duration specified therein.
- B. Obstruction Permit. An obstruction permit is required to hinder free and open passage over the specified portion of right-of-way by placing equipment described therein on the right-of-way, to the extent and for the duration specified therein. An obstruction permit is not required if a person already possesses a valid excavation permit for the same project.
- C. Small Wireless Facility Permit. A small wireless facility permit is required by a registrant to erect or install a wireless support structure, to collocate a small wireless

facility, or to otherwise install a small wireless facility in the specified portion or the right of way, to the extent specified therein, provided that such permit shall remain in effect for the length of time the facility is in use, unless lawfully revoked. (Ord #18-04 adopt 5-31-18 pub 6-14-18)

Subd. 2 Permit Extensions. No person may excavate or obstruct the right-of-way beyond the date or dates specified in the permit unless the person makes a supplementary application for another right-of-way permit before the expiration of the initial permit and a new permit or permit extension is granted.

Subd. 3 Delay Penalty. In accordance with Minn. Rules Part 7819.1000, Subd. 3, as it may be amended from time to time, and notwithstanding Subd. 2 above, the City shall establish and impose a delay penalty for unreasonable delays in right-of-way excavation, obstruction, patching or restoration. The delay penalty shall be established from time to time by the City.

Subd. 4 Permit Display. Permits issued under this subchapter shall be conspicuously displayed or otherwise available at all times at the indicated work site and shall be available for inspection by the City.

#### 815.07 Permit Applications.

Subd. 1 Application for a permit shall contain and will be considered complete only upon compliance with the requirements of the following provisions: (Ord #18-04 adopt 5-31-18 pub 6-14-18)

- a. Registration with the city pursuant to this chapter.
- b. Submission of a completed permit application form, including all required attachments, and scaled drawings showing the location and area of the proposed project and the location of all known existing and proposed facilities.
- c. Payment of money due the city for:
  - 1) permit fees, estimated restoration costs, and other management costs;
  - 2) prior obstructions or excavations;
  - 3) any undisputed loss, damage, or expense suffered by the city because of applicant's prior excavations or obstructions of the rights of way or any emergency actions taken by the city; franchise fees or other charges, if applicable.

- d. Payment of disputed amounts due to the city by posting security or depositing in an escrow account an amount equal to at least 110 percent of the amount owing.
- e. Posting an additional or larger construction performance bond for additional facilities when applicant requests an excavation permit to install additional facilities and the city deems the existing construction performance bond inadequate under applicable standards.

Subd. 2 Payment of Money Due the City.

- a. Permit fees as established by the City, estimated restoration costs and other management costs
- b. Prior obstructions or excavations
- c. Any undisputed loss, damage or expense suffered by the City because of the applicant's prior excavations or obstructions of the rights-of-way or any emergency actions taken by the City.
- d. Franchise fees or other charges as established by the City.

815.08 Issuance of Permit; Conditions.

Subd. 1 Permit Issuance. If the applicant has satisfied the requirements of this section, the City shall issue a permit.

Subd. 2 Conditions. The City may impose reasonable conditions upon the issuance of the permit and the performance of the applicant thereunder to protect the health, safety and welfare or when necessary to protect the right-of-way and its current use. In addition, the applicant shall comply with all requirements of local, state, and federal laws, including but not limited to Minnesota Statutes Section 216D.01-.09 (Gopher State One Call Excavation Notice System) and Minnesota Rules Chapter 7560.

Subd. 3. Small Wireless Facility Conditions. In addition to subdivision 2, the erection or installation of a wireless support structure, the collocation of a small wireless facility, or other installation of a small wireless facility in the right-of-way, shall be subject to the following conditions: (Ord #18-04 adopt 5-31-18 pub 6-14-18)

- a. A small wireless facility shall only be collocated on the particular wireless support structure, under those attachment specifications, and at the height indicated in the applicable permit application.
- b. No new wireless support structure installed within the right-of-way shall exceed 50 feet in height without the city's written authorization, provided that the city

- may impose a lower height limit in the applicable permit to protect the public health, safety and welfare or to protect the right-of-way and its current use, and further provided that a registrant may replace an existing wireless support structure exceeding 50 feet in height with a structure of the same height subject to such conditions or requirements as may be imposed in the applicable permit.
- c. No wireless facility may extend more than 10 feet above its wireless support structure.
  - d. Where an applicant proposes to install a new wireless support structure in the right-of-way, the city may impose separation requirements between such structure and any existing wireless support structure or other facilities in and around the right-of-way.
  - e. Where an applicant proposes collocation on a decorative wireless support structure, sign or other structure not intended to support small wireless facilities, the city may impose reasonable requirements to accommodate the particular design, appearance or intended purpose of such structure.
  - f. Where an applicant proposes to replace a wireless support structure, the city may impose reasonable restocking, replacement, or relocation requirements on the replacement of such structure.

Subd. 4. Small Wireless Facility Agreement. A small wireless facility shall only be collocated on a small wireless support structure owned or controlled by the city, or any other city asset in the right-of-way, after the applicant has executed a standard small wireless facility collocation agreement with the city. The standard collocation agreement may require payment of the following: (Ord #18-04 adopt 5-31-18 pub 6-14-18)

- a. Up to \$150 per year for rent to collocate on the city structure.
- b. \$25 per year for maintenance associated with the collocation;
- c. A monthly fee for electrical service as follows:
  1. \$73 per radio node less than or equal to 100 maximum watts;
  2. \$182 per radio node over 100 maximum watts; or
  3. The actual costs of electricity, if the actual cost exceeds the foregoing.

