

CHAPTER VIII

STREETS, ALLEYS, PUBLIC WAYS

SECTION 800 – CONSTRUCTION AND RECONSTRUCTION OF ROADWAY SURFACING, SIDEWALK, CURB AND GUTTER

800.01. Procedure. Abutting or affected property owners may contract for, construct or reconstruct roadway surfacing, sidewalk or curb and gutter in accordance with this section if adequate advance payment is made to the city.

800.03. Permit Required. It is unlawful to construct or reconstruct a sidewalk, curb and gutter, driveway, or roadway surfacing in a street or other public property in the city without a permit from the city. Application for a permit is made on a form approved and provided by the city and must sufficiently describe the contemplated improvements, the contemplated date of beginning of work, and the length of time required to complete the work. A permit is not required for an improvement ordered installed by the council. Applications will be referred by the city clerk-treasurer to the council. A permit will not be issued until the work has been approved by the council. The application must contain an agreement by the applicant to be bound by this section and plans and specifications consistent with the provisions of this section and good engineering practices. A permit from the city does not relieve the holder from damages to the person or property of another caused by such work.

800.05. Specifications and Standards. The construction and reconstruction of roadway surfacing, sidewalk and curb and gutter improvements, including curb cuts, must be strictly in accordance with specifications and standards on file in the office of the city clerk-treasurer and open to inspection and copying. The specifications and standards may be amended from time to time by the city, but will be uniformly enforced.

800.07. Inspection. The council must inspect the improvements. Work not done according to the applicable specifications and standards will be removed and corrected at the expense of the permit holder. Work done may be stopped by the council if found to be unsatisfactory or not in accordance with the approved specifications and standards.

800.09. Fees. Permit fees are set by resolution of the city council.

SECTION 805 – OBSTRUCTIONS IN STREETS AND RIGHT-OF-WAY

805.01. Obstructions. It is unlawful to place, deposit, display or offer for sale, a fence, goods or other obstructions upon, over, across or under a street without first having obtained a permit from the council. An electrical cord or device of any kind is an obstruction.

805.03. Fires. It is unlawful to build or maintain a fire in a street.

805.05. Dumping in Streets. It is unlawful to throw or deposit in a street nails, dirt, glass or glassware, cans, discarded cloth or clothing, metal scraps, garbage, leaves, grass or tree limbs, paper or paper products, shreds or rubbish, oil, grease or other petroleum products, or to empty water containing salt or other injurious chemical thereon. It is unlawful to haul any such material, inadequately enclosed or covered, thereby permitting the same to fall upon streets. It is unlawful to place or store building materials or waste resulting from building construction or demolition on a street without a permit from the council.

805.07. Signs and Other Structures. It is unlawful to place or maintain a sign, advertisement, or other structure in a street without first having obtained a permit. In a district zoned for commercial or industrial uses, special permission allowing an applicant to erect and maintain signs overhanging the street may be granted upon such terms and conditions as may be set forth in the zoning or construction provisions of this code.

Subd. 2. Condition. Before granting a permit under the provisions of this section, the council may impose such insurance or bonding conditions thereon as it deems proper for safeguarding persons and property. The insurance or bond must also protect the city from any suit, action or cause of action arising by reason of the obstruction.

805.09. Mailboxes. Subdivision 1. Placement. No person shall place a mailbox within the right-of-way unless the following conditions are met:

- a) The proposed location of the mailbox has been inspected by the city and approved by the city council; and
- b) The property must abut a rural route.

Subd. 2. Permit required. No person shall install a mailbox along a rural route without a permit from the city. If a mailbox is to be placed in the right-of-way that is adjacent to someone else's property along the designated route, permission from the property owner must be obtained in writing. If a property that has a mailbox permit is sold or transferred or a new home is constructed on the property, the new owner must apply for a mailbox permit.

Subd. 3. A copy of the approved mailbox permit must be presented to the Post Office to attain a route and mailbox number.

