

TITLE IX: GENERAL REGULATIONS

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CHAPTER 91: FIRE PREVENTION; FIREWORKS

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Cross-reference:

Fire department, see § 30.26

FIREWORKS

§ 91.01 DEFINITIONS

For the purpose of this subchapter, the following definitions shall apply unless the context indicates or requires a different meaning.

FIREWORKS. For the purposes of this section, ***FIREWORKS*** will have the same definition as contained in M.S. § 624.20, Subdivision 1, as it may be amended from time to time, or any superceding statute.

(Ord. 03-03, passed 6-9-2003)

§ 91.02 PERMIT REQUIRED

No person shall sell or possess for sale fireworks without first having obtained an approved annual permit from the city.

(A) The application for the permit for the manufacturing, storage for commercial purposes and sale of fireworks shall be submitted to the Building Inspector and the Fire Chief with a minimum of 15 days prior to operating for consideration.

(B) All permits shall be issued for a period of one calendar year.

(C) Prior to processing the application, a criminal records check must be performed by Wright County. No permit shall be issued if the applicant or the responsible party for the permit shall have been convicted of a felony or a fire/fireworks related misdemeanor within the last three years.

(D) Prior to processing the permit application, the Fire Chief and Building Inspector shall determine that the proposed location is code compliant.

(E) The permit application shall include an approved letter from the person legally responsible for the property on which the fireworks related activity will occur. The letter shall grant permission to the applicant for the use of the property.

(Ord. 03-03, passed 6-9-2003)

§ 91.03 SALES AND STORAGE

(A) No person shall sell or store fireworks within 50 feet of any fuel dispensing apparatus.

(B) It shall be unlawful for any seller of any fireworks to permit smoking at any site containing fireworks. "No Smoking" signs must be conspicuously posted and approved fire extinguishers must be available for use.

(C) In buildings that do not have an automated sprinkling system, retail sales displays of fireworks shall be limited to a gross weight of 400 pounds of fireworks. In buildings that do contain an automated sprinkling system, the amount of fireworks contained in retail sales displays shall be determined on a case-by-case basis after considering the building's construction, fire suppression apparatus and other relevant factors.

(D) The requirements of this subchapter are in addition to any requirements imposed by any building and/or zoning regulations, fire codes or state law.

(E) Only persons 18 years of age or older may purchase fireworks, and the age of the purchaser must be verified by photographic identification.

(F) No exterior storage, display, sales or transient sales of fireworks are permitted. No manufacturing, sales or storage for commercial purposes shall occur in residentially zoned property or properties used for educational purposes or assemblies.

(G) A list of all consumer fireworks displayed and stored on the property shall be available at all times. The list shall document the name, weight and quantity of the fireworks and be accompanied by the material safety data sheets.

(H) Manufacturing, warehouse buildings or displays in excess of the quantities listed in division (C) above for retail consumer fireworks shall be classified and protected similarly to explosives and aerosols.

(I) A handout describing fireworks shall be provided to each consumer purchasing fireworks.
(Ord. 03-03, passed 6-9-2003)

§ 91.04 USE AND POSSESSION

(A) It is unlawful to use fire or discharge any fireworks along city streets, roads and routes of and during any parade, in any place of public assembly, on any public property or in any commercial/industrial zoning district.

(B) It is unlawful at any time to throw, toss or aim any fireworks at any person, animal, vehicle, other thing, object or used in any manner that may threaten or cause possible harm to life or property.

(C) The discharge of fireworks shall be prohibited inside a building and within 15 feet of any building.

(D) The Fire Chief is authorized to ban fireworks if dry or windy conditions occur and/or exist.

(E) Juveniles may not possess fireworks unless under the direct supervision of a responsible adult.

(F) Fireworks may not be discharged in such a manner that may create a nuisance or between the hours of 10:00 p.m. to 7:00 a.m.

(Ord. 03-03, passed 6-9-2003)

REGULATION OF OPEN BURNING

§ 91.20 DEFINITIONS

For the purpose of this subchapter, the following definitions shall apply unless the context indicates or requires a different meaning.

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ATTENDANT. The same as a competent, unimpaired adult.

BURNING PERMIT. A permit issued by the Cokato Fire Chief authorizing fires exempted from the general provisions hereof, and setting conditions therefore.

CAMP FIRE. A fire set for cooking, warming or ceremonial purposes, which is not more than three feet in diameter by three feet high, and has the ground four feet from the base of the fire cleared of all combustible material.

