

CHAPTER VIII

STREETS, ALLEYS AND PUBLIC WAYS

Section 800 - Streets and sidewalks

800.01. Width of streets and sidewalks. Subdivision 1. 50 foot streets. Streets having a width of more than 50 feet must have a roadway measured from curb to curb of 30 feet, and sidewalks must be five feet wide and laid one half foot from the property line. The remaining portion of the street is boulevard.

Subd. 2. Streets less than 50 feet. Streets having a width of 50 feet or less must have a roadway measured from curb to curb of 30 feet and sidewalks must be five feet wide and laid next to the property line. The remaining portion of the street is boulevard.

800.03. Planting in streets or sidewalk easements. Trees, bushes, or any plant life other than grass may not be planted or replanted within any of the public easements for right-of-way for streets, sidewalks and boulevards within the city except as permitted by subsections 800.20 and 800.21. If trees, bushes or any plant life other than grass is planted or replanted in violation of this section, upon written notice to the adjoining land owner, lessee or occupier of the land by any police officer or city employee, the adjoining land owner, lessee, or occupier of land must within 30 days of such notice, remove or cause to be removed from the right-of-way the tree, bush, or other plant life which is in violation of this section. If not removed within the 30 day period, the tree, bush, or other plant life which is in violation of this section may be removed by or at the direction of the city, and the expense of such removal may be charged against the adjoining land owner, lessee or occupier of land. (Amended, Ord. No. 2000-9, Sec. 1)

800.05. Street excavations; permits. Subdivision 1. Permit. It is unlawful for any person to make an excavation within any street or alley in the city for the purpose of installing water, sewer, steam or gas pipes, or electric or telephone conduits or for any other purpose, without first obtaining a permit for such excavation from the city engineer. A permit is not required for any such excavation that is made under a contract awarded by the city or made by persons hired by the city.

Subd. 2. Application. Application for permits is made in writing on forms provided for that purpose by the city. The form must set forth the pertinent regulations applicable to the permit, as prepared from time to time by the engineer, and as modified by the engineer with respect to the particular work covered by the permit. The engineer must prepare such regulations with respect to excavations within any street or alley and modify them with respect to particular work, as may be necessary or advisable to protect the public from injury, to prevent damage to public or private property, and to minimize interference with the public use of the streets.

Subd. 3. Issuance. Permits for excavations are in writing. The permit must be kept on the site of the work while it is in progress in the custody of the individual in charge and must be exhibited upon request made by any city official or police officer.

Subd. 4. Fees. Before a permit is issued, the applicant requesting the permit must pay the fee set by appendix IV of this code for each location covered by the permit. Each transverse excavation and each 300 feet or portion thereof of longitudinal excavation is a location.

800.07. Street excavations; other regulations. Subdivision 1. Barricades. Excavations must be protected by a suitable barricade, guard, or fence about the place of such excavation, sufficient to prevent persons or animals from being injured by falling into the same. The permittee must place and maintain, during the hours of the day flags, and between the hours of sunset and sunrise a suitable number of red lanterns or flares on all sides thereof to warn the general public of the existence of the excavation.

Subd. 2. Surety bond. A surety bond in the amount of \$1,000 is required from each person requesting a permit except a duly licensed and bonded plumber, or a public utility corporation holding a franchise from the city. The bond must be conditioned that the holder will perform the work in accordance with the applicable regulations, will indemnify and save harmless the city from all damage caused in the execution of such work or costs in connection with the repair of the streets or alleys excavated, and that the holder will pay any and all damages that will be suffered by the city by reason of the failure of the person securing the permit to observe the terms of this section or by reason of negligence in the execution of the work.

Subd. 3. Contractor's insurance. A certified copy of the contractor's insurance policy, which must name the city of Crystal as an additional insured under the coverage provided by the policy, must be filed with the clerk. This insurance policy must be not less than \$300,000 for bodily injury to or death of one person, and \$250,000 on account of any one accident, and \$50,000 for property damage.

Subd. 4. Traffic inconvenience. Work must progress in an expeditious manner until completion in order to avoid unnecessary inconvenience to traffic. In the event that the work is not performed in accordance with the applicable regulations or ceases or is abandoned without due cause, the city may, after six hours notice in writing to the holder of the permit of intent to do so, correct the work or fill the excavation, and repair the street. The entire cost to the city of the work must be a liability of and must be paid by the person to whom the permit was issued.

Subd. 5. Utility permits. The provisions of this subsection are in addition to all utility connection permits that may be required by the code or by the rules and regulations of the engineer.

800.09. Sidewalk, curb and gutter construction. Subdivision 1. Engineer. The city engineer is responsible for the control and supervision of the construction and repair of all public sidewalks, curb, or curb and gutter and supervises or constructs such public sidewalk and curb and gutter whenever the same is ordered by the council.

Subd. 2. Permit. It is unlawful to lay or construct a sidewalk, driveway, curb, or curb and gutter upon any boulevard, street, parkway, or public ground without obtaining a permit from the engineer. The applicant must pay the fees set by appendix IV of this code.

Subd. 3. Bond. The permit application must be accompanied by a good and sufficient bond with at least two sureties, or a surety company, to guarantee the construction of such sidewalk, driveway, curb, or curb and gutter in accordance with the specifications on file in the office of the engineer, and to indemnify the city from any loss or damage that may arise by the obstruction of the street, or from any other cause. The bond must contain an agreement and condition that all artificial stone sidewalks, curbs, and curbs and gutters laid by the principal in such bond must be maintained by such principal for the period of two years after the completion of the laying of the same in a good and sufficient condition and free from all defects, settlements and cracks caused by action of the elements, the use of imperfect material or workmanship, or by the proper use of such sidewalks, curbs, and curbs and gutters for the purpose intended.

800.10. (Added, Ord. 2008-01) Curb cuts and driveway approaches within the public right-of-way. Subdivision 1. Permit required. It is unlawful for any person to create, construct, move or modify a curb cut or driveway approach within the public right-of-way without first obtaining a curb cut permit for such work in accordance with the procedures set forth in this section. The curb cut permit is in addition to a right-of-way permit.

Subd. 2. Definitions. For the purpose of this subdivision, “driveway” shall mean the area on private property providing vehicular access to the garage or parking area; “driveway approach” shall mean the area within the street right-of-way providing vehicular access from the curb cut to the driveway; and “curb cut” shall mean the edge of the street where joined by the driveway approach, whether or not standard concrete curb and gutter are present on the street.

Subd. 3. Standards. The permit holder shall perform the work authorized under the permit according to the standards specified below.

- a) Curb cuts for 1-family and 2-family dwellings shall comply with the following requirements:
 - 1) Curb cuts shall not exceed 22 feet in width or the width of the driveway at the property line, whichever is less.
 - 2) If the curb cut is narrower than the driveway at the property line, then there may be an angled transition in the width of the driveway approach provided that the angle is no more than 45 degrees. In no circumstance shall any part of the driveway approach exceed 22 feet in width, unless the city manager, upon the recommendation of the city engineer, determines that, due to setback or topographic constraints, greater width in the boulevard is required for an angled transition to a wider, conforming driveway or lawful auxiliary space on private property.

- 3) When a property is permitted more than one auxiliary parking space in accordance with Exception #2 in 515.17, subdivision 4 i) 5), the city engineer may approve an additional angled transition in the width of the driveway approach to provide access to such auxiliary space. The additional area must only be on one side of the curb cut, be no more than three feet wider than the curb cut at the edge of the street pavement, and have an angle of no more than 45 degrees. The combined width of the driveway approach plus this additional area shall not exceed 22 feet anywhere in the street right-of-way, unless there are setback or topographic constraints that require greater width to provide reasonable access to a conforming driveway or lawful auxiliary space.
 - 4) Two adjacent 1-family dwellings may share a single curb cut. In such cases, the maximum curb cut width shall be the sum of each dwelling's allowed curb cut width, but in no circumstances shall a shared curb cut exceed 32 feet in width.
 - 5) Curb cuts and driveway approaches shall be at least three feet from the side lot line extended to the street, except that shared curb cuts may straddle the common lot line between the two properties sharing the curb cut.
 - 6) No curb cut or driveway approach access on a collector or arterial street shall be located less than 30 feet from the corner. No curb cut access on a local street shall be located less than 20 feet from the corner. Distances shall be measured from the intersection of right-of-way lines.
- b) Curb cuts for uses other than 1-family and 2-family dwellings shall comply with the following requirements:
- 1) Curb cuts shall not exceed 32 feet in width or the width of the driveway at the property line, whichever is less.
 - 2) The width of driveway approach shall not exceed the curb cut width, unless the property has setback or topographic constraints and the city engineer makes a determination that for the property to have reasonable access the driveway must be allowed to be wider at the property line than it is at the curb cut.
 - 3) Curb cuts and driveway approaches shall be at least five feet from the side lot line extended to the street.
 - 4) Curb cuts and driveway approaches shall not be located less than 40 feet from one another.
 - 5) No curb cut access or driveway approach on a collector or arterial street shall be located less than 30 feet from the corner. No curb cut access on a minor street shall be located less than 20 feet from the corner. This distance shall be measured from the intersection of right-of-way lines.

- c) A parcel of land may have one curb cut for each 125 feet of street frontage, but every parcel of land may have one curb cut. A parcel of land used for a single family dwelling may have only one curb cut regardless of the amount of street frontage. The city manager, upon the recommendation of the city engineer, may find that one additional curb cut may be permitted for a parcel used for single family use provided that the additional curb cut provides access to an existing conforming or lawfully nonconforming structure, including but not limited to garages and paved surfaces lawfully used for vehicular parking, and that the parcel cannot be put to reasonable use without the additional curb cut. For a single family or two family dwelling, where a parcel of land abuts on an alley open to public use, one additional access is permitted opening on the alley for use only to access a garage.
- d) The boulevard portion of the street right-of-way shall not be used for parking. This prohibition includes the driveway approach.

800.11. Street nuisances. Subdivision 1. Prohibition. The acts prohibited by this subsection are declared to be public nuisances and may be abated by the city as such.

Subd. 2. Dirt and filth. It is unlawful to throw, spill, place or deposit or leave, or cause to be thrown, spilled, placed, deposited or left, or permit any servant, agent or employee to throw, spill, place, deposit or leave in or upon any street, highway, alley, sidewalk, park or other public place in the city, any dirt, sweepings, filth, shells, garbage, vegetables, dead carcasses, sewage, slops, excrement, compost, stable manure, ashes, soot, tin cans, rags, waste paper, leaves, brush, weeds, grass, hay, excelsior, barrels, crates, boxes, letter or loose combustible materials; materials subject to being carried by the wind or unwholesome, noisome or putrescible material of any kind.