Subd. 4. No newspaper delivery tubes are permitted.

SECTION 810 – STREET OPENINGS OR EXCAVATIONS

810.01. Unlawful Act. It is a misdemeanor for a person, except a city employee acting within the course and scope of employment or a contractor acting within the course and scope of a contract with the city, to make an excavation, opening or tunnel in, over, across, or upon or under a street or other public property without a written permit from the city.

810.03. Application and Investigation. Subdivision 1. Application for a permit must describe with reasonable particularity the name and address of the applicant, the place, purpose and size of the excavation, and such other information as may be necessary or desirable. The application must be filed with the clerk-treasurer, together with the applicable permit fee.

Subd. 2. Permit Fees. Fees for permits are set by resolution of the city council. An excavation made before a permit has been issued will be subject to a penalty as established by the city council.

Subd. 3. Investigation. Upon receipt of the application, the city may make such investigation as may be necessary to approve the proposed excavation and to determine any conditions that may be placed upon the permit as to the time of commencement of work, manner of procedure and time limitation upon the excavation.

810.05. Protection of the City and the Public. Subdivision 1. Non-completion or abandonment. Work must progress expeditiously to completion in accordance with a time limitation placed thereon so as to avoid unnecessary inconvenience to the public. In the event that work is not performed in accordance with the permit, or is abandoned without due cause, the city clerk-treasurer may, after six hours notice in writing to the holder of the permit, correct the work, fill the excavation and repair the public property, and the cost thereof must be paid by the person holding the permit.

Subd. 2. Insurance. Prior to commencement of the work described in the application, the applicant must furnish the city satisfactory evidence in writing that the applicant will keep in effect public liability insurance of not less than \$100,000 for any person, \$300,000 for any occurrence and property damage insurance of not less than \$25,000, issued by an insurance company authorized to do business in the state of Minnesota in which the city is named as an additional insured.

Subd. 3. Indemnification. The applicant must agree in writing to indemnify and hold the city harmless from any liability for injury or damage arising out of the action of the applicant or the applicant's agents, employees or subcontractors in performance of the work, and for any expense whatsoever incurred by the city incident to a claim or action brought or commenced by any person arising therefrom.

Subd. 4. Issuance of Permit. The city must issue such permit only upon approval by city council after recommendation of the planning commission after: 1) completion of the

investigation, if any; 2) payment by the applicant in advance of the applicable permit fee; 3) agreement in writing by the applicant to the conditions of the permit; 4) agreement in writing by the applicant to pay all actual costs of the proposed excavation and all necessary repairs, including the cost of the investigation; and 5) agreement in writing by the applicant to be bound by all of the provisions of this section.

810.07. Repairs. Temporary and permanent repairs, including backfilling, compacting and resurfacing will be made, or contracted for, in a manner prescribed by the maintenance superintendent at the expense of the permit holder.

810.09. Responsibility to Protect Subsurface Installations. The permit holder must use the Minnesota Gopher State One Call system and for locating and protecting all utility and other installations made beneath the surface of any public streets, grounds or right-of-way. Any interference with or damage to such underground installation is the responsibility and expense of the permit holder.

810.11. Correction or completion of work by city. If a part of the excavation or repair work is not done at the time or in the manner prescribed by the city council, the city may correct or complete the work or contract to have the work corrected or completed, and the cost thereof will be charged to and paid by the permit holder, together with interest and any costs of collection, including attorneys' fees.

SECTION 815 – PARADES

815.01. Definition. The term “parade” means a movement of vehicles, persons or animals, or a combination thereof, which either moves together and as a body so as to in some way impede or affect the free and unobstructed flow of vehicular or pedestrian traffic, or which moves so that some part thereof is in violation of one or more traffic laws or regulations, if such movement is without a permit under this section.