COMPETENT, UNIMPAIRED ADULT. A person over 18 years of age who is not under the influence of alcohol or other drug, who shall be the responsible party for directly supervising an open burn and who shall be responsible for ensuring compliance with this subchapter.

OPEN FIRE or OPEN BURNING. A fire burning in a matter, whether concentrated or dispersed, which is not contained within a fully enclosed fire box, structure or vehicle, and from which the products of combustion are emitted directly to the open atmosphere without passing through a stack, duct or chimney. **OPEN FIRE or OPEN BURNING** also means any open burning which takes place within a burning barrel.

RECREATION FIRE. The same definition of **CAMP FIRE**.

RECREATION FIRE BURN. Requirements: when a camp fire is used for recreation purposes, it must be ignited with an approved starter fluid using dry, clean wood, conducted with an unimpaired adult tending the fire at all times; extinguished completely before quitting the occasion and respecting weather conditions, burning bans and air quality so that safety hazards will not be created. Mobile cooking devices such as manufactured hibachis, charcoal grills, wood smokers and propane or natural gas devices are not defined as **CAMP OR RECREATION FIRES**.

RECREATION FIRE SITE. Requirements: an area of more than a three-foot diameter circle (measured from the inside of the fire ring or border) completely surrounded by non-combustible and non-smoke or odor producing material, either of natural rock, cement, brick, tile or block of ferrous metal only and which area is depressed below ground, on the ground or on a raised bed. Included are permanent outdoor wood burning fire places. **RECREATION FIRE SITES** shall not be located closer than 25 feet to any structure. Burners are not a **RECREATION FIRE SITE** as defined herein.

RECREATION FIRE TIME LIMIT. Requirements. To respect others in the neighborhood, a recreation fire shall be extinguished no later than the following times:

- (a) Sunday through Thursday: 10:00 p.m.;
- (b) Friday through Saturday: 1:00 a.m.; and

(c) Evenings before a legal holiday: 1:00 a.m.

STARTER FUELS. Dry, untreated, unpainted wood or charcoal fire starter. Paraffin candles and alcohols are permitted as starter fuels and as aids to ignition only. Propane gas torches or other clean gas burning devices causing minimal pollution may be used to start an open fire. **STARTER FUELS** do not include gasoline, diesel fuel, kerosene and heating oil.

WOOD. Dry, clean fuel only such as twigs, branches, limbs, "presto logs", "duraflame logs", charcoal, cordwood or untreated dimensional lumber, including clean pallets when cut into three-foot or less lengths. **WOOD** does not include wood that is green with leaves or needles, rotten, wet, oil soaked or treated with paint, glue or preservatives, grass clippings or leaves.
(Ord. 02-02, passed 7-8-2002)

§ 91.21 OPEN BURNING PROHIBITED

From and after the effective date of this subchapter, except as otherwise herein provided, open burning, including burning in burn barrels and burning leaves and brush, shall be prohibited within the city.

(Ord. 02-02, passed 7-8-2002)

§ 91.22 EXEMPTIONS

Open burning of the types, and subject to the condition hereinafter stated, shall be exempt from the provisions of § 91.21.

(A) *Recreational fires.* Fires under managed supervision for which a burning permit has been obtained from the Cokato Fire Chief, and where required by state law, from the Department of Natural Resources, but limited to the following:

- (1) Fires purposely set for the instruction and training of public and industrial firefighting personnel;
- (2) Fires set for the elimination of a fire hazard which cannot be abated by any other practicable means;
- (3) Fires purposely set for forest and game management purposes; and
- (4) The burning of trees, brush, grass and other vegetable matter in the clearing of land, the maintenance of street, road and highway right-of-way, and in accepted agricultural land management practices.

(B) *Exemption.* Exemption to conduct fires under this section does not excuse a person from the consequences, damages or injuries which may result therefore, nor does it exempt any person from regulations promulgated by the Minnesota Pollution Control Agency or any other governmental unit exercising jurisdiction in matters of pollution or fire hazard regulation.

(Ord. 02-02, passed 7-8-2002)

§ 91.23 LOCATION RESTRICTED

No person shall ignite or maintain any fire permitted under this subchapter or authorize any fire to be ignited or maintained on any private land unless:

(A) The fire is located safely not less than 25 feet from any structure;

(B) Adequate provisions are taken to prevent the fire from spreading to within 30 feet of any structure and a DNR forestry permit has been obtained from the Cokato Fire Chief or designated fire warden; and

(C) The fires shall be constantly attended by an adult person until the fire is extinguished and the person shall have a garden hose connected to a water supply or other fire extinguishing equipment readily available for use.