Subd. 3. Offensive liquids. It is unlawful to allow slops, or malodorous, noxious liquids to run, drip or fall into or upon any street, highway, alley, sidewalk, park, stream or other public place.

Subd. 4. Accumulation of ice and snow. It is unlawful to deposit accumulation of ice and snow in or upon any street or other public place or way.

Subd. 5. Glass, china or other substances. It is unlawful to place or cause to be placed or cause or allow to remain in or upon the surface of any street, highway, sidewalk, alley or other public place any glass, china, nails, tacks, or other sharp or penetrating substance.

Subd. 6. Fruit skins. It is unlawful to throw or deposit on any sidewalk or in any street or public place any part or portion of any fruit or vegetable or other substance, which when stepped upon by a person is liable to cause or does cause that person to slip or fall.

Subd. 7. Littering. It is unlawful to scatter, drop or spill or permit to be scattered, dropped or spilled any dirt, sand, gravel, clay, loam, stone or building rubbish, or hay, straw, sawdust, shavings, or other light materials of any sort, or manufacturing, trade or household wastes, refuse, rubbish of any sort, or ashes or manure, garbage, or other organic refuse or other offensive matter therefrom, or permit the same to be blown off therefrom by the wind in or upon any street, sidewalk, alley or other public place.

Subd. 8. Obstruction of sewers and drains. It is unlawful to throw or deposit or cause to be thrown or deposited into any drain, catch basin, sewer or gutter any substance which may cause obstruction or injury thereto or nuisance therein or to divert or stop the flow of any drain or sewer.

Subd. 9. Violation. It is unlawful to perform any of the acts prohibited by this subsection.

800.13. Damaging public property. It is unlawful to make any excavation, nor build or construct any fence, sidewalk, or building or structure of any nature in any street, road, avenue, lane, alley, or public grounds of or in the city for any purpose, or remove any earth or soil therefrom unless authorized to do so by a written permit from the council. A person, when so authorized, may not make any such excavation or construction except in accordance with the conditions, provisions, limitations and specifications contained in such permit and until that person has erected a guard or fence about the place of such excavation or building, sufficient to prevent persons or animals from being injured by falling into such excavation or by articles falling from such construction. Every person making such excavation or construction, when it is accomplished, or at any time when ordered by the council, must without delay, fill or remove the same, so that such public grounds or thoroughfares will be in at least as good condition as before the excavation or construction was made.

800.15. Damaging signs. It is unlawful to mar, injure, deface, destroy or place or cause to be placed any advertising device or representation of any kind or nature upon any fence, tree, guide posts or boards, sign boards, awnings, lamp posts, lamp or lanterns, street signs, telephone poles or electric poles upon or along any street, road, avenue, lane, alley, square or other public place in the city.

800.17. Damaging trees and shrubbery. It is unlawful to cut down, injure or destroy any fruit, shade or other tree or shrubbery growing or being in any public street, avenue, road, lane, alley, common square or other public ground in the city without the permission of the council.

800.19. New buildings. Subdivision 1. General rule. A high density residential, commercial, and industrial building constructed, whether with or without a garage, must conform to and comply with the provisions of this section. All residential property that abuts a street lined with concrete curb and sidewalk is also included in this rule.

Subd. 2. Requirements. All such buildings must provide a concrete driveway from the curb line to the property line of the lot upon which the building is to be placed. Concrete must be air-entraining portland cement concrete. Such concrete driveway must rise at the rate of 1/4 inch per foot from the top of the curb line to the property line of said lot. The driveway may not be less than 12 feet in width and be not less than six inches thick.

Subd. 3. Escrow required. A cash escrow must be deposited with the city clerk to guarantee the construction of the concrete driveway. A certificate of occupancy may not be issued for any building until all of the requirements of the building code, zoning or other ordinances of the city have been complied with, including the construction of the concrete driveway as prescribed above except that after October 15 of each calendar year a certificate of occupancy may be issued stipulating the driveway is to be constructed prior to July 1 of the following year. In the event that the driveway is not constructed by July 1 of the following year then the permittee will be considered in default, and if the permittee is in default, the escrow will be forfeited and the city, its employees, or its authorized agent must enter upon the lot and complete the concrete driveways as prescribed in this section.

800.20. Boulevard plantings. Flowers, ornamental grasses, forbs and bushes grown on that part of any boulevard inside the roadway to the property line of the adjoining landowner (or sidewalk, if one exists) are allowed without a permit from the city, provided they meet the following height requirements, and comply with other portions of the city code, including sight triangle restrictions pursuant to subsection 515.07. Nothing in this subsection excuses participating parties from complying with section 640 governing noxious weeds except that ornamental grasses may be grown in compliance with this subsection. Nothing in this subsection excuses participating parties from the responsibility of obtaining clearance from Gopher One prior to digging pursuant to Minnesota Statutes, sections 216D.01-.09 nor from liability for any resulting damage to utilities.

- a) From the curb inward for five feet, only grass or groundcover may be planted.
- b) From five feet inward to ten feet inward from the curb, a maximum plant height of 18 inches shall be maintained.
- c) From ten feet inward from the curb to the end of the easement, no plant height restrictions shall apply. (Added, Ord. No. 2000-9, Sec. 2)

800.21. Planting of trees. Subdivision 1. The Public Works Department of the city of Crystal shall hereafter have the authority to direct and regulate the planting and preservation of shade and ornamental trees and bushes in the streets, alleys, and public grounds of said city.

Subd. 2. The Public Works Department may issue planting permits to individuals or groups to plant trees within the boulevards, subject to requirements it may establish. Fees for planting permits are set out in appendix IV.

Subd. 3. It is a misdemeanor for an individual or group to plant a tree on a boulevard without a planting permit from the Public Works Department. (Added, Ord. No. 2000-9, Sec. 3)

Section 802 - Public right-of-way
(Added, Ord. No. 98-8, Sec. 1)

802.01. Findings and purpose. The city holds the rights-of-way within its geographical boundaries as an asset in trust for its citizens. The city and other public entities have invested millions of dollars in public funds to build and maintain the rights-of-way. It also recognizes that some persons place facilities in the right-of-way and charge the citizens of the city for goods and services delivered thereby. Although such services are often necessary or convenient for the citizens, such persons receive revenue and/or profit through their use of public property.

To provide for the health, safety and well-being of its citizens, and to ensure the structural 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. Although the general population bears the financial burden for the upkeep of the rights-of-way, one of the causes for the early and excessive deterioration of its rights-of-way is frequent excavation.

This chapter imposes reasonable regulations on the placement and maintenance of 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 and be consistent with applicable law. Under this chapter, persons excavating or obstructing the rights-of-way will bear a fair share of the financial responsibility to maintain their integrity. This chapter provides for recovery of the city's costs associated with managing its rights-of-way.

This chapter is to be interpreted consistent with sections 700 and 705 (sewer system), 715 (water system), 800, (streets) and all other code sections that may relate to use of the right-of-way. To the extent any such provision is inconsistent with this chapter, the terms of this chapter shall control.

802.03. Definitions. Subdivision 1. The following definitions apply in this section of this chapter. References hereafter to "subsections" are unless otherwise specified references to subsections in this section. Defined terms remain defined terms whether or not capitalized.

Subd. 2. The following terms have the meanings given below:

- a) "Applicant" means any person requesting permission to excavate or obstruct a right-of-way.
- b) "City" means the city of Crystal, Minnesota. For purposes of subsection 802.55, city includes its elected officials, officers, employees and agents.
- c) "Construction performance bond" means as referenced in Minnesota Statutes, section 237.162, subdivision 8, clause 2), means any of the following forms of security provided at the permittee's option:
 - 1) individual project bond;
 - 2) blanket bond, or other form of construction bond, in a form acceptable to the local government;
 - 3) cash deposit;
 - 4) security of a form listed or approved under Minnesota Statutes, section 15.73, subdivision 3;
 - 5) letter of credit, in a form acceptable to the local government unit; and
 - 6) self-insurance, in a form acceptable to the local government unit.
- d) "Management costs" means the actual costs the city incurs in managing its rights-of-way, including such costs, if incurred, as those associated with registering applicants; issuing, processing, and verifying right-of-way permit applications; inspecting job sites and restoration projects; maintaining, supporting, protecting, or moving user facilities during right-of-way work; determining the adequacy of right-of-way restoration; restoring work inadequately performed after providing notice and the opportunity to correct the work; and revoking right-of-way permits. Management costs do not include payment by a telecommunications right-of-way user for the use of the right-of-way, the fees and cost of litigation relating to the interpretation of Minnesota Session Laws 1997, chapter 123; Minnesota Statutes, sections 237.162 or 237.163 or any ordinance enacted under those sections, or the city fees and costs related to appeals taken pursuant to section 802.59 of this code.
- e) "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 did not occur.

- f) "Degradation cost" means the cost to achieve a level of restoration as determined by the city at the time the permit is issued as shown in appendix VI.
- g) "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.
- i) "Delay penalty" means the city may establish and impose a reasonable delay penalty for unreasonable delays in right-of-way excavation; obstruction, patching or restoration.
- h) "Department" means the department of public works of the city.
- j) "Department inspector" means any person authorized by the director to carry out inspections related to the provisions of this code.
- k) "Director" means the director of the department of public works of the city, or their designee.
- l) "Emergency" means a condition that (1) poses a clear and immediate danger to life or health, or of a significant loss of property; or (2) requires immediate repair or replacement of facilities in order to restore service to a customer.
- m) "Equipment" means any tangible asset used to install, repair, or maintain facilities in any right-of-way.
- n) "Excavate" means to dig into or in any way remove or physically disturb or penetrate any part of a right-of-way.
- o) "Excavation permit" means the permit which, pursuant to this section, must be obtained before a person may excavate in a right-of-way. An excavation permit allows the holder to excavate that part of the right-of-way described in such permit.
- p) "Excavation permit fee" means money paid to the city by an applicant to cover the costs as provided in section 802.21.
- q) "Facility or facilities" means any tangible asset in the public right-of-way required to provide utility service.
- r) "Five-year project plan" means a project adopted by the city for construction within the next five years.
- s) "Hole" means an excavation in the pavement, with the excavation having a length less than the width of the pavement.