815.03. Permit Required. It is unlawful to sponsor or participate in a parade without a permit and it is unlawful to obtain a parade permit and not conduct the same in accordance with the permit granted by the city. Application for a permit must be made to the city clerk-treasurer at least 30 days in advance of the date on which the parade is to occur and must state the sponsoring organization or individual, the route, the length, the estimated time of commencement and termination, and its general composition. The application must be executed by the individuals applying therefor or the duly authorized agent or representative of the sponsoring organization.

815.05. Investigation. The city clerk-treasurer must refer applications for parades to the city law enforcement agency for consideration which must take no longer than 10 days. If any state trunk highways are in the route the city law enforcement agency must make all necessary arrangements with the Minnesota Department of Public Safety for alternate routes or whatever may be necessary. If the city law enforcement agency finds that the parade will not cause a hazard to persons or property, and will cause no great inconvenience to the public, and if the city law enforcement agency is able to make arrangements for necessary direction and control of traffic, the city law enforcement agency will endorse the application and return it to the city clerk-treasurer. If the city law enforcement agency finds the parade described in the application to be a hazard, a substantial inconvenience, or if the city law enforcement agency is unable to make adequate arrangements for direction or control of traffic, the city law enforcement agency must return the same to the clerk-treasurer with those findings.

815.07. Council Action. The city clerk-treasurer must refer the application and results of investigation to the council at its next regular meeting. The council may either (i) deny the permit, (ii) grant the permit, or (iii) grant the permit on condition that a date, time or route are acceptable to applicant which differ from such as stated in the application. The applicant must accept the terms of the permit within three days.

815.09. Unlawful Acts. Subdivision 1. Obstruction. It is unlawful to hamper, obstruct, or impede or interfere with any parade, parade assembly or any person, animal or vehicle participating in the parade.

Subd. 2. Driving in parade. It is unlawful to drive a vehicle between the vehicles or persons comprising a parade when the parade is in motion.

Subd. 3. Entrance. It is unlawful to enter into a parade without prior authorization from the person in charge of the parade.

Subd. 4. Exception. This section does not apply to: 1) funeral processions; or 2) a governmental agency acting within the scope of its functions.

SECTION 820 – CURB SET-BACK

820.01. Permit Required. It is unlawful to remove, or cause to be removed, a curb from its position abutting upon the roadway to another position without a permit.

820.03. Agreement Required. A permit will not be issued until the applicant, and abutting landowner if someone other than the applicant, has entered into a written agreement with the city agreeing to pay all costs of constructing and maintaining such set back area in at least as good condition as the abutting roadway, and further agreeing to demolish and remove such set back and reconstruct the area as was at the expense of the landowner if the area, in the council's opinion, becomes a public hazard. The agreement must be recorded in the office of the county recorder, and runs with the adjoining land.

820.05. Sign Posting. Angle parking only signs must be purchased from the city and erected and maintained at the expense of the adjoining landowner in all such set back areas now in use or hereafter constructed. It is unlawful for any person to park other than at an angle in such set-back areas.

820.07. Public Rights Preserved. Set back parking areas must be kept open for public parking. The abutting landowner may not acquire any special interest or control of such areas.

SECTION 825 – MISCELLANEOUS

825.01. Load Limits. The city clerk-treasurer, upon recommendation from the city law enforcement agency may from time to time impose upon vehicular traffic on a part or all of the streets, such load limits as may be necessary or desirable. The limits, and the specific extent or weight to which loads are limited, must be clearly and legibly sign-posted thereon. It is unlawful to operate a vehicle on any street in violation of a limitation so posted.

825.03. Requirement of Sewer and Water Main Service Lateral Installation. Subdivision 1. Requirement of sewer and water laterals. A petition for the improvement of a street will not be considered by the council if the petition contemplates constructing therein any part of a pavement or stabilized base, or curb and gutter, unless all sewer and water main installations have been made therein, including the installation of service laterals to the curb, if the area along such street will be served by such utilities installed in the street.

Subd. 2. Sewer System Service and Water Main Service Laterals. A sewer system may not be constructed or extended unless service laterals to platted lots and frontage facing thereon have been extended simultaneously with construction of mains.