(Ord. 02-02, passed 7-8-2002)

§ 91.24 RULES ADOPTED BY REFERENCE

Minnesota Statutes §§ 88.02 through 88.22, 88.75 and 88.76, as they may be amended from time to time, and the Minnesota Uniform Fire Code are hereby adopted by reference and made a part of this subchapter as if fully set forth at this point.

(Ord. 02-02, passed 7-8-2002)

§ 91.25 LIABILITY

The property owner is responsible for all damages caused by the fire.

(Ord. 02-02, passed 7-8-2002)

§ 91.26 AREA OF ENFORCEMENT

This subchapter shall affect the area as set forth and on file with the City Clerk of the city, which is incorporated in and made a part of the subchapter.

(Ord. 02-02, passed 7-8-2002)

§ 91.99 PENALTY

(A) *Fireworks.*

(1) Materials which violate and/or pose a threat to public safety may be confiscated and destroyed. Costs associated with disposal shall be assessed back to the property owner or permit holder.

(2) Violations of §§ 91.01 through 91.04 regulation or state statute may result in revocation of the approved permit.

(3) Any person convicted of a violation of §§ 91.01 through 91.04 shall be guilty of a misdemeanor.

(B) *Regulation of open burning.* Any person convicted of a violation of §§ 91.20 through 91.26 shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine and/or imprisonment as established by state law and which changes from time to time.

CHAPTER 92: ABANDONED, JUNKED AND UNAUTHORIZED VEHICLES

Section

- 92.01 Definitions
- 92.02 Regulation of vehicles
- 92.03 Impoundment and disposition

- 92.99 Penalty

Cross-reference:

Abandoned property, see § 32.30

§ 92.01 DEFINITIONS

For the purposes of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ABANDONED VEHICLE. The meaning given to it by M.S. § 168B.011, Subdivision 2, as it may be amended from time to time.

JUNK VEHICLE. The meaning given to it by M.S. § 168B.011, Subdivision 3, as it may be amended from time to time.

MOTOR VEHICLE or VEHICLE. The meaning given to it by M.S. § 168B.011, Subdivision 9, as it may be amended from time to time or under M.S. § 169.011, Subdivision 92, as it may be amended from time to time.

UNAUTHORIZED VEHICLE. The meaning given to it by M.S. § 168B.011, Subdivision 4, as it may be amended from time to time.
(Ord. 07-2010, passed 12-13-2010)

§ 92.02 REGULATION OF VEHICLES

(A) *Residential property.* The parking, storage, repairing, dismantling, demolition or maintenance of junk or abandoned vehicles is prohibited in zoning districts R1, R2, R3 and C1 except a resident may repair one such vehicle registered in the name of the resident upon the property occupied by the resident if the period of repair does not exceed 15 consecutive days.

(B) *All other zoning districts.* The parking, storage, repairing, dismantling, demolition or maintenance of junk or abandoned vehicles within the C1, C2, M1 and I zoning districts is allowed only if incidental to a permitted use in such zoning district. The vehicles shall be stored within an enclosed building or be screened by a solid board on board fence of sufficient height and opacity to screen the visibility of vehicles from adjacent rights-of-way and adjoining properties. No more than two junk or abandoned vehicles may be stored or under repair on the property without proper screening. The time limit duration of the repairs on private property shall not exceed more than 15 consecutive days.

(Ord. 02-05, passed 8-19-2002; Am. Ord. 07-2010, passed 12-13-2010) Penalty, see § 92.99.

§ 92.03 IMPOUNDMENT AND DISPOSITION

Abandoned, junk and unauthorized vehicles may be impounded by any police officer as authorized by M.S. §§ 168B.04 and 169.041, as they may be amended from time to time and disposed of by the city as authorized by M.S., Chapter 168B, as it may be amended from time to time.

(Ord. 07-2010, passed 12-13-2010)

§ 92.99 PENALTY

Any person violating any provision of § 92.02 is guilty of a misdemeanor.

(Ord. 07-2010, passed 12-13-2010)

CHAPTER 93: RIGHT OF WAY MANAGEMENT

§ 93.01 FINDINGS, PURPOSE, INTENT

To provide for the health, safety and welfare of its citizens, and to ensure the integrity of its streets and the appropriate use of the rights-of-way, the city strives to keep its rights-of-way in a state of good repair and free from unnecessary encumbrances.