- t) "Local representative" means a local person or persons, or designee of such person or persons, authorized by a registrant to accept service and to make decisions for that registrant regarding all matters within the scope of this section.
- u) "Obstruct" means to place any tangible object in a right-of-way so as to hinder free and open passage over that or any part of the right-of-way.
- v) "Obstruction permit" means the permit which, pursuant to this section, must be obtained before a person may obstruct a right-of-way, allowing the holder to hinder free and open passage over the specified portion of that right-of-way by placing equipment described therein on the right-of-way for the duration specified therein.
- w) "Obstruction permit fee" means money paid to the city by a permittee to cover the costs as provided in section 802.21.
- x) "Patch or patching" means a method of pavement replacement that is temporary in nature. A patch consists of: (1) the compaction of the subbase and aggregate base, and (2) the replacement, in kind, of the existing pavement for a minimum of two feet beyond the edges of the excavation in all directions. A patch is considered full restoration only when the pavement is included in the city's five year project plan.
- y) "Pavement" means any type of improved surface that is within the public right-of-way and that is paved or otherwise constructed with asphalt, concrete, aggregate, or gravel.
- z) "Permit" has the meaning given "right-of-way permit" in Minnesota Statutes, section 237.162.
- aa) "Permittee" means a person to whom a permit to excavate or obstruct a right-of-way has been granted by the city under this code.
- bb) "Person" means any 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. examples include:
 - 1) a business or commercial enterprise organized as any type or combination of corporation, limited liability company, partnership, limited liability partnership, proprietorship, association, cooperative, joint venture, carrier or utility, and any successor or assignee of any of them;
 - 2) a social or charitable organization; and
 - 3) any type or combination of political subdivision, which includes the executive, judicial, or legislative branch of the state, a local government unit, or a combination of any of them.

- cc) "Probation" means the status of a person that has not complied with the conditions of this chapter.
- dd) "Probationary period" means one year from the date that a person has been notified in writing that they have been put on probation.
- ee) "Public right-of-way" has the meaning given it in Minnesota Statutes, section 237.162.
- ff) "Registrant" means any person who (1) has or seeks to have its equipment or facilities located in any right-of-way, or (2) in any way occupies or uses, or seeks to occupy or use, the right-of-way or place its facilities in the right-of-way.
- gg) "Restore or restoration" means the process by which a public right-of-way is returned to the same condition that existed before excavation.
- hh) "Restoration cost" means the amount of money paid to the city by a permittee to achieve the level of restoration according to appendix VI and paid in lieu of a degradation fee.
- ii) "Right-of-way" means the area on, below, or above a public roadway, highway, street, cartway, bicycle lane and public sidewalk in which the city has an interest, including other dedicated rights-of-way for travel purposes and utility easements of the city. A right-of-way does not include the airwaves above a right-of-way with regard to cellular or other nonwire telecommunications or broadcast service.
- jj) "Right-of-way user" means a person owning or controlling a facility in the public right-of-way, or seeking to own or control a facility in the public right-of-way, that is used or is intended to be used for providing utility service, and who has a right under law, franchise, or ordinance to use the public right-of-way.
- kk) "Right-of-way permit" means either the excavation permit or the obstruction permit, or both, depending on the context, required by this code.
- ll) "Service" or "utility service" includes but is not limited to (1) those services provided by a public utility as defined in Minnesota Statutes, section 216B.02, subdivisions. 4 and 6; (2) telecommunications, pipeline, community antenna television, fire and alarm communications, water, electricity, light, heat, cooling energy, or power services; (3) the services provided by a corporation organized for the purposes set forth in Minnesota Statutes, section 300.03; (4) the services provided by a district heating or cooling system; and (5) cable communications systems as defined in Minnesota Statutes, chapter 238; and a (6) telecommunication right-of-way user as defined in paragraph nn) of this subdivision.

- mm) "Supplementary application" means an application made to excavate or obstruct more of the right-of-way than allowed in, or to extend, a permit that had already been issued.
- nn) "Telecommunication rights-of-way user" means a person owning or controlling a facility in the right-of-way, or seeking to own or control a facility in the right-of-way, that is used or is intended to be used for transporting telecommunication or other voice or data information. For purposes of this section, a cable communication system defined and regulated under Minnesota Statutes, chapter 238, and telecommunication activities related to providing natural gas or electric energy services whether provided by a public utility as defined in Minnesota Statutes, section 216B.02, a municipality, a municipal gas or power agency organized under Minnesota Statutes, chapters 453 and 453A, or a cooperative electric association organized under Minnesota Statutes, chapter 308A, are not telecommunications right-of-way users for purposes of this section.
- oo) "Temporary surface" means the compaction of subbase and aggregate base and replacement, in kind, of the existing pavement only to the edges of the excavation. It is temporary in nature except when the replacement is of pavement included in the local government unit's two-year project plan, in which case it is considered full restoration.
- pp) "Trench" means an excavation in the pavement, with the excavation having a length equal to or greater than the width of the pavement.
- qq) "Two-year project plan" means a project that the city has scheduled for construction within the next two years.
- rr) "Unusable facilities" means facilities in the right-of-way which have remained unused for one year and for which the registrant is unable to provide proof that it has either a plan to begin using it within the next 12 months or a potential purchaser or user of the facilities.
- ss) "Utility service" includes but is not limited to: (1) those services provided by a public utility as defined in Minnesota Statutes, section 216B.02; subdivisions 4 and 6; (2) service provided by a telecommunications right-of-way user as defined in Minnesota Statutes, section 237.162, subdivision 4; (3) service provided by cable communications system as defined in Minnesota Statutes, chapter 238; (4) electric energy or telecommunications service provided by a local government unit, except telecommunications service related to providing natural gas or electric energy service; (5) service provided by a cooperative electric association organized under the provisions of Minnesota Statutes, chapter 308A; (6) fire and alarm communications; and (7) community antenna television, water, sewer, district cooling or hearing systems.

802.05. Administration. The director is the principal city official responsible for the administration of the rights-of-Way, Right-of-way permits, and the ordinances related thereto. The director may delegate any or all of the duties hereunder.

802.07. Utility coordination committee. The city may create an advisory utility coordination committee. Participation on the committee is voluntary. It will be composed of any registrants that wish to assist the city in obtaining information and by making recommendations regarding use of the right-of-way, and to improve the process of performing construction work therein. The director may determine the size of such committee and shall appoint members from a list of registrants that have expressed a desire to assist the city.

802.09. Registration and right-of-way occupancy. Subdivision 1. Registration. Each person who occupies, uses, or seeks to occupy or use, the right-of-way or place any equipment or facilities in the right-of-way, including persons with installation and maintenance responsibilities by lease, sublease or assignment, must register with the director. Registration will consist of providing application information and paying a registration fee.

Subd. 2. Registration prior to work. No person may construct, install, repair, remove, relocate, or perform any work within, or use any facilities on or in, any right-of-way without first being registered with the director.

Subd. 3. Exceptions. Nothing herein shall be construed to repeal or amend the provisions of the city code 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 section. However, nothing herein relieves a person from complying with the provisions of the Minnesota Statutes, chapter 216D, "one call" law.

802.11. Registration information. Subdivision 1. Information required. The information provided to the director at the time of registration shall include, but not be limited to:

- a) Each registrant's name, Gopher 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 registrant by an insurance company licensed to do business in the state of Minnesota, or a form of self insurance acceptable to the director;

- 2) Verifying that the registrant 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 right-of-way by the registrant, its officers, agents, employees and permittees, and (ii) placement and use of facilities 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 such coverages;
 - 4) Requiring that the director be notified 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 director in amounts sufficient to protect the city and the public and to carry out the purposes and policies of this section.
- d) The actual insurance policies, when the certificate of insurance does not contain the information required in subparagraph c) of this code.
 - e) If the person is a corporation, a copy of the certificate required to be filed under Minnesota Statutes, section 300.06 as recorded and certified to by the Secretary of State.
 - f) 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.

Subd. 2. Notice of changes. The registrant shall keep all of the information listed above current at all times by providing to the director information as to changes within 15 days following the date on which the registrant has knowledge of any change.

802.13. Reporting obligations. Subdivision 1. Operations. Each registrant shall, at the time of registration and by December 1 of each year thereafter, file a construction and major maintenance plan for underground facilities with the director. Such plan shall be submitted using a format designated by the director and shall contain the information determined by the director to be necessary to facilitate the coordination and reduction in the frequency of excavations and obstructions of rights-of-way.

The plan shall include, but not be limited to, the locations and the estimated beginning and ending dates of all projects to be commenced during the next calendar year (in this section, a "next-year project").

By January 1 of each year the director will have available for inspection in the director's office a composite list of all projects of which the director has been informed in the annual plans. All registrants are responsible for keeping themselves informed of the current status of this list.

Thereafter, by February 1, each registrant may change any project in its list of next-year projects, and must notify the director and all other registrants of all such changes in said list. Notwithstanding the foregoing, a registrant may at any time join in a next-year project of another registrant listed by the other registrant.

Subd. 2. Additional next-year projects. Notwithstanding the foregoing, the director will not deny an application for a right-of-way permit for failure to include a project in a plan submitted to the city if the registrant has used commercially reasonable efforts to anticipate and plan for the project.

802.15. Permit requirement. Subdivision 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 right-of-way permit from the director to do so.

- a) Excavation permit. An excavation permit is required by a registrant to excavate that part of the right-of-way described in such 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 by a registrant 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.

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

Subd. 3. Delay penalty. Notwithstanding subdivision 2 of this section, 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 city council resolution.

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

802.17. Permit applications. Application for a permit is made to the director. Right-of-way permit applications shall contain, and will be considered complete only upon compliance with the requirements of the following provisions:

- a) Registration with the director pursuant to this section;
- 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 right-of-way or any emergency actions taken by the city;
 - 4) franchise fees, if applicable.
- d) When an excavation permit is requested for purposes of installing additional facilities, and previously posted construction performance bond is insufficient to cover the additional facilities, the posting of an additional or larger construction performance bond to include additional facilities may be required.

802.19. Issuance of permit; conditions. Subdivision 1. Permit issuance. If the applicant has satisfied the requirements of this section, the director shall issue a permit without delay, but in no event no later than ten days after applicant has satisfied all such requirements.

Subd. 2. Conditions. The director may impose reasonable conditions, in accordance with the law, upon the issuance of the permit and the performance of the applicant thereunder to protect the health, safety and welfare or to protect the right-of-way and its current use. The director may require, as a condition of the permit, the applicant to provide notice of its project to properties within a certain area surrounding the project site. (Amended, Ord. 2015-04)

802.21. Permit fees. Subdivision 1. Excavation permit fee. The excavation permit fee shall be established by the director in an amount sufficient to recover the following costs:

- a) the city management costs;
- b) restoration costs, if applicable.