The standard collocation agreement shall be in addition to, and not in lieu of, the required small wireless facility permit, provided, however, that the applicant shall not be additionally required to obtain a license or franchise in order to collocate. Issuance of a small wireless facility permit does not supersede, alter or affect any then-existing agreement between the city and applicant,

815.09 Action on Small Wireless Facility Permit Applications. (Ord #18-04 adopt 5-31-18 pub 6-14-18)

Subd. 1. Deadline for Action. The city shall approve or deny a small wireless facility permit application within 90 days after filing of such application. The small wireless facility permit, and any associated building permit application, shall be deemed approved if the city fails to approve or deny the application within the review periods established in this section.

Subd. 2. Consolidated Applications. An applicant may file a consolidated small wireless facility permit application addressing the proposed collocation of up to 15 small wireless facilities, or a greater number if agreed to by a local government unit, provided that all small wireless facilities in the application:

- a. are located within a two-mile radius;
- b. consist of substantially similar equipment; and
- c. are to be placed on similar types of wireless support structures.

In rendering a decision on a consolidated permit application, the city may approve some small wireless facilities and deny others but may not use denial of one or more permits as a basis to deny all small wireless facilities in the application.

Subd. 3. Tolling of Deadline. The 90-day deadline for action on a small wireless facility permit application may be tolled if:

- a. The city receives applications from one or more applicants seeking approval of permits for more than 30 small wireless facilities within a seven-day period. In such case, the city may extend the deadline for all such applications by 30 days by informing the affected applicants in writing of such extension.
- b. The applicant fails to submit all required documents or information and the city provides written notice of incompleteness to the applicant within 30 days of receipt the application. Upon submission of additional documents or information, the city shall have ten days to notify the applicant in writing of any still-missing information.
- c. The city and a small wireless facility applicant agree in writing to toll the review period.

815.10 Permit Fees. Permit fees shall be in an amount established by the City's fee schedule (see Appendix A).

Subd. 1 Excavation Permit Fee. The City shall establish an excavation permit fee as established by the City, in an amount sufficient to recover the following costs:

- A. The City management costs.
- B. Degradation costs, if applicable.

Subd. 2 Obstruction Permit Fee. The City shall establish the obstruction permit fee and shall be in an amount sufficient to recover the City management costs.

Subd. 3 Small Wireless Facility Permit Fee. The city shall impose a small wireless facility permit fee in an amount sufficient to recover: (Ord #18-04 adopt 5-31-18 pub 6-14-18)

- a. management costs, and;
- b. city engineering, make-ready, and construction costs associated with collocation of small wireless facilities.

Subd. 4 Payment of Permit Fees. No excavation permit or obstruction permit shall be issued without payment of excavation or obstruction permit fees.

Subd. 5 Non-Refundable. Permit fees that were paid for a permit that the City has revoked for a breach as stated in Subsection 815.21 are not refundable.

Subd. 5 Application to Franchises. Unless otherwise agreed to in a franchise, management costs may be charged separately from and in addition to the franchise fees imposed on a right-of-way user in the franchise.

Subd. 6 Fees. All permit fees shall be established consistent with the provisions of Minn. Rules Part 7819.100, as it may be amended from time to time.

#### 815.11 Right-of-Way Patching and Restoration.

Subd. 1 Timing. The work to be done under the excavation permit, and the patching and restoration of the right-of-way, as required herein, must be completed within the dates specified in the permit, increased by as many days as work could not be done because of circumstances beyond the control of the permittee or when work was prohibited as unseasonable or unreasonable under this section.

Subd. 2 Patch and Restoration. The permittee shall patch its own work. The City may choose either to have the permittee restore the right-of-way or to restore the right-of-way itself.

- A. City Restoration. If the City restores the right-of-way, the permittee shall pay a fee based on a fee schedule established by the City. The permittee shall properly backfill the trench. In the area that is in a paved street, one (1) foot of gravel shall be placed and compacted flush with the existing street. If following the restoration, the pavement settles due to the permittee's improper backfilling, the permittee shall

pay to the City, within thirty (30) days of billing, all costs associated with having to correct the defective work. In lieu of right-of-way restoration, a right-of-way user may elect to pay a degradation fee as established by the city.

- B. Permittee Restoration. If the permittee restores the right-of-way itself, it shall at the time of application for an excavation permit post a construction performance bond in accordance with the provisions of Minn. Rules Part 7819.3000, as it may be amended from time to time.
- C. Degradation Fee In lieu of Restoration. In lieu of right of way restoration, a right of way user may elect to pay a degradation fee. However, the right of way user shall remain responsible for patching and the degradation fee shall not include the cost to accomplish these responsibilities. (Ord #18-04 adopt 5-31-18 pub 6-14-18)

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 Minn. Rule Part 7819.1100, as it may be amended from time to time. The City has the authority to prescribe the manner and extent of the restoration and may do so in written procedures of general application or on a case-by-case basis.