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

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

§ 93.02 ELECTION TO MANAGE THE PUBLIC RIGHTS-OF-WAY

Pursuant to the authority granted to the city under state and federal statutory, administrative and common law, the city hereby elects, pursuant Minn. Stat. 237.163 subd. 2(b), to manage rights-of-way within its jurisdiction.

§ 93.03 DEFINITIONS

The following definitions apply in this chapter of this code. References hereafter to "sections" are, unless otherwise specified, references to sections in this chapter. Defined terms remain defined terms, whether or not capitalized.

Abandoned Facility. A facility no longer in service or physically disconnected from a portion of the operating facility, or from any other facility, that is in use or still carries service. A facility is not abandoned unless declared so by the right-of-way user.

Applicant. Any person requesting permission to excavate or obstruct a right-of-way.

City. The city of Cokato, Minnesota. For purposes of section 93.28, city also means the City's elected officials, officers, employees and agents.

City Administrator. The City Administrator, or his or her designee.

Collocate or Collocation. To install, mount, maintain, modify, operate, or replace a small wireless facility on, under, within, or adjacent to an existing wireless support structure or utility pole that is owned privately, or by the city or other governmental unit.

Note: *See*, Minn. Stat. § 237.162, Subd. 10.

Commission. The State Public Utilities Commission.

Congested Right-of-Way. A crowded condition in the subsurface of the public right-of-way that occurs when the maximum lateral spacing between existing underground facilities does not allow for construction of new underground facilities without using hand digging to expose the existing lateral facilities in conformance with Minnesota Statutes, section 216D.04 subdivision 3, over a continuous length in excess of 500 feet.

Construction Performance Bond. Any of the following forms of security provided at permittee's option:

- Individual project bond;
- Cash deposit;
- Security of a form listed or approved under Minn. Stat. Sec. 15.73, subd. 3;
- Letter of Credit, in a form acceptable to the city;
- Self-insurance, in a form acceptable to the city;
- A blanket bond for projects within the city, or other form of construction bond, for a time specified and in a form acceptable to the city.

Degradation. A decrease in the useful life of the right-of-way caused by excavation in or disturbance of the right-of-way, resulting in the need to reconstruct such right-of-way earlier than would be required if the excavation or disturbance did not occur.

Degradation Cost. Subject to Minnesota Rules 7819.1100 means the cost to achieve a level of restoration, as determined by the city at the time the permit is issued, not to exceed the maximum restoration shown in plates 1 to 13, set forth in Minnesota Rules parts 7819.9900 to 7819.9950.

Degradation Fee. 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.

Delay Penalty. The penalty imposed as a result of unreasonable delays in right-of-way excavation, obstruction, patching, or restoration as established by permit.

Emergency. A condition that (1) poses a 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.

Equipment. Any tangible asset used to install, repair, or maintain facilities in any right-of-way.

Excavate. To dig into or in any way remove or physically disturb or penetrate any part of a right-of-way.

Excavation permit. The permit which, pursuant to this chapter, 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.

Excavation permit fee. Money paid to the city by an applicant to cover the costs as provided in Section 1.12.

Facility or Facilities. Any tangible asset in the right-of-way required to provide Utility Service.

Five-year project plan. Shows projects adopted by the city for construction within the next five years.

High Density Corridor. A designated portion of the public right-of-way within which telecommunications right-of-way users having multiple and competing facilities may be required to build and install facilities in a common conduit system or other common structure.

Hole. An excavation in the pavement, with the excavation having a length less than the width of the pavement.

Local Representative. 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 chapter.

Management Costs. 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 or small wireless facility 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 or small wireless facility permits. Management costs do not include payment by a telecommunications right-of-way user for the use of the right-of-way, unreasonable fees of a third-party contractor used by the city including fees tied to or based on customer counts, access lines, or revenues generated by the right-of-way or for the city, 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 1.30 of this chapter.

Obstruct. 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.

Obstruction Permit. The permit which, pursuant to this chapter, 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, for the duration specified therein.

Obstruction Permit Fee. Money paid to the city by a permittee to cover the costs as provided in Section 1.12

Patch or Patching. 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.

Pavement. Any type of improved surface that is within the public right-of-way and that is paved or otherwise constructed with bituminous, concrete, aggregate, or gravel.

Permit. Has the meaning given "right-of-way permit" in Minnesota Statutes, section 237.162.

Permittee. Any person to whom a permit to excavate or obstruct a right-of-way has been granted by the city under this chapter.

Person. An individual or entity subject to the laws and rules of this state, however organized, whether public or private, whether domestic or foreign, whether for profit or nonprofit, and whether natural, corporate, or political.