Subd. 3. Waiver. The council may waive the requirements of this section if it finds the effects thereof are burdensome and upon such notice and hearing as the council may deem necessary or proper.

825.05. Private Use of Public Streets and Parking Lots. Subdivision 1. Authority, permission and procedure. Upon an application made to the city clerk-treasurer and reviewed and recommended by the maintenance superintendent, the council may grant special permission under which on-street parking or the use of city-owned parking lots or ramps or public sidewalks may be temporarily or permanently prohibited or restricted for private reasons and purposes (including, but not limited to, establishment of private or “leased” parking, “loading zones,” or benches) at such places, on such terms and for such consideration as the council may deem just and equitable. In establishing the amount of such consideration to be paid to the city, the council may consider the amount of space, location thereof, if any, public inconvenience, and hazards to persons or property. Upon complaint of any aggrieved person and by reason of any specific special permission so granted, the council may at its next regular meeting after receipt of such complaint, call a hearing thereon to be held after 10 days’ notice in writing to applicant and complainant and published notice at least 10 days prior to the hearing. After the hearing the council must by resolution decide whether to terminate, continue or redefine the terms of the permission, and its decision will be final and binding on all persons directly or indirectly interested therein.

Subd. 2. Public Vehicles. Free and reserved on-street parking is limited to city-owned and operated vehicles.

Subd. 3. Violations. It is unlawful to park or otherwise infringe upon any area permitted by this section, when the area is clearly and distinctly marked or sign-posted. It is unlawful for

any person not granted such right to assert the same, or for any grantee of such right to exceed the same under claim thereto.

Subd. 4. Condition. Before granting a permit, the council may impose such insurance or bonding conditions thereon as it, considering the projected danger to public or private property or to persons, deems proper for safeguarding persons and property. The insurance or bond must also protect the city from any suit, action or cause of action arising by reason thereof and naming the city as an additional insured.

825.07. Curb and Gutter, Street and Sidewalk Painting or Coloring. It is unlawful to paint, letter or color a street, sidewalk or curb and gutter for advertising purposes, or to paint or color a street, sidewalk or curb and gutter for any purpose, except when done by city employees acting within the course or scope of the employment. This subsection does not apply to uniformly coloring concrete or other surfacing, or uniformly painted house numbers, if coloring is approved by the city council.

825.09. Motorized Vehicles Prohibited on Sidewalks. It is unlawful to drive or operate a motorized vehicle on a public sidewalk or public property designated for use as a pedestrian walkway or bicycle trail, except when crossing the same for ingress or egress to private property lying on the other side thereof.

SECTION 830 – SIDEWALKS

830.01. Declaration of policy. The city council declares that the retention, repair and replacement of existing sidewalks within the city of Nerstrand is in the public interest and that the existing sidewalk system should be maintained, repaired and replaced, except in such circumstances where the city council determines that it is unnecessary, unfair or not in the public interest to continue the sidewalk system, and that new sidewalks should be constructed in those locations where the city council deems it necessary for the safety and convenience of the public. The city council declares that the cost of constructing, repairing or replacing sidewalks in the city may be cost prohibitive. To achieve the intended goal, the city council will determine the extent to which the city can perform the construction, repair or replacement of sidewalks in any given year. Sidewalks not able to be constructed, repaired or replaced during the year due to monetary constraints will be planned for subsequent years.

830.03. Grants and Awards. Under special circumstances, such as the awarding of grants to the city for the purpose, or for projects of benefit to the city as a whole, or in other special cases in the discretion of the city council, the city may share in the cost of creation or repair of sidewalks. Cost sharing by the city council does not obligate the city to maintain or repair said sidewalks at any future time.