Subd. 4 Duty to Correct Defects. The permittee shall correct defects in patching or restoration performed by the permittee or its agents. The permittee upon notification from the City, shall correct all restoration work to the extent necessary, using the method required by the City. The work shall be completed within five (5) calendar days of the receipt of the notice from the City, not including days during which work cannot be done because of circumstances constituting a catastrophic event or days when work is prohibited as unseasonal or unreasonable under this section.

Subd. 5 Failure to Restore. If the permittee fails to restore the right-of-way in the manner and to the condition required by the City or fails to satisfactorily and timely complete all restoration required by the City, the City, at its option, may do the work. In that event the permittee shall pay to the City, within thirty (30) days of billing, the cost of restoring the right-of-way. If the permittee fails to pay as required, the City may exercise its rights under the construction performance bond.

815.12 Joint Applications. (Ord #18-04 adopt 5-31-18 pub 6-14-18)

Subd 1. Joint Application. Registrants may jointly apply for permits to excavate or obstruct the right of way at the same place and time.

Subd. 2. Shared Fees. Registrants who apply for permits for the same obstruction or excavation, which the city does not perform, may share in the payment of the obstruction or excavation permit fee. In order to obtain a joint permit, registrants must agree among themselves as to the portion each will pay and indicate the same on their applications.

Subd. 3. With city projects. Registrants who join in a scheduled obstruction or excavation

performed by the city, whether or not it is a joint application by two or more registrants or a single application, are not required to pay the excavation or obstruction and degradation portions of the permit fee, but a permit would still be required.

#### 815.13 Supplementary Applications.

Subd. 1 Limitation on Area. A right-of-way permit is valid only for the area of the right-of-way specified in the permit. No permittee may do any work outside the area specified in the permit, except as provided herein. Any permittee which determines that an area greater than that specified in the permit must be obstructed or excavated must before working in that greater area make application for a permit extension and pay any additional fees required thereby and 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, except as provided herein, continue working after the end date. If a permittee does not finish the work by the permit end date, it must apply for a new permit for the additional time it needs and receive the new permit or an extension of the old permit before working after the end date of the previous permit. This supplementary application must be submitted before the permit end date.

#### 815.14 Other Obligations. (Ord #18-04 adopt 5-31-18 pub 6-14-18)

Subd. 1 Compliance with Other Laws. Obtaining a right of way permit does not relieve permittee of its duty to obtain all other necessary permits, licenses, and authority and to pay all fees required by the city or other applicable rule, law or regulation. A permittee shall comply with all requirements of local, state and federal laws, including but not limited to Minn. Stat. §§ 216D.01-.09 (Gopher One Call Excavation Notice System) and Minn. R., Ch. 7560. A permittee shall perform all work in conformance with all applicable codes and established rules and regulations and is responsible for all work done in the right of way pursuant to its permit, regardless of who does the work.

Subd 2. Interference with Right of Way. A permittee shall not so obstruct a right of way that the natural free and clear passage of water through the gutters or other waterways shall be interfered with. Private vehicles of those doing work in the right of way may not be parked within or next to a permit area, unless parked in conformance with city parking regulations. The loading or unloading of trucks must be done solely within the defined permit area unless specifically authorized by the permit.

Subd 3. Trenchless excavation. As a condition of all applicable permits, permittees employing trenchless excavation methods, including but not limited to Horizontal Directional Drilling, shall follow all requirements set forth in Minn. Stat. Ch. 216D and Minn. R., Ch. 7560 and shall require potholing or open cutting over existing underground utilities before excavating, as determined by the director.

- A. A special permit shall be required for horizontal borings that will exceed four (4) feet in depth.

#### 815.15 Denial of Permit.

Subd. 1 Reason for Denial. 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 the public or when necessary to protect the right-of-way and its current use.

Subd. 2 Procedural Requirements. The denial or revocation of a permit must be made in writing and must document the basis for the denial. The city must notify the applicant or right-of-way user in writing within three business days of the decision to deny or revoke a permit. If an application is denied, the right-of-way user may address the reasons for denial identified by the city and resubmit its application. If the application is resubmitted within 30 days of receipt of the notice of denial, no additional application fee shall be imposed. The city must approve or deny the resubmitted application within 30 days after submission. (Ord #18-04 adopt 5-31-18 pub 6-14-18)

815.16 Installation Requirements. The excavation, backfilling, patching, restoration and all other work performed in the right-of-way shall be done in conformance with Minn. Rules Part 7819.1100 and 7819.5000, as it may be amended from time to time, and other applicable local requirements, in so far as they are not inconsistent with M.S. §§ 237.162 and 237.163, as they may be amended from time to time.

#### 815.17 Inspection.

Subd. 1 Notice of Completion. When the work under any permit hereunder is completed, the permittee shall furnish a completion certificate in accordance Minn. Rule Part 7819.1300, as it may be amended from time to time.

Subd. 2 Site Inspection. The permittee shall make the work-site available to City personnel and to all others as authorized by law for inspection at all reasonable times during the execution of and upon completion of the work.

#### Subd. 3 Authority of City.

- A. At the time of inspection, the City may order the immediate halt of any work which poses a serious threat to the life, health, safety or well-being of the public.
- B. The City may issue an order to the permittee for any work which does not conform to the terms of the permit or other applicable standards, conditions or codes. The order shall state that failure to correct the violation will be cause for revocation of the permit. Within ten (10) days after issuance of the order, the permittee shall present proof to the City that the violation has been corrected. If proof has not been presented within the required time, the City may revoke the permit pursuant to Subsection 815.21.