Subd. 2. Obstruction permit fee. The obstruction permit fee shall be established by the director and shall be in an amount sufficient to recover the city management costs.

Subd. 3. Payment of permit fees. No excavation permit or obstruction permit shall be issued without payment of excavation or obstruction permit fees. The city may allow applicant to pay such fees within 30 days of billing.

Subd. 4. Non refundable. Permit fees that were paid for a permit that the director has revoked for a breach as stated in section 802.41 are not refundable.

802.23. Right-of-way patching and restoration. Subdivision 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 extraordinary circumstances beyond the control of the permittee or when work was prohibited as unseasonal or unreasonable under section 802.29, subdivision 2.

Subd. 2. Patch and restoration. 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 chooses to restore the right-of-way, permittee shall pay the costs thereof within 30 days of billing. If, during the 24 months following such restoration, the pavement settles due to permittee's improper backfilling, the permittee shall pay to the city, within 30 days of billing, all costs associated with having to correct the defective work.
- 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 an amount determined by the director to be sufficient to cover the cost of restoration. If, within 24 months after completion of the restoration of the right-of-way, the director determines that the right-of-way has been properly restored, the surety on the construction performance bond shall be released.

Subd. 3. Standards. The permittee shall perform patching and restoration according to the standards and with the materials specified by the director. The director shall have 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. The director in exercising this authority shall comply with PUC standards for right-of-way restoration and shall further be guided by appendix VI and the following considerations:

- a) The number, size, depth and duration of the permittee's excavations, disruptions or damage to the right-of-way;
- b) The traffic volume carried by the right-of-way; the character of the neighborhood surrounding the right-of-way;
- c) The preexcavation condition of the right-of-way; the remaining life-expectancy of the right-of-way affected by the excavation;
- d) Whether the relative cost of the method of restoration to the permittee is in reasonable balance with the prevention of an accelerated depreciation of the right-of-way that would otherwise result from the excavation, disturbance or damage to the right-of-way; and
- e) The likelihood that the particular method of restoration would be effective in slowing the depreciation of the right-of-way that would otherwise take place.

Subd. 4. Guarantees. If permittee restores the right-of-way, the permittee guarantees its work and shall maintain it for 24 months following its completion. During this 24-month period it shall, upon notification from the director, correct all restoration work to the extent necessary, using the method required by the director. Work shall be completed within 15 calendar days of the receipt of the notice from the director, not including days during which work cannot be done because of circumstances constituting force majeure or days when work is prohibited as unseasonal or unreasonable under section 802.29, subdivision 2.

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 director, or fails to satisfactorily and timely complete all Restoration required by the director, the director at its option may do such work. In that event the permittee shall pay to the city, within 30 days of billing, the cost of restoring the right-of-way. If permittee fails to pay as required, the city may exercise its rights under the construction performance bond.

Subd. 6. Degradation cost 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.

802.25. Joint applications. Subdivision 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. With city projects. Registrants who join in a scheduled obstruction or excavation performed by the director, whether or not it is a joint application by two or more registrants or a single application, are not required to pay the obstruction and degradation portions of the permit fee.

Subd. 3. Shared fees. Registrants who apply for permits for the same obstruction or excavation, which the director does not perform, may share in the payment of the obstruction or excavation permit fee. Registrants must agree among themselves as to the portion each will pay and indicate the same on their applications.

802.27. Supplementary Applications. Subdivision 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 (i) make application for a permit extension and pay any additional fees required thereby, and (ii) be granted a new permit or permit extension.

Subd. 2. Limitation on dates. A right-of-way permit is valid only for the dates specified in the permit. No permittee may begin its work before the permit start date or, 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 done before the permit end date.

802.29. Other obligations. Subdivision 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 Minnesota Statutes, section 216D.01-.09 ("one call excavation notice system"). 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, provided, however, that permittee shall not be responsible for work performed by the city if, pursuant to section 802.23, subdivision 2, the city restores the right-of-way itself.

Subd. 2. Prohibited work. Except in an emergency, and with the approval of the director, no right-of-way obstruction or excavation may be done when seasonally prohibited or when conditions are unreasonable for such work.

Subd. 3. 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.

802.31. Denial of permit. The director may deny a permit for failure to meet the requirements and conditions of this section or if the director determines that the denial is necessary to protect the health, safety, and welfare or is necessary to protect the right-of-way and its current use.

802.33. Installation requirements. The excavation, backfilling, patching and restoration, and all other work performed in the right-of-way shall be done in conformance with engineering standards adopted by the PUC or other applicable local requirements, in so far as they are not inconsistent with the PUC rules.

802.35. Inspection. Subdivision 1. Notice of completion. When the work under any permit hereunder is completed, the permittee shall furnish a completion certificate in accordance PUC rules.

Subd. 2. Site inspection. Permittee shall make the work-site available to the director 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 director.

- a) At the time of inspection the director may order the immediate cessation of any work which poses a serious threat to the life, health, safety or well-being of the public.
- b) The director 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 days after issuance of the order, the permittee shall present proof to the director that the violation has been corrected. If such proof has not been presented within the required time, the director may revoke the permit pursuant to section 802.41.

802.37. Work done without a permit. Subdivision 1. Emergency situations. Each registrant shall immediately notify the director 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. Within two business days after the occurrence of the emergency the registrant 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 section for the actions it took in response to the emergency.

If the director becomes aware of an emergency regarding a registrant's facilities, the director shall make all reasonable efforts to contact the local representative of each registrant affected, or potentially affected, by the emergency. In any event, the director may take whatever action it deems necessary to respond to the emergency and such cost shall be borne by the registrant 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 said permit, pay double all the other fees required by this chapter, deposit with the director the fees necessary to correct any damage to the right-of-way and comply with all of the requirements of this chapter.

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

802.41. Revocation of permits. Subdivision 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 where a substantial breach remains uncured for 15 calendar days after permittee receives written notice of such breach from the city. A substantial breach by permittee shall include, but shall not be limited to, the following:

- a) The violation of any material provision of the right-of-way permit;
- b) An evasion or attempt to evade any material provision of the right-of-way permit, 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; or
- e) The failure to correct, in a timely manner, work that does not conform to a condition indicated on an order issued pursuant to section 802.35, subdivision 3.

Subd. 2. Written notice of breach. If the director 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 director shall make a written demand upon the permittee to remedy such 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 director, at director's discretion, to place additional or revised conditions on the permit to mitigate and remedy the breach.

Subd. 3. Response to notice of breach. Within 48 hours of receiving written notification of the breach, permittee shall provide the director with a plan, acceptable to the director, that will cure the breach. Permittee's failure to contact the director, or the permittee's failure to submit an acceptable plan, or permittee's failure to reasonably implement the approved plan, shall be cause for immediate revocation of the permit. Further, permittee's failure to so contact the director, or the permittee's failure to submit an acceptable plan, or permittee's failure to reasonably implement the approved plan, shall automatically place the permittee on probation for one full year.

Subd. 4. Cause for probation. From time to time, the director 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 intentionally and materially outside of the permit authorization.

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.

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 such revocation.

802.43. Mapping data. Subdivision 1. Information required. Each registrant shall provide mapping information as defined by the director in accordance with the law.

Subd. 2. Trade secret information. At the request of any registrant, any information requested by the director, which qualifies as a "trade-secret" under Minnesota Statutes, section 13.37(b) shall be treated as trade secret information as detailed therein.

802.45. Location of facilities. Subdivision 1. Undergrounding. Except as provided in this section, and as may otherwise be permitted by an existing franchise, the construction or installation of new facilities, and the replacement or relocation of old facilities, shall be done underground or contained within buildings or other structures in conformity with applicable codes. The undergrounding of new facilities shall not be required if the facilities are placed on existing utility poles to serve existing residential, commercial, or industrial structures. The placement of new facilities, or the replacement of existing facilities, to extend utility service from the right-of-way into individual properties to serve new or substantially renovated structures shall be undergrounded. If the facilities for which the utility poles were originally erected are undergrounded, all other facilities on the utility poles must also be undergrounded. (Amended, Ord. 2015-07)

Subd. 2. Nuisance. One year after the passage of this section, 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.

Subd. 3. Limitation of space. To protect health, safety, and welfare or when necessary to protect the right-of-way and its current use, the director shall have the power to prohibit or limit the placement of new or additional facilities within the right-of-way. In making such decisions, the director shall strive to the extent possible to accommodate all existing and potential users of the right-of-way, in accordance with the law and shall be guided 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.

802.47. Relocation of equipment or facilities. The director may require all registrants to promptly remove and relocate its equipment and facilities in the ROW, at the registrant's expense, when the director reasonably determines that the registrant's equipment or facilities interferes or will interfere with one or more of the following:

- a) An existing or planned city public improvement project, authorized by law, but not a city owned gas, electric or telecommunications utility improvement project; or
- b) The city's duty to protect the health, safety or welfare of the public, including the city's duty to ensure safe and convenient travel over the right-of-way.

For purposes of this section, "interfere" means that the location of the equipment or facilities (i) restricts the city from carrying out the above projects or duties, or (ii) causes or will cause the city to incur significant additional cost or be exposed to potential liability to the registrant or third parties in carrying out the above projects or duties, were the equipment or facilities to remain in the same location; or (iii) constitutes a safety hazard. Following removal and relocation the registrant, at its own expense, must restore the right-of-way affected to the same condition that existed prior to the removal.

Notwithstanding the foregoing, a registrant shall not be required to remove or relocate its facilities from any right-of-way which has been vacated in favor of a non-governmental entity unless and until the reasonable costs thereof are first paid to the registrant.

802.49. Pre-excavation facility and facilities location. In addition to complying with the requirements of Minnesota Statutes, section 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 approximate vertical placement of all said Facilities. Any registrant whose facilities is less than 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.

802.51. Damage to other facilities. When the director does work in the right-of-way and finds it necessary to maintain, support, or move a registrant's facilities to protect it, the director shall notify the local representative as early as is reasonably possible. The registrant may move its facilities, at its own expense. At the discretion of the director the city may move registrant's facilities, in which case the costs associated therewith will be billed to that registrant and must be paid within 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 its own facilities.

802.53. Right-of-Way Vacation. Subdivision 1. Reservation of right. If the city vacates a right-of-way which contains the facilities of a registrant, and if the vacation does not require the relocation of registrant's or permittee's facilities, the city shall reserve, to and for itself and all registrants having facilities in the vacated right-of-way, the city's, and all registrants' right to install, maintain and operate their respective facilities in the vacated right-of-way and to enter upon such right-of-way at any time for the purpose of reconstructing, inspecting, maintaining or repairing the same.