830.05. Responsibility for Personal Injuries. The abutting property owner of any sidewalk within the city upon which any person is injured by reason of a defect in or upon the sidewalk, any object whatsoever left upon the sidewalk, or any unauthorized use of a sidewalk by the property owner or property owner's licensee or lessee or others residing within, or upon the property owner's premises, is responsible for any damages that result, and is deemed to hold the city of Nerstrand harmless and indemnify the city for such losses that the city may be required to pay to any third person.

830.07. Vending Machines. It is unlawful to sell or dispense soft drinks or any other product from vending machines on public sidewalks.

SECTION 835 – SIDEWALK OBSTRUCTIONS

835.01. Definition. For purposes of this section 835, the term “sidewalk obstruction” shall mean: courtesy sidewalk obstructions with up to four related chairs; freestanding chairs and benches; street carts vending food, floral, and similar consumer goods; and other items of a similar nature.

835.03. License Requirements. Any person, firm or corporation desiring to place and maintain one or more sidewalk obstructions upon the public streets, sidewalks, or other right-of-way within the city, may be granted a license therefor upon the following conditions:

- a) The person, firm or corporation desiring such license, or licenses, shall make written application to the city clerk-treasurer showing the requested location and detailed plans and specifications of each proposed sidewalk obstruction, the name and address of the applicant, and such other information as may be required in an application form to be prepared by the city clerk-treasurer, city engineer and city attorney.
- b) The consent of the abutting property owner or lessees shall be required where the proposed location of a sidewalk obstruction is in an area where the abutting property is zoned residential or multiple dwelling; in such cases each application shall be accompanied by a writing in such form as the city attorney shall require, signed by the residents of the residential property abutting the street upon which each sidewalk obstruction is proposed to be located, giving consent by such residents to the installation and maintenance of such sidewalk obstruction at the proposed location. The applicant shall furnish therewith such evidence of residence as shall be required by the city attorney.
- c) Each application shall be accompanied by an inspection fee, as set forth by city council resolution, payable to the city of Nerstrand for each such sidewalk obstruction.
- d) If the application is granted, an additional license fee, as set forth by city council resolution, shall be paid to the city of Nerstrand for each sidewalk obstruction at the time the license is issued.
- e) All licenses shall expire as of the 1st day of January next following the date of issuance thereof, unless renewed. At least 30 days prior to the expiration of any license, the holder may make written application for renewal thereof, accompanied by the license fee in an amount as set forth by city council resolution. If plans and specifications of the sidewalk obstruction, or location of the sidewalk obstruction, are not to be changed, the application for renewal shall be sufficient if the applicants give their name and address, and the location of the sidewalk obstruction for which the renewal license is desired.

- f) Whenever ownership of a sidewalk obstruction for which a license has been issued is sold or title or control thereof transferred or assigned, a new license shall be required.
- g) If the application is for licenses for more than one sidewalk obstruction at the same or different locations, a separate number and license shall, when issued, be assigned and granted for each sidewalk obstruction authorized to be installed, but each such license issued shall be valid only for the particular location designated therein.

835.05. No License Issued for Installation. No license shall be issued for the installation or maintenance of any such sidewalk obstruction:

- a) in any alley;
- b) at any location where the distance from the face of the curb to the inside sidewalk line is less than eight feet; or
- c) if the city council determines in its sole discretion that such sidewalk obstruction will unreasonably interfere with normal use of the right-of-way or pose a hazard to the public health, safety, welfare, or morals.

835.07. Revocation.

- a) The license for any sidewalk obstruction may be revoked, or the application for renewal thereof denied, if the city council determines in its sole discretion that such sidewalk obstruction will unreasonably interfere with normal use of the right-of-way or pose a hazard to the public health, safety, welfare, or morals.
- b) The license for any sidewalk obstruction may be revoked, or the application for renewal thereof denied, for failure to comply with the provisions of this section or for misrepresentation of any material facts in the application, or for any reason which would have been grounds for denial of the original application, or where in the judgment of the city council or the maintenance superintendent, maintenance has become inappropriate. No revocation or denial shall be made arbitrarily or inequitably as between different applicants.
- c) If the owner, or lessee, shall by writing filed with the city clerk-treasurer on or before the first day of April preceding the expiration of any license, withdraw consent to the renewal thereof after such expiration, the city clerk-treasurer shall promptly notify the licensee of the filing of such writing and shall deny the renewal of such license unless and until such owner, or person in possession or control, shall in writing consent to such renewal license being issued.