### 815.18 Work Done Without a Permit.

#### Subd. 1 Emergency Situations.

- A. Each registrant shall immediately notify the City of any event regarding its facilities which it considers to be an emergency. The registrant may proceed to take whatever actions are necessary to respond to the emergency. Excavators' notification to Gopher State One Call regarding an emergency situation does not fulfill this requirement. Without two (2) business days after the occurrence of the emergency, the owner shall apply for the necessary permits, pay the fees associated therewith and fulfill the rest of the requirements necessary to bring itself into compliance with this chapter for the actions it took in response to the emergency. (Ord #18-04 adopt 5-31-18 pub 6-14-18)
- B. If the City 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 Non-Emergency Situations. Except in an emergency, any person who, without first having obtained the necessary permit, obstructs or excavates a right-of-way must subsequently obtain a permit, and as a penalty pay double the normal fee for the permit, pay double all the other fees required by this code, deposit with the City the fees necessary to correct any damage to the right-of-way and comply with all of the requirements of this section.

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

### 815.20 Revocation of Permits.

Subd. 1 Substantial Breach. The City reserves its right, as provided herein, to revoke any right-of-way permit, without a fee refund if there is a substantial breach of the terms and conditions of any statute, ordinance, rule or regulation, or any material condition of the permit. A substantial breach by the 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 or the perpetration or attempt to perpetrate any fraud or deceit upon the City or its citizens.

- 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.
- E. The failure to correct, in a timely manner, work that does not conform to a condition indicated on an order issued pursuant to Subsection 815.17.

Subd. 2 Written Notice of Breach. If the City determines that the permittee has committed a substantial breach of a term or condition of any statute, ordinance, rule, regulation or any condition of the permit the City shall make a written demand upon the permittee to remedy that violation. The demand shall state that continued violations may be cause for revocation of the permit. A substantial breach, as stated above, will allow the City, at its discretion, to place additional or revised conditions on the permit to mitigate and remedy the breach.

Subd. 3 Response to Notice of Breach. Within twenty-four (24) hours of receiving notification of the breach, the permittee shall provide the City with a plan, acceptable to the City, that will cure the breach. The permittee's failure to so contact the City or the permittee's failure to submit an acceptable plan, the permittee's failure to reasonably implement the approved plan shall be cause for immediate revocation of the permit.

Subd.4 Cause for Probation. From time to time, the city may establish a list of conditions of the permit, which if breached will automatically place the permittee on probation for one full year, such as, but not limited to, working out of the allotted time period or working on right of way grossly outside of the permit authorization. (Ord #18-04 adopt 5-31-18 pub 6-14-18)

Subd. 5. Automatic Revocation. If a permittee, while on probation, commits a breach as outlined above, permittee's permit will automatically be revoked and permittee will not be allowed further permits for one full year, except for emergency repairs. (Ord #18-04 adopt 5-31-18 pub 6-14-18)

Subd. 6 Reimbursement of City Costs. If a permit is revoked, the permittee shall also reimburse the City for the City's reasonable costs, including restoration costs and the costs of collection and reasonable attorneys' fees incurred in connection with the revocation.

#### 815.21 Mapping Data.

Subd. 1 Information Required. Each permittee shall provide mapping information required by the City in accordance with Minn. Rules Parts 7819.4000 and 7819.4100, as they may be amended from time to time. Within ninety (90) days following completion of any work pursuant to a permit, the permittee shall provide the director accurate maps and

drawings certifying the “as-built” location of all equipment installed, owned, and maintained by the permittee. Such maps and drawings shall include the horizontal and vertical location of all facilities and equipment and shall be provided consistent with the city’s electronic mapping system, when practical or as a condition imposed by the director. Failure to provide maps and drawings pursuant to this subsection shall be grounds for revoking the permit holder’s registration. (Ord #18-04 adopt 5-31-18 pub 6-14-18)

Subd. 2. Service Laterals. All permits issued for the installation or repair of service laterals, other than minor repairs as defined in Minn. R. 7560.0150, subp. 2, shall require the permittee’s use of appropriate means of establishing the horizontal locations of installed service laterals and the service lateral vertical locations in those cases where the director reasonably requires it. Permittees or their subcontractors shall submit to the director evidence satisfactory to the director of the installed service lateral locations. Compliance with this subdivision 2 and with applicable Gopher State One Call law and Minnesota Rules governing service laterals installed after Dec. 31, 2005, shall be a condition of any city approval necessary for: (Ord #18-04 adopt 5-31-18 pub 6-14-18)

- A. Payments to contractors working on a public improvement project, including those under Minn. Stat. Ch. 429, and
- B. City approval under development agreements or other subdivision or site plan approval under Minn. Stat. Ch. 462. The director shall reasonably determine the appropriate method of providing such information to the city. Failure to provide prompt and accurate information on the service laterals installed may result in the revocation of the permit issued for the work or future permits to the offending permittee or its subcontractors.

#### 815.22 Location and Relocation of Facilities.

Subd. 1 Compliance Required. Placement, location and relocation of facilities must comply with applicable laws, and with Minn. Rules Parts 7819.3100, 7819.5000 and 7819.5100, as they may be amended from time to time, to the extent the rules do not limit authority otherwise available to cities.