Subd. 2. Relocation of facilities. If the vacation requires the relocation of registrant's or permittee's facilities; and (i) if the vacation proceedings are initiated by the registrant or permittee, the registrant or permittee must pay the relocation costs; or (ii) if the vacation proceedings are initiated by the city, the registrant or permittee must pay the relocation costs unless otherwise agreed to by the city and the registrant or permittee; or (iii) if the vacation proceedings are initiated by a person or persons other than the registrant or permittee, the city shall require such other person or persons to pay the relocation costs.

802.55. Indemnification and liability. By registering with the director, or by accepting a permit under this section, a registrant or permittee agrees as follows:

Subdivision 1. Limitation of liability. By reason of the acceptance of a registration or the grant of a 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 facilities by registrants or activities of registrants.

Subd. 2. Indemnification. A registrant or permittee shall indemnify, keep, and hold the city free and harmless from any and all liability on account of injury to persons or damage to property occasioned by the issuance of permits or by the construction, maintenance, repair, inspection, or operation of registrant's or permittee's facilities located in the right-of-way.

The city shall not be indemnified for losses or claims occasioned through its own negligence except for losses or claims arising out of or alleging the local government unit's negligence as to the issuance of permits or inspections to ensure permit compliance. The city shall not be indemnified if the injury or damage results from the performance in a proper manner of acts that the registrant or permittee reasonably believes will cause injury or damage, and the performance is nevertheless ordered or directed by the city after receiving notice of the registrant's or permittee's determination.

Subd. 3. Defense. If a suit is brought against the city under circumstances where the registrant or permittee is required to indemnify, the registrant or permittee, at its sole cost and expense, shall defend the city in the suit if written notice of the suit is promptly given to the registrant or permittee within a period in which the registrant or permittee is not prejudiced by the lack or delay of notice.

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. Consent will not be unreasonably withheld. This part is not, as to third parties, a waiver of any defense, immunity, or damage limitation otherwise available to the city. In defending an action on behalf of the city, the registrant or permittee is entitled to assert in an action every defense, immunity, or damage limitation that the city could assert in its own behalf.

802.57. Abandoned and unusable facilities. Subdivision 1. Discontinued operations. A registrant who has determined to discontinue its operations in the city must either:

- a) Provide information satisfactory to the director that the registrant's obligations for its facilities in the right-of-way under this section have been lawfully assumed by another registrant; or

- b) Submit to the director a proposal and instruments for transferring ownership of its facilities to the city. If a registrant proceeds under this clause, the city may, at its option:
- 1) purchase the facilities; or
 - 2) require the registrant, at its own expense, to remove it; or
 - 3) require the registrant to post a bond in an amount sufficient to reimburse the city for reasonably anticipated costs to be incurred in removing the facilities.

Subd. 2. Abandoned facilities. Facilities of a registrant who fails to comply with subdivision 1 of this section, and which, for two years, remains unused shall be deemed to be abandoned. Abandoned facilities is 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, (i) abating the nuisance (ii) taking possession of the facilities and restoring it to a useable condition, or (iii) requiring removal of the facilities by the registrant, or the registrant's successor in interest.

Subd. 3. Removal. Any registrant who has unusable and abandoned facilities in any right-of-way shall remove it from that right-of-way during the next scheduled excavation, unless this requirement is changed or waived by the director.

802.59. Appeal. Subdivision 1. Right of appeal. A 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, 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 imposition will be in writing and supported by written findings establishing the reasonableness of the decision.

802.61. 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.

802.63. Severability. If any section, subsection, sentence, clause, phrase, or portion of this section is for any reason held invalid or unconstitutional by any court or administrative agency 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. If a regulatory body or a court of competent jurisdiction should determine by a final, non-appealable order that any permit, right or registration issued under this section or any portions of this section is illegal or unenforceable, then any such permit, right or registration granted or deemed to exist hereunder shall be considered as a revocable permit with a mutual right in either party to terminate without cause upon giving 60 days written notice to the other. The requirements and conditions of such a revocable permit shall be the same requirements and conditions as set forth in the permit, right or registration, respectively, except for conditions relating to the term of the permit and the right of termination.

802.64. Franchise rights reserved. Nothing in this section precludes the city from requiring a franchise agreement with the applicant, as allowed by law, in addition to requirements set forth herein.

Section 805 - Courtesy benches

805.01. Courtesy bench defined. A courtesy bench is a waiting bench for the convenience of the public waiting for regularly scheduled public transportation at a location within the corporate limits.

805.03. Location. Courtesy benches may be located on public property when adjacent to residential zoning (R-1, R-2, R-3, R-4) and may be placed on private property in commercial and industrial zoning when permission is obtained from the owner of the land, and a license is granted by the city in accordance with this section.

805.05. Specifications. Subdivision 1. Each bench location must be approved by the city engineer. Benches must be installed parallel with the curb.

Subd. 2. A bench may not be more than 42 inches high or more than 30 inches wide or seven feet long.

Subd. 3. A bench must have displayed thereon, in a conspicuous place, the license number assigned to it.

Subd. 4. The licensee must maintain the bench at the location designated in the license and keep the bench in good repair, painted and in a usable condition.

Subd. 5. Ice and snow must be removed from the benches and the vicinity thereof to insure accessibility and safe use by the public.

805.07. License; procedure. Subdivision 1. Application. Application for a courtesy bench license is made to the city clerk. The application must be accompanied by the annual license fee set by appendix IV of this code, the insurance policy required by this subsection, and the written approval of the city engineer as to location.

Subd. 2. Separate licenses; term. Each individual bench location requires a separate license. The term of the license is one year.

Subd. 3. Insurance. The application must be accompanied by an insurance policy that indemnifies and saves harmless the city, its officers, agents, and employees from any and all loss, costs, damages or liability which may result from the location of the bench regardless of whether such bench is moved or removed to a different location in the city without prior approval by the city council. The limits of the insurance must be \$25,000 for any bodily injury to or death to any one person in any one accident, \$50,000 for any bodily injury to or death to two or more persons in any one accident, and \$10,000 for any damage to or destruction of property of others in any one accident. The failure to keep this insurance in force automatically terminates the license for all benches licensed with the city that such insurance covers.

805.09. Bench removal. After the expiration of the license or revocation thereof, the licensee has ten days to remove the bench. If the bench is not removed within the ten day period, the city may remove the bench and place it in storage. After the city has removed the bench the former licensee of record will be notified by mail directed to the address on file with the city. The owner will be given 60 days after notification to claim the bench by paying removal and storage charges. In the event that the bench is not claimed within 60 days the former licensee's rights in such bench will be forfeited to the city, but such forfeiture will not excuse the former licensee from the payment of the cost of removal and storage charges for said bench.

805.11. Advertising. Subdivision 1. Location. Advertising matter may not be displayed upon a bench except upon the front and rear surfaces of the back rest. Advertising must comply with chapter IV of the city code.

Subd. 2. Contents; illumination. "Stop", "look", "drive-in" and "danger" or any other phrase or symbol which might interfere with, mislead or distract traffic may not be displayed on a bench. Reflective materials or electric illumination of the signs on any bench or benches is prohibited.

Section 810 - Snow removal; sidewalks

810.01. Sidewalks; snow and ice removal. Subdivision 1. Sidewalks to be cleared. Snow and ice must be removed from the sidewalks of the city and must be kept clear of snow and ice by the abutting property owner or occupant thereof. Where ice has formed that cannot be removed then salt, sand, ashes, or other suitable material must be spread upon such ice in sufficient quantity to make the sidewalks usable by pedestrians.

810.03. Clear within 12 hours of snowfall. Sidewalks must be cleared as soon as possible after each snowfall but no later than 12 hours after the cessation of such snowfall. Subsequent intermittent snow flurries may not be used to enlarge the 12 hour period.

810.05. Owner or occupant of land responsible for the snow removal. The owner and occupant of any building or ground within the corporate limits of the city fronting upon or adjacent to the public street must cause the sidewalks along or in front of the premises to be kept clear and free of snow to the full width thereof. The owner of vacant land wherein there is located a public sidewalk is responsible for the removal of snow therefrom. Nothing in this subsection requires the removal of snow upon the public boulevard where no sidewalk exists.

810.07. Costs of removal must be a lien against the land. The refusal of an owner or occupant to remove snow or ice from the sidewalk or the failure of the owner or occupant to comply with this subsection, is sufficient cause for the city manager to direct the removal of snow or ice therefrom by city or hired labor or equipment charging such actual cost against the abutting land. The city engineer will compute the actual cost to each parcel or lot involved and submit the report to the city manager who must bill each property owner involved for the expense incurred.

810.09. Assessment. On or before September 15 in each year the clerk must list the total unpaid charge for snow removal from sidewalks against each separate lot or parcel to which they are attributable under this section. The council may then levy the unpaid charges against the property as a special assessment under Minnesota Statutes, section 424.101 for certification to the director of property taxation and collection along with current taxes the following year or in annual installments, not exceeding ten as the council determines.

Section 815 - Recreational areas; rules
and regulations

815.01. Definitions. For purposes of this section, the term "park" means public park, playground, beach, swimming pool, recreation center or other area or facility operated by the city for recreational purposes pursuant to council designation.

815.03. General rule. It is unlawful to violate any of the provisions of this section.

815.05. Parks; rules and regulations. Subdivision 1. Closing hours. The closing hour for parks is 10:00 p.m., except in Becker Park where the closing hour is 11:00 p.m., and parks must remain closed until sunrise. A person may not remain in a park after the closing hour, except as provided in subdivision 2. This subdivision does not apply to persons who, without delay, are traveling through a park or upon established walks, paths or drives within a park. The closing hour for activities authorized as part of the city's recreation program may be modified by the city manager in accordance with subsection 815.07. The city council may by resolution further limit the hours for the conduct of specific activities within parks. (Amended, Ord. No. 95-5, Sec. 1)

Subd. 2. Group activities; permits. A group, association or organization wishing to remain in a park after the closing hour may apply to the city manager for a special permit for that purpose specifying the nature of the activity proposed, the hours during which it is conducted, and such other information as the manager may reasonably request. The application must be accompanied by a bond, or other undertaking, in form and substance satisfactory to the manager and the city attorney, holding the city harmless from liability of any kind growing out of the permitted activity. The manager may grant the permit if in the manager's judgment the purposes of this section will not be adversely affected thereby, and if all licenses required by law or the code have been obtained. The manager's decision to grant or deny the application may be appealed to the city council by the applicant or by any resident of the city.