835.09. Location and Maintenance.

- a) When a license is issued, each such sidewalk obstruction shall be installed and set back not less than 30 inches from the face of the curb.
- b) Each sidewalk obstruction shall have displayed thereon, in a conspicuous place, the license number.
- c) It shall be the duty of the licensee to maintain each sidewalk obstruction at all times in a safe condition at its proper location and to inspect each sidewalk obstruction periodically in order that it may be properly maintained. Sidewalk obstructions shall be kept at all times in a neat, clean and usable condition. Debris, ice, and snow shall be removed from the sidewalk obstructions and the vicinity thereof in such a manner that each sidewalk obstruction shall be accessible at all times. The licensee shall move sidewalk obstructions immediately upon request of the city should temporary removal be made necessary by construction or repair work in the vicinity of the sidewalk obstruction.

835.11. Removal of Sidewalk Obstructions.

- a) Upon the revocation or expiration of any license without renewal, if the licensee fails promptly to remove a sidewalk obstruction, the city clerk-treasurer may do so within 10 days after written notice given by mail directed to the address of the licensee on file, and if the licensee shall fail to pay the cost of removal and storage thereof within a period of 60 days after the giving of such notice, the licensee's rights in said sidewalk obstruction shall be forfeited, but such forfeiture shall not excuse the licensee from the payment of the cost of removal and storage of said sidewalk obstruction.

835.13. Insurance.

- a) Before a license shall be issued, the applicant shall post or maintain with the city clerk-treasurer, a bond or policy of public liability insurance approved by the city attorney and conditioned substantially as follows: That the licensee will indemnify and save harmless the city of Nerstrand, its officers, agents and employees from any and all loss, costs, damages, expenses, or liability which may result from or arise out of the granting of such permit, or the installation or maintenance of such sidewalk obstruction for which a permit is issued, regardless of the point to which such sidewalk obstruction or sidewalk obstructions may be moved within the city of Nerstrand with or without the consent of the licensee, and that the licensee will pay any and all loss or damage that may be sustained by any person as a result of, or which may be caused by, or arise out of, such installation or maintenance. The bond or policy of insurance shall be maintained in its original amount by the licensee at the licensee's expense at all times during the period for which the license is in effect. In the event that two or more licenses

are issued to one licensee, one such bond or policy of insurance may be furnished to cover two or more sidewalk obstructions, and each bond or policy shall be of a type which coverage shall automatically be restored immediately after the occurrence of any accident or loss from which liability may thereafter accrue.

- b) The limit of liability upon any bond or policy of insurance so posted shall in no case be less than \$100,000 for any person, \$300,000 for any occurrence and property damage insurance of not less than \$25,000, issued by an insurance company authorized to do business in the state of Minnesota in which the city of Nerstrand is named as an additional insured.

835.15. City Council Approval. All applications for licenses, when approved by the city clerk-treasurer, shall be presented to the city council, which may grant or deny any one or more of the applications made.

SECTION 840 – ICE AND SNOW ON PUBLIC SIDEWALKS AND STREETS

840.01. Ice and Snow on Public Sidewalks. Subdivision 1. Ice and snow a nuisance. All snow and ice remaining upon public sidewalks is hereby declared to constitute a public nuisance and the owner of such property shall cause said nuisance to be abated within the time specified on a Notice of Snow Removal which shall be in the form of a red tag citing this section and affixed prominently to the premises.

840.03. City to Remove Snow and Ice. The city may cause to be removed from all public sidewalks, all snow or ice which may be discovered thereon after it should have been removed therefrom in accordance with this section, and it shall keep a record of the costs of such removal and the private property adjacent to which such accumulations were found and removed.