- A. Subd. 2 Corridors. The City may assign specific corridors within the right-of-way, or any particular segment thereof as may be necessary, for each type of facilities that is or, pursuant to current technology, the City expects will someday be located within the right-of-way. All excavation, 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. Any registrant who has facilities in the right-of-way in a position at variance with the corridors established by the City shall, no later than at the time of the next reconstruction or excavation of the area where the facilities are located, move the facilities to the assigned position within the right-of-way, unless this requirement is waived by the City for good cause shown, upon consideration of such factors as the remaining economic life of the facilities, public

safety, customer service needs and hardship to the registrant.

Subd. 3. Nuisance. One year after the passage of this chapter, any facilities found in a right of way that have not been registered shall be deemed to be a nuisance. The city may exercise any remedies or rights it has at law or in equity, including, but not limited to, abating the nuisance or taking possession of the facilities and restoring the right of way to a useable condition. (Ord #18-04 adopt 5-31-18 pub 6-14-18)

Subd. 4 Limitation of Space. To protect the health, safety and welfare or when necessary to protect the right-of-way and its current use, the City shall have the power to prohibit or limit the placement of new or additional facilities within the right-of-way. In making those decisions, the City shall strive to the extent possible to accommodate all existing and potential users of the right-of-way, but shall be guided primarily by considerations of the public interest, the public's needs for the particular utility service, the condition of the right-of-way, the time of year with respect to essential utilities, the protection of existing facilities in the right-of-way, and future City plans for public improvements and development projects which have been determined to be in the public interest.

815.23 Pre-Excavation Facilities Location. In addition to complying with the requirements of Minn. Stat. 216D.01-.09 ("One Call Excavation Notice System") before the start date of any right of way excavation, each registrant who has facilities or equipment in the area to be excavated shall mark the horizontal and vertical placement of all said facilities. Any registrant whose facilities are less than twenty (20) inches below a concrete or asphalt surface shall notify and work closely with the excavation contractor to establish the exact location of its facilities and the best procedure for excavation. (Ord #18-04 adopt 5-31-18 pub 6-14-18)

815.24 Damage to Other Facilities. When the City does work in the right-of-way and finds it necessary to maintain, support or move facilities to protect it, the City shall notify the local representative as early as is reasonably possible. The costs associated therewith will be billed to that registrant and must be paid within thirty (30) days from the date of billing. Each registrant shall be responsible for the cost of repairing any facilities in the right-of-way which it or its facilities damages. Each registrant shall be responsible for the cost of repairing any damage to the facilities of another registrant caused during the City's response to an emergency occasioned by that owner's facilities.

815.25 Right-of-Way Vacation. If the City vacates a right-of-way which contains the facilities of a registrant, the registrant's rights in the vacated right-of-way are governed by Minn. Rules Part 7819.3200, as it may be amended from time to time.

815.26 Indemnification and Liability. By applying for and accepting a permit under this section, a permittee agrees to defend and indemnify the City in accordance with the provisions of Minn. Rule Part 7819.1250, as it may be amended from time to time.

815.27 Abandoned Facilities.

Subd. 1 Discontinued Operations. A registrant who has determined to discontinue all or a portion of its operations in the city must provide information satisfactory to the city that the registrant's obligations for its facilities in the right of way under this chapter have been lawfully assumed by another registrant. (Ord #18-04 adopt 5-31-18 pub 6-14-18)

Subd. 2. Removal. Any registrant who has abandoned facilities in any 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 this requirement is waived by the City.

815.28 Appeal. A right-of-way user that: has been denied registration; has been denied a permit; has had permit revoked, believes that the fees imposed are invalid; or disputes a determination of the City or designee regarding Section 815:22 Subd. 2 of this ordinance may have the denial, revocation or fee imposition, or decision reviewed, upon written request, by the City Council. The City Council shall act on a timely written request at its next regularly scheduled meeting. A decision by the City Council affirming the denial, revocation or fee as an imposition will be in writing and supported by written findings establishing the reasonableness of the decision. (Ord #18-04 adopt 5-31-18 pub 6-14-18)

815.29 Reservation of Regulatory and Police Powers. A permittee's or registrant'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.

815.30 Severability. If any portion of this chapter is for any reason held invalid by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions thereof. Nothing in this chapter precludes the city from requiring a franchise agreement with the applicant, as allowed by law, in addition to requirements set forth herein. (Ord #18-04 adopt 5-31-18 pub 6-14-18)

## **SECTION 820: STREET AND SIDEWALK OBSTRUCTIONS**

820.01 Prohibition. No person shall place any obstruction upon any street or sidewalk, nor shall any person allow any obstruction to be placed or to remain upon any street or sidewalk adjoining any property owned or occupied by the person. Anything which is placed on the street or sidewalk, whether attached permanently or temporarily or merely resting on it by its own weight; and any wire, sign or any other thing which is suspended less than fifteen (15) feet above a street, or less than eight (8) feet above a sidewalk; shall be deemed an obstruction, except as otherwise permitted under this code.

820.02 Exceptions. The prohibition in Subsection 820.01, shall not apply to the following obstructions:

Subd. 1 Merchandise. Merchandise displayed for sale on the sidewalk in front of a place of business, provided it does not extend more than three (3) feet toward the curb line, nor more than one-fourth of the total distance between lot line and curb line. However, no merchandise shall remain on the sidewalk between the hours of 6:00 p.m. and 7:00 a.m.