Subd. 3. Motor vehicles. Motorized vehicles or machines of any kind, except those operated by and for the city may not drive on or across any park, except as specifically authorized pursuant to the city code. Motor vehicles must be parked in spaces designated therefor pursuant to the city code, subsection 1310.05, subdivision 5. There may not be parking of motor vehicles in a park or in a parking area in a park after the closing hour.

Subd. 4. Fires. Picnic fires may not be made or lit in a park except in places or containers designated for such purposes. It is unlawful to leave a picnic fire before the fire has been completely extinguished or before all trash and refuse has been placed in receptacles provided or, if no receptacles are provided, the trash and refuse must be carried away from the park and properly disposed of elsewhere.

Subd. 5. Equipment; marking; defacing. It is unlawful to mark, deface or disfigure, injure, tamper with, or displace or remove, any building, bridge, table, bench, waste receptacle, fireplace, railing, paving or paved notice or placard whether temporary or permanent, monument, stake, post or other boundary marker, or other structure, equipment or park property or park appurtenances whatsoever, either real or personal. Notices of park activity may be posted with the permission of the city manager.

Subd. 6. Refuse in city parks and waters. It is unlawful to throw, discharge, or otherwise place or cause to be placed in the water of any foundation, pond, lake, stream, bay or other body of water in or adjacent to any park or in any tributary, stream, storm sewer or drain flowing into such water, any substance, matter or thing, liquid or solid; nor may any person bring in or dump, deposit, or leave any bottles, broken glass, ashes, paper boxes, cans, dirt, rubbish, waste, garbage, or refuse or any other trash, in any park or portion thereof, or in any waters in or contiguous to any park. All such refuse or trash must be placed in the proper receptacles; where proper receptacles are not provided, all the refuse or trash must be carried away from the park by the person responsible for its presence and properly disposed of elsewhere.

Subd. 7. Liquor and beer. The presence of liquor and beer in parks is prohibited, except as permitted under city code, subsection 2005.15.

Subd. 8. Animal wildlife. It is unlawful to injure or destroy any bird or animal nest within the limits of any park, nor must any person air or discharge any air gun, sling shot, arrow or other weapon, or throw any stone or other projectile at, any bird or animal within any park, nor in any manner capture, kill or harm in any way any bird or animal therein.

Subd. 9. Public sales. It is unlawful to, within any park or property, expose or offer for sale, rent or hire any article or thing. Excepted are those who have obtained a special permit to so operate from the city manager, and who have obtained all licenses and permits required by law or the city code. It is unlawful to announce, advertise, or call the public attention to any article or service for sale or hire in any way.

Subd. 10. Sports. Organized or unorganized sport activity and games may be conducted only in designated areas within parks. All other casual recreational activity must be conducted in such a manner as not to interfere with the reasonable enjoyment of the park by other persons or with the reasonable right of adjoining property owners. Golf play in parks is prohibited, but golf practice with light plastic balls is permitted in designated areas.

Subd. 11. Dogs. Dogs in parks must be effectively leashed by a leash not in excess of six feet in length. Persons conducting leashed dogs must have in their possession suitable utensils for the removal of animal excrement and must promptly and effectively remove all excrement deposited by the animal under their control.

Subd. 12. Plant life. It is unlawful to wilfully and without authority cut, pluck, or otherwise injure any flowers, shrubs or trees growing in or around any public park, or on other public grounds.

815.07. Enforcement. This section is enforced by the city manager. It is unlawful for any person to disobey an order given pursuant to this section. The manager may prepare and publicize further regulations not inconsistent with this section for conduct within parks.

815.09. Park closing. The chief of police may close any public park, parkway, beach or drive, and for such period as deemed necessary, in order to protect or restore order or terminate or prevent breaches of the peace and order of the city. A person having been informed of such an order closing any such area may not remain in the area longer than is necessary to leave the closed area.

815.11. Other regulations. Other provisions of the city code governing conduct in public places within the city apply to parks.

815.13. Liquor and beer in parks. Subdivision 1. General rule. Except as otherwise permitted by this subsection, the use, consumption, display, and presence of intoxicating liquor (liquor) and non-intoxicating liquor (beer) as those terms are defined in chapter XII of this code, is prohibited in parks and related facilities including vehicle parking facilities immediately adjoining a park and the Crystal community center.

Subd. 2. Special permits. The council may on the recommendation of the city manager issue a special permit for the use, consumption, and display of liquor and beer in a park or a related facility in the park.

Subd. 3. Eligible persons. A special permit may be issued to persons in connection with a social event conducted by a family, an employee group, a club, or a charitable, religious or other non-profit organization solely for the enjoyment of the persons invited to the event by the applicant for the permit. A special permit will not be issued to a person holding a license to sell liquor or beer except as provided in subsection 1200.41 of this code.

Subd. 4. Duration. The special permit allows the presence of liquor and beer in the park or related facility only during the time specified in the permit which time may not exceed 12 consecutive hours in one calendar day.

Subd. 5. Rules and regulations. The city manager is directed to prepare further regulations for the conduct in parks of a person issued a special permit under this subsection.

Subd. 6. Application. The application for a special permit is prepared by the city clerk. The application must specify the purpose of the social event, the nature of the activity proposed, the hours during which it is to be conducted, the maximum number of persons expected to attend, and such other information as the clerk reasonably requests. The application must be accompanied by a bond or other undertaking in form and substance satisfactory to the city manager and city attorney, holding the city and its officers, employees, and agents from liability of any kind arising out of the permitted activity. If the applicant is a business partnership, club, corporation or non-profit association the application must be accompanied by a certificate of insurance showing current liability insurance naming the city as an additional insured party under the insurance policy.

Subd. 7. Fee. The fee for a special permit issued under this subsection shall be as determined by the city council in Appendix IV of this code. (Amended, Ord. No. 2010-05, Sec. 1)

Subd. 8. Special condition. The use, consumption, display and presence of liquor and beer in parks and related park facilities is a matter of special concern to the city as such activity relates to the peace and good order of the city. For that reason the issuance of a special permit under this subsection is determined to be a matter within the sole discretion of the city council, and its determination to issue or not to issue a special permit is final. The council may impose additional conditions in the granting of a special permit. The application for the special permit must be accompanied by (i) a copy of this subsection, (ii) an acknowledgement by the applicant that the subsection has been read and is understood by the applicant, and (iii) that applicant agrees not to challenge or in any way contest the determination of the city council with regard to the issuance of the special permit.

815.15. (Deleted, Ord. No. 2011-4; Added, Ord. No. 2011-4) Special events in parks. Subdivision 1. General rule. Notwithstanding any other ordinance to the contrary, all special events in city parks shall be regulated by this subsection.

Subd. 2. Declaration; purpose. The purpose and intent of this section is to:

- a) Provide a systematic application process for events having an effect on public property and/or public services.
- b) Lessen undue impact on private property.
- c) Ensure that city, state and federal codes are adhered to.
- d) Recapture any city expenditures lost for the development of, and operational costs for a privately sponsored event.

Subd. 3. Definitions. For the purposes of this subsection, the terms defined have the meanings given them.

- a) “Event” means any parade, race or special event that requires closure of a public street or special traffic control, or use of a park or recreational area.
- b) “Parade” means parade, march, or procession in or upon any street except the sidewalks thereof, or in or upon any street or alley in the city.
- c) “Race” means any organized bicycle race, foot race, race walking, wheelchair racing, rollerblading, marathon, jogging event, and similar events.
- d) “Special event” means any privately sponsored event as defined by this subdivision, which occurs on a public street, sidewalk or any municipal property, park or recreational area. This includes, but is not limited to, any fair, show, carnival, sporting event, school event and grand opening.

- e) “Permit Holder” means the private person, or individual identified by a group, business entity or governmental agency, who has applied for and been issued the permit required by this section to hold an event, race, parade or special event as defined by this section.

Subd. 4. Permit required; exceptions. No person, group, entity or organization of any type shall engage in, participate in, aid, form or start any event, unless a permit has been procured therefore. The permit shall be issued or denied by the city manager. No permit shall be required for:

- a) Funeral processions.
- b) Block parties on a residential street that has an average daily traffic volume of less than 1000 vehicles per day provided that the block party does not occur more than once annually for in excess of 8 hours.
- c) Lawful picketing.

Subd. 5. Application for permit. A person seeking issuance of an event permit shall file an application with the recreation director on forms provided by the recreation director. The application shall be accompanied by the fee set forth in Appendix IV of this code. To ensure an orderly approval process, permit applications should be filed as soon as possible in advance of the event. Permit applications must be filed not less than thirty (30) days or more than one year before the date on which the event is proposed to take place. Failure to file in a timely manner may be grounds for denial of the permit.

Subd. 6. Contents of application. The application for a permit shall set forth the following information:

- a) The name, address and telephone numbers, daytime and nighttime, of the person who will be responsible for performance of the duties of the Permit Holder.
- b) The date when the event is to be conducted.
- c) The details of proposed route requested, the starting point, the termination point and the desired location of any assembly areas.
- d) The approximate number of persons who, and animals and vehicles which will, constitute such event; the type of animals, and description of the vehicles.
- e) The hours when such desired event will assemble, start and terminate.
- f) A statement as to whether the event would occupy all or only a portion of the width of the streets proposed to be traversed or the park or recreation area permitted to be used for the event.
- g) Listing of all food vendors and merchandise vendors of any type, and whether it is proposed to sell or furnish wine or beer to patrons of the event.

- h) The estimated number of participants in the most recent year of the event or proposed for a new event.
- i) Such other information as the recreation director shall find necessary to evaluate the application.

Subd. 7. Deposit for city expenses. The recreation director may require the applicant to deposit with the city the estimated cost of city services to be performed in connection with the event. The estimated cost shall be as stated in the Fee Schedule at Appendix IV. In the case of large community events, the city manager may in addition require that a bond or other security satisfactory to the city be supplied to cover the estimated cost of city services.

Subd. 8. Duties of Permit Holder.