840.05. Cost of Removal to be Assessed. The city clerk-treasurer shall bill the property owner the actual expenses incurred by the city, such expenses to include the inspection, labor, and clerical not to exceed \$35.00 for the first hour and additional hours at \$25.00. If payment is not received within 45 days, upon direction of the council, the cost of such removal of snow or ice shall be collected as a special assessment against the lots or parcels of ground abutting the sidewalks which were cleared, and such special assessments shall be certified for collection as other special assessments are certified and collected.

840.07. Placing Snow or Ice in Public Street or on other City Property. It is a misdemeanor for any person, not acting under a specific contract with the city, to remove snow from private property or alleys and place the same on a public street in such quantity, or in such manner, as to obstruct vision or cause a hazard to travel, without adequate arrangements for the immediate removal thereof; and it is also a misdemeanor for any person not acting under a contract with the city to dump snow on other city property.

SECTION 845 – REGULATION OF TREES, GRASS AND WEEDS IN
PUBLIC STREETS AND PUBLIC PROPERTY

845.01. Regulation of Trees, Grass and Weeds in Public Streets and Public Property.
Subdivision. 1. City to control tree planting. The city shall have control and supervision of planting shrubs and trees upon, or overhanging, all streets and other public property. The city may establish and enforce uniform standards relating to the species and types of trees to be planted, the placement and the maintenance and removal thereof.

Subd. 2. Definitions. Subdivision 1. The terms defined in this subsection have the meanings given them.

- a) “Public Tree” means a tree, shrub, bush or other woody vegetation growing on any public property owned or managed by the city.
- b) “Private Tree” means a tree, shrub, bush or other woody vegetation growing on private property within the city.
- c) “Street Tree” means a tree, shrub, bush or other woody vegetation growing on land lying between property lines on either side of all streets, avenues and boulevards within the city.
- d) “Park Tree” means a tree, shrub, bush or other woody vegetation in a public parks and all areas owned by the city to which the public has free access as a park.
- e) “Small Tree” means any plant material that will grow to a height of no more than 30 feet.
- f) “Medium Tree” means any plant material that will grow to a height of no more than 50 feet.
- g) “Large Tree” means any plant material that will grow to a height of over 50 feet.
- h) “Public Utility” means any public private or cooperatively owned line, facility of system for producing, transmitting or distributing communications, power, electricity, light, heat, gas, oil products, water, waste or stormwater, which directly or indirectly serves the public or any part thereof within the corporate limits of the city.

Subd. 3. Tree Planting Requirements; Species; Location.

- a) Landscaping Plan Review. In conjunction with issuing a building permit for a new dwelling, or when the development of a new subdivision or commercial property occurs, the city will review landscaping plans and may require trees to be planted in any of the streets, parking lots, parks and other public places abutting

the lands developed or subdivided, in accordance with guidelines established by the city.

- b) Tree Species. The city shall develop and maintain a list of desirable trees for planting along streets in three size classes: small, medium and large. A list of trees not suitable for planting will also be created and enforced by the city.
- c) Spacing between trees. The spacing of street trees will be in accordance with the species and size classes listed in this section, and no trees may be planted closer together than the following: small trees, 30 feet; medium trees, 40 feet; and large trees, 50 feet; except in special plantings designed or approved by the city.
- d) Planting near utilities. No street trees other than those species defined herein as small trees may be planted under or within 10 lateral feet of any overhead utility wire.
- e) Planting near curbs and sidewalks. The distance trees may be planted from curbs or curblines and sidewalks will be in accordance with the three species size classes listed in this section, and no trees may be planted closer to any curb or sidewalk than the following: small trees, two feet; medium trees, three feet; and large trees, four feet.
- f) Distance from corners, fire hydrants and driveways. No street tree shall be planted closer than 35 feet to any street corner, measured from the point of nearest intersecting curbs or curblines. No street tree shall be planted closer than 15 feet to any fire hydrant, nor five feet from any driveway.
- g) Special planting arrangements. The city may grant a permit for special planting arrangements that deviate from the requirements of this section, when special circumstances exist.