Subd. 2 Delivered Merchandise. Merchandise delivered to the occupant of abutting property left on the sidewalk; provided at least three-fourths of the sidewalk is left unobstructed. No merchandise shall remain on the sidewalk between the hours of 6:00 p.m. and 7:00 a.m. No occupant of any property shall make this type of use of the sidewalk during more than four (4) hours of any single day. No merchandise shall be placed within five (5) feet of any fire hydrant.

Subd. 3 Awnings. Awnings firmly secured to abutting structures and at no point nearer than eight (8) feet to the sidewalk.

Subd. 4 Parked Vehicles. Parked vehicles that do not block driveways, fire hydrants, crosswalks, or sidewalks, and which are located on the street next to the curb in areas not signed or otherwise marked to prohibit parking. (Ord #18-04 adopt 5-31-18 pub 6-14-18)

Subd. 5 Building Materials. Building materials and excavation barriers so long as any necessary permits are in effect; provided, the provisions of the code on these respective subjects shall be fully complied with.

Subd. 6 Alfresco Dining. Use of public sidewalk in a CBD Zoning District. (Ord #18-04 adopt 5-31-18 pub 6-14-18)

- A. Intent. The City may issue a business license to a restaurant or other food service business located in the Central Business District to allow the placement of tables and/or chairs on the public sidewalk or extension where approved.
- B. Eligible Businesses. This business license shall only be available to restaurants and/or food serving businesses located within the Central Business District, as delineated on the Official Pine City Zoning Map.
- C. Permit Application. Eligible persons, organizations, or businesses must submit a license application, pay a permit fee set by the City Council by ordinance, and provide information and plans that demonstrate compliance with the performance standards of this Code. The application shall be submitted and approved prior to placement of any furniture on the public sidewalk.
- D. Performance Standards. The license applicant shall provide information/plans (including a scale drawing) that demonstrates compliance with the following standards:
  - 1. All outdoor furniture shall be in good condition, movable, and shall not be affixed to the public sidewalk. Furniture in disrepair shall be removed from the public sidewalk.

2. The area for the placement of furniture on the public sidewalk shall be limited to the length of the building façade of the business applying for the license and shall not encroach in front of adjoining businesses. The area will be clearly marked by a physical barrier.
3. All outdoor furniture shall provide a minimum of a three (3) foot unencumbered pedestrian aisle between the furniture and other sidewalk features including, but not limited to, back of curb, tree grates, planters, utility poles, traffic/street signs, street lights, and the like.
4. No furniture shall be located so as to encroach into an area that may impede safe ingress or egress into the business or adjoining businesses
5. Placement of furniture shall only be allowed on a public sidewalk between May 1st and October 31st of a calendar year. Businesses must provide a plan for the removal and storage of sidewalk furniture between November 1st and April 30<sup>th</sup>.
6. The businesses shall keep the outdoor furniture area in a clean and orderly condition. The accumulation of garbage, trash, debris, or unclean conditions may be basis for revoking the license and removal of the furniture.
7. The serving or consumption of alcoholic beverages on the public sidewalk is prohibited except as licensed and within a defined serving area.
8. Service and food consumption within the public sidewalk shall be limited to the hours of 8:00 AM to 10:00 PM.

Subd. 7. Insurance. The City shall not be responsible for injury or property damage attributed to the placement of privately owned furniture on the public sidewalk. The license applicant shall provide insurance that will indemnify the City from any personal injury or property damage that results from issuance of the license allowing the business to use the public sidewalk. (Ord #18-04 adopt 5-31-18 pub 6-14-18)

Subd. 8. Responsibility of Owner and Licensee. The property owner and/or licensee shall be responsible to ensure that the activities and participants within the public sidewalk shall not violate the terms of the license or violate the City of Pine City - City Code. (Ord #18-04 adopt 5-31-18 pub 6-14-18)

Subd. 9. Violations or Complaints. License violations, nuisance complaints, or code enforcement issues attributed to an outdoor furniture area on the public sidewalk may be grounds for denial of the license. (Ord #18-04 adopt 5-31-18 pub 6-14-18)

Subd. 10. Enforcement. Any violation of this ordinance, or of a license issued pursuant to this ordinance, is subject to enforcement as follows: (Ord #18-04 adopt 5-31-18 pub 6-14-18)

If it is a violation that affects the public health, safety and welfare, it is hereby declared a public nuisance, and is subject to all of the enforcement provisions of Chapter 8 of the City Code.

- A. Any violation is grounds for revoking the license or not renewing the license.
- B. Any violation shall constitute a misdemeanor and may be prosecuted as such.

Subd. 11. Mobile Food Units. is a food and beverage service establishment that is a vehicle mounted unit, either motorized or trailered, and readily movable, without disassembling, for transport to another location.

The unit can operate no more than 21 days annually at any one place unless it is operated at the site of and in conjunction with a permanent business licensed under Minnesota Statutes, Chapter 157 or Chapter 28A. All mobile food units must be operated in compliance with the Minnesota Food Code. (Ord #18-04 adopt 5-31-18 pub 6-14-18)

- A. No mobile food unit shall be kept, stored, or maintained on a residentially zoned property in violation of any ordinance or regulation.
- B. Mobile food units shall be allowed to operate in all districts with a valid license. Mobile food units may be allowed in all zoning districts if the use of the existing property is commercial and not residential in nature.
- C. If at any time the mobile food unit generates complaints, the City Council may review the license and determine if the license should be revoked.