- a) A Permit Holder hereunder shall comply with all permit directions and conditions and with all applicable laws and ordinances. The Permit Holder or the person designated by subdivision 6 a) above shall carry the event permit upon his or her person during the conduct of the event.
- b) Subject also to the requirements of subdivision 15 of this subsection, within the two (2) hour period immediately following the end of the event, the Permit Holder or event coordinator will commence the clean up of the site of the event , remove and dispose of all litter or material of any kind, which is placed or left on the street, park recreation area or other public property because of such event and finish such clean up not later than the final day of the event, weather permitting or as directed by the city manger or designee. Should the Permit Holder or event coordinator fail to do so; in addition to any other remedy available to the city under this subsection or at law, the city will bill the permittee or event coordinator for all costs related to the clean up, removal and disposal of litter because of the event. In addition, no future applications will be considered until all obligations are satisfied.
- c) Required undertakings. In addition to the information required in subdivision 6, the Permit Holder may be required, at Permit Holder's expense, and without expense to the city, to undertake any or all of the following:
 - 1) Provide either authorized civilian or police personnel at all intersections requiring traffic-control personnel, as determined by the chief of police or their designee.
 - 2) Provide volunteers to monitor any required barricades at all intersections not requiring traffic-control personnel, as determined by the chief of police or designee.
 - 3) Provide, install and remove the barricades, signs and delineation equipment as directed by the engineer, police chief, or their designees.

Subd. 9. Notice To Abutting Property Owners. The Permit Holder for a special event may be required by the city manager to notify residents of neighborhoods of the pendency of the special event by any reasonable means as directed by the city manager, including but not limited to, the preparation of an informational leaflet. If a leaflet is required, the leaflet shall briefly describe the nature of the event, shall identify the name and telephone number of the Permit Holder and the date and time of the event, shall contain a map of the route if any, or the location of the special event, and shall describe all restrictions upon traffic and parking on or crossing the event route.

Subd. 10. Insurance. Upon compliance with all other provisions of this subdivision, a permit for an event may be granted only after the applicant has secured and filed with the Clerk the insurance provided for in this section. The policy or policies shall specifically provide for payment by the insurance company on behalf of the insured all sums which the insured's shall be obligated to pay by reason of liability imposed upon them by law for injuries or damages to persons or properties arising out of the activities and operations of the insured pursuant to the provisions of this chapter. All insurance required in this subsection shall be issued by insurance companies acceptable to the city and admitted in Minnesota. The insurance specified may be in a policy or policies of insurance, primary or excess and shall provide:

- a) Workers' compensation insurance that meets the statutory obligations with coverage B.
- b) Commercial general liability insurance which in the opinion of the city manager will cover the primary risks associated with the special event and with limits of at least \$1,500,000 for any number of claims arising out of a single occurrence; \$50,000.00 fire damage, and \$5,000.00 medical expense for any one person. The policy shall be on an "occurrence" basis for any number of claims arising out of a single occurrence, and shall include contractual liability coverage.

Acceptance of the insurance by the city shall not relieve, limit or decrease the liability of the event Permit Holder or the sponsoring entity. Any policy deductibles or retentions shall be the responsibility of the Permit Holder or the sponsoring entity. The Permit Holder shall control any special or unusual hazards and be responsible for any damages that result from those hazards. The city does not represent that the insurance requirements are sufficient to protect the Permit Holder's interests or provide adequate coverage.

Evidence of coverage is to be provided in the form of a certificate of insurance in the most recent edition of the applicable ACORD forms (or similar insurance service organization forms), as approved by the city manager. The Permit Holder shall notify and identify the city to its insurance carrier(s) and require its insurance carrier(s) to provide the statutory cancellation notice if the policy is cancelled, not renewed or materially changed. The Permit Holder shall require any of its participants using automobiles in a race or in connection with a special event to carry automobile liability insurance meeting the statutory limits of the State of Minnesota in the form of a certificate of insurance in the most recent edition of the applicable ACORD forms (or similar insurance service organization forms), as approved by the city manager. At its option, the city may require that it be listed as an additional named insured on such insurance policy or policies. The Permit Holder shall require any of its subcontractors to comply with these provisions.

Subd. 11. Indemnification. Not with standing the insurance requirements of subdivision 10, the Permit Holder agrees to defend, indemnify and hold the city, its officers, agents and employees harmless from any liability, claim, damages, costs, judgments, or expenses, including attorney's fees, resulting directly or indirectly from an act or omission including, without limitation, professional errors and omissions, of the Permit Holder or event sponsor/promoter, its agents and employees, arising out of or by any reason of the conduct of the activity authorized by such permit and against all loss caused in any way be reason of the failure of the Permit Holder or event sponsor/promoter, its agents and employees to fully perform all obligations under this subdivision.

Subd. 12. Emergency issuance of permit. In extraordinary circumstances, the city manager or designee shall be authorized to waive or otherwise expedite any or all of the review process and to issue a special event permit upon payment by the Permit Holder of all applicable fees and costs for such event.

Subd. 13. Vendors for special events.

- a) Sales permitted. The sale of food, including the sale of beer and/or wine, or any merchandise or services of any type by a vendor may be allowed as a component of a special event provided such vendor is approved and authorized in writing by the Permit Holder of the event and shall be conducted in accordance with such conditions and limitations as shall be imposed in writing by the Permit Holder and submitted as a part of the application for a permit.
- b) Authorization of vendors. The Permit Holder of a special event shall have sole responsibility and authority to allow or disallow sidewalk or street vending as a component of an event and to designate the location and activities of such vendors, subject to the requirements of this sub-section. The Permit Holder shall not discriminate on the basis of race, gender, nation origin or ethnicity in the authorization of such vendors. It shall be unlawful for any vendor to engage in such business at any location or in any manner not authorized by the Permit Holder of the event.
- c) Identification required. Any vendor authorized by the event Permit Holder shall be required to prominently display on his or her person a badge identifying the vendor as an authorized participant in the event. Said identification shall be not less than three (3) inches by three (3) inches, shall state that the bearer is an official participant in the event, and shall bear the signature of the Permit Holder of the event.
- d) Permit not required. Vendors authorized by the Permit Holder of an event as a component of the event shall not be required to obtain any separate vendors permit to operate during the period of the event. All merchandise, food and alcoholic beverage vendors shall be assessed a registration fee for city costs of enforcement as stated in Appendix IV of this code.

- e) Unauthorized vending prohibited. It shall be unlawful for any vendor not authorized by the Permit Holder of a special event as provided under this section to engage in such business within a distance of twenty-five (25) yards of such event from one (1) hour before until one (1) hour after the event.
- f) Food Sales. The vendor of any food, whether hot or cold, included as a part of a special event shall be subject to all rules and regulations of the Minnesota Department of Health, the Minnesota Department of Agriculture or Hennepin County, as applicable. It shall be the responsibility of the Permit Holder of an event to assure compliance with this section by any such vendors.

Subd 14. Beer and/or wine. Designated areas where beer and/or wine may be dispensed and consumed may be permitted only within the delineated boundaries of a special event as approved by the city, and subject to the following conditions:

- a) The dispensing of beer and/or wine shall not be permitted at any special event except by persons appropriately licensed by the state.
- b) Upon compliance with applicable ordinances and laws relating to the provision, sale and/or consumption of alcoholic beverages, this subsection, and with the approval of the city council, the Permit Holder of a special event shall have the discretion to provide special areas where beer and/or wine may be served by licensed persons within the delineated boundaries of the special area as approved by the city for the event.
- c) Whenever any event will include the dispensing and consumption of beer and/or wine, the Permit Holder of such event, at least forty five (45) days prior to the event, shall meet with appropriate staff members of the city as designated by the city manager in order to review the plans, conditions and restrictions pertaining to the event. Prior to the issuance of a permit for the event, the Permit Holder shall sign a statement of understanding of and agreement to the terms and conditions imposed on the event. Such statement shall become a part of the conditions of the permit for the event.
- d) A designated area within the approved site of a special event where beer and/or wine is permitted by the city as provided in this subsection shall be securely enclosed on all sides by a fence, barricade, or other similar such structure, approved by the chief of police and city engineer, or designees, so as to completely separate that area from the areas in which alcoholic beverages are not permitted.
- e) Every designated area permitted under this subsection shall provide seating and food service available for every person admitted to such area, and the permitted occupancy limit for such area will be reasonably determined by the city manager or designee.

- f) The dispensing of beer and/or wine at any designated area shall be restricted to persons having a valid alcoholic beverage license issued by the state of Minnesota to sell retail beer and/or wine by the drink. The name of such licensee(s) and the current license number, as such appear on the license, shall be required as a part of the application for a special event permit as required by law.
- g) The Permit Holder of the special event shall provide, at the Holder's expense, security personnel in a number sufficient to address security issues for the event based on the number of attendees and the type of event as reasonably recommended by the police chief and approved by the city manager, at each entrance point for the special event and at each designated area approved for the consumption of beer and/or wine.
- h) Every area where beer and/or wine are consumed shall be conspicuously posted at all times at each point of entrance/exit with signs stating substantially the following: at each entrance "The possession of alcoholic beverages allowed within the boundaries of this designated area only"; and at each exit "The possession of alcoholic beverages beyond this point is prohibited." The letters of such signs shall not be less than three (3) inches in height and one-half (1/2) inch in width and shall be in black letters on a contrasting light background.
- i) It shall be unlawful for patrons of any area(s) of a special event in which beer and/or wine is permitted to bring into ("brown bag") or take outside the designated area(s) any alcoholic beverage or to furnish any alcoholic beverage to any person outside the designated area where beer and/or wine is permitted.
- j) The application for a special event at which beer and/or wine is permitted shall include, in addition to the map identifying the outermost boundaries of the event, a map no smaller than 8 1/2 x 11 inches in size clearly identifying the area(s), including all public streets and sidewalks within and adjacent to the area(s), where the consumption of beer and/or wine is proposed. However, no areas designated for the consumption of beer and/or wine shall encroach within the designated public circulation areas.
- k) The application for a permit for a special event at which beer and/or wine is permitted shall include a description of the area(s), including the size and the number of seats proposed for such area(s). The application also shall contain a description of the method and structures that will be used to secure and separate such area(s) from other public areas as required in subsection (d) above.
- l) The fee for a permit to dispense beer and/or wine at a special event shall be as provided in Appendix IV to this code.

- m) Notwithstanding the provisions of this ordinance, any person dispensing and/or consuming beer and/or wine in accordance with this section shall comply with all other laws and ordinances pertaining to the sale, possession, and consumption of alcoholic beverages.

Subd. 15. Trash facilities; glass containers prohibited.

- a) The Permit Holder of a special event shall be required to provide temporary garbage and recycling collection facilities at any event, and arrange for such facilities and the hauling of trash and recycling to be provided by a waste hauler licensed by the city. The number of collection stations and their locations shall be determined by the city. The permit holder shall be responsible for picking up litter, maintaining a trash free environment, and the payment of tipping fees or other costs associated with disposal of garbage and trash.
- b) The use of glass containers for individual consumption of beer and wine within the area of any special event shall be prohibited as provided by this code.

Subd. 16. Enforcement; suspension or revocation.