Subd. 4. Public Trees; Planting, Care and Removal.

- a) Care of public trees. The city shall have the right to plant, prune, maintain, and remove trees, plants and shrubs within the lines of all streets, alleys, avenues, lanes, squares, and public grounds as may be necessary to insure the public safety or to preserve or enhance the symmetry and beauty of public grounds. No other planting may be done without consent of the city.
- b) Removal of trees endangering utilities or other public improvements. The city may remove or cause to be removed any tree or part thereof which is in an unsafe condition or which by reason of its nature is injurious to any public utility or public improvement, or is affected with any injurious fungus, insect, or other pest. Every tree overhanging any street or right-of-way within the city shall be pruned so that the branches will not obstruct the light from any street lamp or obstruct the view of any street intersection, and so that there is a clear space of at least eight

feet above the sidewalk and 13 feet above the road surface.

- c) Protection of public trees near construction activities. Any tree located on city property in the immediate vicinity of any excavation, demolition or construction site of any building, structure, street or utilities work which has potential for injury, shall be protected from such injury.
- d) Tree topping prohibited. It is unlawful for any person to top any street tree, park tree, or other tree on public property. "Topping" is defined as the severe cutting back of limbs to stubs within the tree's crown to such a degree so as to remove normal canopy and disfigure the tree. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempted from this section, as determined by the city.
- e) Permits relating to public trees. It is unlawful for any person to plant, remove, cut above the ground, or disturb any tree on any street, park, or other public place without first filing an application and procuring a permit from the city. The person receiving the permit shall abide by the standards set forth in this section.
- f) Adjacent landowner responsibility. Owners of property adjacent to street trees shall maintain the trees by periodic watering and fertilization of street trees as necessary to maintain good health and vigor and protect the trees against damage caused by lawnmowers, weed trimmers, snow blowers and similar equipment.
 - 1) Public trees - private property owner requests - financial responsibility. In cases where an owner of private real property abutting city property requests city actions on street trees or public trees, the requesting owner shall be financially responsible for the following:
 - i) Removal of trees, limbs, or roots preventing house moving or other construction activities;
 - ii) Removal of trees, limbs, or roots for the alteration of tree or abutting property appearance where no hazard or nuisance exists; and
 - iii) Spraying, fertilizing, or treatment other than may be regularly conducted on a city-wide basis by the city.
 - 2) Financial responsibility. Financial responsibility does not eliminate the requirement of obtaining necessary permits required by this section.

Subd. 5. Duty of Property Owners to cut Grass and Weeds and Maintain Trees and Shrubs. Every owner of property abutting on any street shall cause the grass and weeds to be cut from the line of such property nearest to such street to the center of such street. If the grass or

weeds in such a place attain a height in excess of eight inches it shall be prima facie evidence of a failure to comply with this subdivision. Every owner of property abutting on any street shall, subject to the provisions herein requiring a permit therefor, trim, cut and otherwise maintain all trees and shrubs in an un Hazardous and healthy condition, from the line of such property nearest to such street to the center thereof.

Subd. 6. City May Order Work Done. The city may, in cases of failure to comply with this section, perform such work with employees of the city, keeping an accurate account of the cost thereof for each lot, piece or parcel of land abutting upon such street.

Subd. 7. Assessment. If maintenance work described in the foregoing subdivision is performed by the city, the city clerk-treasurer shall forthwith upon completion thereof ascertain the cost attributable to each lot, piece or parcel of abutting land. The city clerk-treasurer shall present such certificate to the council and obtain its approval thereof. When such certificate has been approved it shall be extended as to the cost therein stated as a special assessment against such abutting land and such special assessment shall be certified for collection as other special assessments are certified and collected.