**SECTION 823: CONSTRUCTION OF SIDWALKS**

(Ord #19-04 1-2-19)

823.01 Sidewalk Requirements. Permanent sidewalks of concrete shall be constructed wherever old walks are condemned, replaced or where new walks are ordered by the Council upon all streets.

823.02 Specifications and Inspection. All permanent sidewalks shall be built subject to the inspection of the of the City's Inspection Department or the Public Works Supervisor or his or her designee who shall have the duty to see that the specifications relating to permanent sidewalks shall be strictly complied with.

823.03 Permit, application for. No person shall lay any sidewalk on the public streets, or on any public property owned by the city, without a permit therefor granted under this provision or under a right-of-way excavation permit (815.06 Subd.1 A). Application for each such permit shall be accompanied by the fee in the amount duly established by the Council from time to time, and a certificate of public liability insurance, in the amount of at least \$1,000,000 combined single limit, naming the city as an additional insured. The city shall inspect such improvements under the permit. Any work not done according to applicable specifications and standards shall be removed and corrected at the full expense of the permit holder and may be assessed to the abutting property owner via special assessment in accordance with Minnesota State Statutes.

823.04 Indemnification. Before issuance of a permit, the applicant shall, in writing, agree to indemnify and hold the city harmless from any liability for injury or damage arising out of the action of the applicant in performance of the work, or any expense whatsoever incurred by the city incident to a claim or action brought or commenced by any person arising therefrom. This requirement shall apply to permits obtained (815.06 Subd. 1 A) should such request involve the displacement, removal, or replacement of sidewalk.

823.05 City Construction. The City for the purposes of correcting hazardous conditions or for completing incomplete community sidewalk networks, may install, repair, or replace sidewalk within City right-of-way. Costs associated with these improvements shall be shared in accordance with the City's Assessment Policy.

**SECTION 825: SNOWMOBILES AND ATVS**

825.01 Intent. It is the intent of this section to supplement the Laws of the State of Minnesota, Minn. Stat. Chs. 168 through 171, as they may be amended from time to time, with respect to the operation of certain motor vehicles commonly called snowmobiles and ATVs. This section is not intended to allow what the State Statutes prohibit nor to prohibit what the State Statutes expressly allow.

## Streets and Sidewalks; Traffic

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825.02 Definitions. For the purpose of this section, the terms defined herein shall have the following meaning ascribed to them.

Subd. 1 Snowmobile. "Snowmobile" means a self-propelled vehicle designed for travel on snow or ice steered by skis or runners.

Subd. 2 All Terrain Vehicle. "All terrain vehicle" or "ATV" refers to trail bikes, mini bikes and amphibious vehicles and similar devices other than snowmobiles used at least partially for travel on natural terrain, but not special mobile equipment defined in Minn. Stat. § 168.011, Subd. 22, as it may be amended from time to time.

Subd. 3 Owner. "Owner" means a person, other than a lien holder having the property in or title to snowmobile or ATV entitled to the use or possession thereof.

Subd. 4 Operate. "Operate" means to ride in or on and control the operation of a snowmobile or ATV.

Subd. 5 Operator. "Operator" means every person who operates or is in actual physical control of a snowmobile or ATV.

Subd. 6 Deadman Throttle or Safety Throttle. "Deadman throttle" or "safety throttle" means a device which when pressure is removed from the engine accelerator or throttle, causes the motor to be disengaged from the driving mechanism.

Subd. 7 Natural Terrain. "Natural terrain" means areas other than roadways or driveways (private or public), parking lots and other areas the surface of which has been intentionally modified for motor vehicle operation thereon.

825.03 Uses of Snowmobiles and ATVs Permitted. Except as specifically permitted and authorized by this section, it shall be unlawful for any person to operate a snowmobile or ATV not licensed as a motor vehicle within the limits of the City:

Subd. 1 Motor Travel. On the portion of any right-of-way of any public highway, street, road, trail or alley used for motor vehicle travel, except that a snowmobile may operate upon the most right-hand lane of a municipal street or alley and may in passing or making a left turn operate on other lanes which are used for vehicle traffic in the same direction, for purposes of going to or returning from a non-highway area of permissible operation, by the most direct route. Snowmobiles may also be operated within the right-of-way, but outside the travel lanes of trunk, County State-aid and County highways where the highways are so configured within the corporate limits.

Subd. 2 Public Sidewalk. On a public sidewalk provided for pedestrian travel.

Subd. 3 Boulevards. On boulevards within any public right-of-way.

Subd. 4 Private Property. On private property of another without specific permission of the owner or person in control of the property.

Subd. 5 Publicly-Owned Land. On any publicly owned lands which are posted for prohibiting snowmobile trespass.

Subd. 6 Speed. At a speed in excess of fifteen (15) miles per hour.

825.04 Crossing of Streets or Highways. A snowmobile or ATV not licensed as a motor vehicle may make a direct crossing of a street or highway, except an interstate highway or freeway provided:

Subd. 1 Ninety (90) Degree Angle. The crossing is made at an angle of approximately ninety (90) degrees to the direction of the street or highway and at a place where no obstruction prevents a quick, safe crossing.