- a) A violation of any of the provisions of this ordinance, applicable state law or county ordinance may be punished as a criminal violation as permitted by law.
- b) The city manager shall take appropriate action to administratively amend any permit condition(s) to protect the public interest, or to immediately suspend or revoke any permit issued for a special event where there is a violation of any condition of the permit or for violation of any provision of this subsection.
- c) The city manager may upon good cause shown further amend the permit or reinstate the permit where the violation giving rise to the initial revision, suspension or revocation has been addressed by the permit holder to the reasonable satisfaction of the city manager.

Section 820 - Newsracks

820.01. Subdivision 1. Definitions. For the purpose of this section the terms defined in this subsection have the meanings given them.

Subd. 2. "Newsrack" means a self-service or coin-operated box, container, storage unit or other dispenser installed, used, or maintained for the display and sale of newspapers or other news periodicals.

Subd. 3. "Parkway" means that area between the sidewalks and the curb of any street, and where there is no sidewalk that area between the edge of the roadway and property line adjacent thereto.

Subd. 4. "Roadway" means that portion of a street improved, designed, or ordinarily used for vehicular travel.

Subd. 5. "Sidewalk" means any surface ordinarily used for pedestrian travel.

Subd. 6. "Street" means that area dedicated to public use for public street purposes and must include, but not be limited to, roadways, parkways, alleys and sidewalks.

820.03. News racks; general rules. Subdivision 1. Location in roadways. It is unlawful to install, use or maintain any newsrack which projects onto, into or over any part of the roadway.

Subd. 2. Restrictions of parkways and sidewalks. Newsrack that in whole or in part rests upon, in or over any sidewalk, parkway, or public right-of-way property must comply with the following standards:

- a) The newsrack may not exceed five feet in height, 30 inches in width, or two feet in depth.
- b) Newsracks placed near the curb must be placed no less than two feet from the edge of the curb. Newsracks placed adjacent to the wall of a building must be placed parallel to such wall and not more than six inches from the wall.
- c) A newsrack may not be chained, bolted or otherwise attached to any city owned property. A newsrack may be bolted to parkways, provided that the owner of the newsrack must repair any damage done to parkways when the newsrack is removed.
- d) Newsracks may be chained or otherwise attached to one another; however, no more than three newsracks may be joined together in this manner, and a space of no less than 18 inches must separate each group of three newsracks so attached.
- e) A newsrack, or group of attached newsracks allowed under paragraph d) hereof, may not weigh, in the aggregate, in excess of 350 pounds when empty.
- f) A newsrack may not be placed, installed, used or maintained:
 - 1) within five feet of any marked crosswalk;
 - 2) within 12 feet of the curb return of any unmarked crosswalk;
 - 3) within 15 feet of any fire hydrant, fire call box, police call box or other emergency facility;
 - 4) within ten feet of any driveway;
 - 5) at any location whereby the clear space for the passageway of pedestrians is reduced to less than five feet unless such passageway is already restricted by a permanent fixture and the placement of the newsrack will not reduce the remaining passageway.
 - 6) at a location where the newsrack interferes with or hinders city removal of snow, ice, and debris from the roadway or sidewalk.
- g) A newsrack may not be used for advertising signs or publicity purposes other than that dealing with the display, sale or purchase of the newspaper or news periodical sold therein.
- h) A newsrack must be maintained in a clean and neat condition and in good repair at all times.

820.05. Identification. A person who places or maintains a newsrack on the streets of the city must have the name, address and telephone number of the owner affixed thereto in a place where such information may be easily seen and must inform the city engineer in writing where it has located a newsrack within ten business days after placing the newsrack on a parkway or sidewalk.

820.07. Insurance. A person placing newsracks in the city must provide proof of liability insurance in the amounts of \$100,000 for any single accident, and \$10,000 for property damage in which the city must be named an additional insured. A certificate of insurance must be delivered to the city clerk prior to the placement of the newsrack on a sidewalk or parkway.

820.09. Hold harmless agreement. A person placing a newsrack in the city must furnish a statement to the city clerk agreeing to defend and hold the city of Crystal harmless from any and all liability, judgments, damages, or expense that may arise or grow out of the installation, maintenance, use, presence, or removal of newsracks.

820.11. Violations. Upon determination by the city manager that a newsrack has been installed, used or maintained in violation of the provisions of this section, the manager must issue a written order to correct the offending condition to the owner of the newsrack. The order must specifically describe the offending condition and suggest actions necessary to correct the condition. Failure by the owner to properly correct the offending condition within seven days (excluding Saturdays, Sundays and legal holidays) after the mailing date of the order will result in the newsrack being summarily removed and processed as unclaimed property under section 325.

820.13. Appeals. A person aggrieved by a finding, determination notice or action taken under the provisions of this section may appeal to the city council. The taking of an appeal to the city council will stay the removal of any newsrack until the city council makes its determination unless in the judgment of the city manager the newsrack presents a clear and present danger of imminent personal injury or property damage. Nothing contained in this section is to be interpreted to limit or impair the exercise by the city of its police power, in the event of an emergency, to remove a newsrack.

820.15. Abandonment. In the event a newsrack remains empty for a period of ten continuous days, the newsrack is deemed abandoned and may be treated in the manner as provided in subdivision 6 for newsracks found to be in violation of the provisions of this section.

Section 825 - Repair of sidewalks

825.01. Repair of sidewalks. Subdivision 1. Duty of owner. The owner of property within the city abutting a public sidewalk must keep the sidewalk in good repair. Repairs must be made in accordance with the standard specifications approved by the council and on file in the office of the city clerk.

Subd. 2. Inspections; notice. The city engineer must make such inspections as are necessary to determine that public sidewalks within the city are kept in good repair. If the engineer finds that a sidewalk abutting on private property is unsafe and in need of repairs, the engineer will cause a notice to be served, by registered or certified mail or by personal service, upon the record owner of the property, or the occupant, if the owner does not reside within the city or cannot be found therein, ordering such owner to have the sidewalk repaired within 20 days, and stating that if the owner fails to do so, the city engineer will do so on behalf of the city, that the expense thereof must be paid by the owner, and that if unpaid it will be made a special assessment against the property affected.

Subd. 3. Repair by city. If the sidewalk is not repaired within 20 days after receipt of the notice, the city engineer must cause the sidewalk to be repaired in accordance with law. The city engineer must keep a record of the total cost of the repair attributable to each lot or parcel of property and report such information to the city clerk.

825.03. Personal liability. The owner of property on which or adjacent to which a sidewalk repair has been performed under this section is personally liable for the cost of such repair. As soon as the repair has been completed and the cost determined, the city clerk, or other designated official, must prepare a bill and mail it to the owner and thereupon the amount will be due and payable at the office of the city clerk.

825.05. Assessment. On or before September 15 of each year, the clerk must list the total unpaid charges for sidewalk repair against each separate lot or parcel to which they are attributable under this section. The council may then levy the unpaid charges against the property as a special assessment under Minnesota Statutes, section 429.101 and other pertinent statutes, for certification to the county auditor, and collection along with current taxes the following year or in annual installments, not exceeding ten, as the council determines.

Section 830 - Tree removal and replacement standards

830.01. Purpose. It is the intent of this section to protect, preserve and enhance the natural environment and beauty of the city by regulating the planting, maintenance and removal of trees in the city. It is the intent of this section to encourage the preservation of the existing trees in the city. The city desires to

protect the integrity of the environment and finds that trees do so by improving air quality, scenic beauty, protection against wind and water erosion and natural insulation for energy conservation. The city also finds that trees protect privacy and enhance property values.

830.03. Tree advisory board. The park and recreation advisory commission is designated the tree advisory board. The board is responsible for recommending policies regarding tree replacement and maintenance as well as recommending and implementing provisions required by the Tree City USA Program. The board is advisory to the council.

830.05. Applicability. This section applies to (i) trees located within street right-of-ways, parks and public places of the city and (ii) trees located on private property as specified herein.

830.07. Licensing. It is unlawful to engage in the business of trimming or removing trees on the property of another without a license under section 1165.

830.09. Landscaping. In new subdivision developments or when the redevelopment of commercial or industrial property occurs, landscaping plans will be reviewed and approved by city staff with final approval by the city council. Landscaping must be done in accordance with the applicable provisions in appendix I, section 515 (the zoning code).

830.11. Tree maintenance and removal. Subdivision 1. Restrictions for tree removal. It is unlawful to remove a tree from public land without approval from the city manager.

Subd. 2. Standards for replacement. It is the intent of this section that significant, non-diseased trees removed from public property will be replaced on a "one for one" basis. For the purposes of this section, a significant tree is defined as either (i) a deciduous tree with the diameter of 12 inches where the diameter is measured at four and one-half feet above ground level or (ii) a coniferous tree with the diameter of eight inches where the diameter is measured at four and one-half feet above ground level. Replacement trees must have a diameter of five inches or greater. Replacement of trees may be completed by planting more than one tree, provided that replacement trees have a diameter of not less than three inches. Trees removed from public land which require replacement must be replaced in locations and varieties as specified by the city manager.

Subd. 3. Exemption. Diseased and dead trees which are removed by the city are exempt from the provisions of this section. However, the city will endeavor to replace diseased trees in accordance with restrictions on locations in sections 515 and 800.

830.13. New development and redevelopment. Subdivision 1. General rules. It is the intent of this section that a person owning vacant land or creating new commercial, industrial or multi-family development or undertaking the redevelopment of commercial, industrial or multi-family property in the city is to replace significant, non-diseased trees as specified for public property in subsection 830.11. Any development or redevelopment must be completed in accordance with an approved site plan that requires the replacement of significant, non-diseased trees on a "one for one" basis.

Subd. 2. Protection. The property owner or developer or both as the case may be must take necessary precautions to protect existing trees that are not scheduled to be removed.

Subd. 3. Performance guaranty. The property owner or developer or both as the case may be must provide the city with a performance bond as specified in section 515 of the city code to guarantee the proper installation and vigorous growth of all trees and plant materials.

Subd. 4. Maintenance. Trees planted in accordance with this section must be maintained in accordance with the approved plan by the property owner.

Subd. 5. Exemptions. The provisions of this subsection do not apply to trees removed from existing lots of record in R-1 and R-2 residential use districts that are developed with single family or two family dwellings on the effective date of this section.

830.15. Enforcement. The city manager enforces this section and rules and regulations concerning the protection, removal, planting, and maintenance of trees upon the right-of-way of any street, alley, sidewalk or other public place in the city.

830.17. Penalties. Violation of this section is a misdemeanor. Each day that a violation is permitted to exist constitutes a separate offense.