Subd. 2 Stop Required. The snowmobile is brought to a complete stop before crossing the shoulder or main traveled way.

Subd. 3 Yield. The driver yields the right-of-way to all on-coming traffic which constitutes an immediate hazard.

Subd. 4 Divided Street. In crossing a divided street or highway, the crossing is made only at an intersection of a street or highway with another public street or highway.

825.05 Traffic ordinances applicable. City traffic regulation shall apply to the operation of snowmobiles or ATV not licensed as motor vehicle upon streets and highways, except for those relating to required equipment, those which by their nature have no application, and those inconsistent with the provisions of this section.

825.06 Yielding Right-of-Way. No snowmobile shall enter any intersection without yielding the right-of-way to any vehicles or pedestrians at the intersection, or so close to the intersection as to constitute an immediate hazard.

825.07 Operation; Persons under Eighteen (18). No person under fourteen (14) years of age shall operate on streets or the roadway surface of highways or make a direct crossing of a trunk, County State aid, County highway or City streets as the operator of a snowmobile. A person fourteen (14) years of age or older, but less than eighteen (18) years of age may operate a snowmobile on streets and highways as permitted under this section and make a direct crossing of the streets and highways only if the person has in his or her immediate possession a valid snowmobile safety certificate issued pursuant to Minn. Stat. § 84.872, as it may be amended from time to time.

825.08 Uses Specifically Prohibited. It shall be unlawful for any person to operate a

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snowmobile or ATV not licensed for highway use or ATV licensed for highway use when operating on natural terrain with the limits of the City:

Subd. 1 Alcohol or Drugs. At any place while under the influence of alcohol or drugs, as defined in Minn. Stat. § 169.121, as it may be amended from time to time, which is hereby incorporated by reference and made a part of this section as if set out here in full.

Subd. 2 Speed. At a rate of speed greater than reasonable or proper under all surrounding circumstances.

Subd. 3 Careless and the Like Manner. At any place in a careless, reckless or negligent manner or heedlessly in disregard of the rights or safety of others, or in a manner so as to endanger or be likely to endanger or cause injury or damage to any person or property.

Subd. 4 Residential District. Within a residential district of the City at any time unless the operator is traveling directly to or from the operator's place of residence. No snowmobile shall be operated within a commercial district of the City between the hours of 1:00 a.m. and 7:00 a.m. For the purposes of this section, a "residential" district shall be a district within the City limits shown on the zoning map as "R-1," "R-2" or "R-3" for the purposes of this section, a "commercial" district shall consist of any other district as shown on the Pine City zoning map.

825.09 Equipment Required. It shall be unlawful for any person to operate a snowmobile or ATV any place within the limits of the City unless it is equipped with the following:

Subd. 1 Mufflers. Standard mufflers which are properly attached and which reduce the noise of operation of the motor to the minimum necessary for operation. No person shall use a muffler cutout, by-pass straight pipe or similar device on a snowmobile or ATV motor.

Subd. 2 Brakes. Brakes adequate to control the movement of and to stop and hold the snowmobile or ATV under any condition operation.

Subd. 3 Safety. A safety or so-called "deadman" throttle in operating condition.

Subd. 4 Lamps.

- A. When operated within the City limits, at least one (1) clear and operating lamp attached to the front, with sufficient intensity to reveal persons and vehicles at a distance of at least one hundred (100) feet ahead during the hours of darkness and under normal atmospheric conditions. The headlamp shall be so aimed that glaring rays are not projected into the eyes of an oncoming snowmobile or ATV operator.
- B. It shall also be equipped with at least one (1) red tail lamp having a minimum candlepower of sufficient intensity to exhibit a red light plainly visible from a distance of five hundred (500) feet to the rear during hours of darkness under normal

atmospheric conditions.

Subd. 5 Reflective Material. Reflective material at least sixteen (16) inches square on each side, forward of the handlebars or steering device of a snowmobile or ATV and at the highest practical point on any towed object, as to reflect light at a ninety (90) degree angle.

825.10 Ignition Lock. Every person leaving a snowmobile or ATV on a public place or way shall lock the ignition, remove the key and take the same.

825.11 Emergencies; Operation Permitted. Notwithstanding any prohibitions herein, a snowmobile may be operated on a public thoroughfare in an emergency during the period of time and at locations where snow upon the roadway renders travel by automobile impractical.

825.12 Penalty. Any person convicted of violating any provision of this section shall be guilty of a misdemeanor.

### **SECTION 830: BOAT LAUNCHING**

830.01 Where Prohibited. Boat launching shall be prohibited at the end of Third Avenue SE where it terminates on the shore of Cross Lake.

830.02 Signs. Signs shall be erected and maintained to provide notice of this prohibition to the public. Signs shall be placed in a location where they shall be noticed using reasonable care.

830.03 Emergencies. If an emergency arises in which boats cannot be launched from other sites within the City, this prohibition shall not apply during the emergency. The Council shall determine the times during which emergencies exist and shall declare the emergencies on a case by case basis.

### **SECTION 835: BOATS**

835.01 Speed Regulated. The speed of boats in the river within the City limits shall be limited to ten (10) miles per hour. Signs shall be posted on both highway bridges and at the public boat landing.