Probation. The status of a person that has not complied with the conditions of this chapter.

Probationary Period. One year from the date that a person has been notified in writing that they have been put on probation.

Registrant. 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 or equipment in the right-of-way.

Restore or Restoration. The process by which an excavated right-of-way and surrounding area, including pavement and foundation, is returned to the same condition and life expectancy that existed before excavation.

Restoration Cost. The amount of money paid to the city by a permittee to achieve the level of restoration according to plates 1 to 13 of Minnesota Public Utilities Commission rules.

Public Right-of-Way or Right-of-Way. The area on, below, or above a public roadway, highway, street, cartway, bicycle lane or 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.

Right-of-Way Permit. Either the excavation permit or the obstruction permit, or both, depending on the context, required by this chapter.

Right-of-Way User. (1) A telecommunications right-of-way user as defined by Minnesota Statutes, section 237.162, subd. 4; or (2) a person owning or controlling a facility in the right-of-way that is used or 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.

Service or Utility Service. Includes (1) those services provided by a public utility as defined in Minn. Stat. 216B.02, subds. 4 and 6; (2) services of a telecommunications right-of-way user, including transporting of voice or data information; (3) services of a cable communications systems as defined in Minn. Stat. Chapter. 238; (4) natural gas or electric energy or telecommunications services provided by the city; (5) services provided by a cooperative electric association organized under Minn. Stat., Chapter 308A; and (6) water, and sewer, including service laterals, steam, cooling or heating services.

Service Lateral. An underground facility that is used to transmit, distribute or furnish 'gas, electricity, communications, or water from a common source to an end-use customer. A service

lateral is also an underground facility that is used in the removal of wastewater from a customer's premises.

Small Wireless Facility. A wireless facility that meets both of the following qualifications:

- (i) each antenna is located inside an enclosure of no more than six cubic feet in volume or could fit within such an enclosure; and
- (ii) all other wireless equipment associated with the small wireless facility provided such equipment is, in aggregate, no more than 28 cubic feet in volume, not including electric meters, concealment elements, telecommunications demarcation boxes, battery backup power systems, grounding equipment, power transfer switches, cutoff switches, cable, conduit, vertical cable runs for the connection of power and other services, and any equipment concealed from public view within or behind an existing structure or concealment.

Note: Minn. Stat. § 237.162, Subd. 11.

Supplementary Application. 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.

Temporary Surface. 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 city's two-year plan, in which case it is considered full restoration.

Trench. An excavation in the pavement, with the excavation having a length equal to or greater than the width of the pavement.

Telecommunications right-of-way user. 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 providing wireless service, or transporting telecommunication or other voice or data information. For purposes of this chapter, a cable communication system defined and regulated under Minn. Stat. Chap. 238, and telecommunication activities related to providing natural gas or electric energy services, a public utility as defined in Minn. Stat. Sec. 216B.02, a municipality, a municipal gas or power agency organized under Minn. Stat. Chaps. 453 and 453A, or a cooperative electric association organized under Minn. Stat. Chap. 308A, are not telecommunications right-of-way users for purposes of this chapter except to the extent such entity is offering wireless service.

Two Year project Plan. Shows projects adopted by the city for construction within the next two years.

Utility Pole. A pole that is used in whole or in part to facilitate telecommunications or electric service.

Note: Minn. Stat. § 237.162, Subd. 12.

Wireless Facility. Equipment at a fixed location that enables the provision of wireless services between user equipment and a wireless service network, including equipment associated with wireless service, a radio transceiver, antenna, coaxial or fiber-optic cable, regular and backup power supplies, and a small wireless facility, but not including wireless support structures, wireline backhaul facilities, or cables between utility poles or wireless support structures, or not otherwise immediately adjacent to and directly associated with a specific antenna.

Note: Minn. Stat. § 237.162, Subd. 13.

Wireless Service. Any service using licensed or unlicensed wireless spectrum, including the use of Wi-Fi, whether at a fixed location or by means of a mobile device, that is provided using wireless facilities. Wireless service does not include services regulated under Title VI of the Communications Act of 1934, as amended, including cable service.

Wireless Support Structure. A new or existing structure in a right-of-way designed to support or capable of supporting small wireless facilities, as reasonably determined by the city.

Note: Minn. Stat. § 237.162, Subd. 16.

§ 93.04 ADMINISTRATION

The City Administrator is the principal city official responsible for the administration of the rights-of-way, right-of-way permits, and the ordinances related thereto. The City Administrator may delegate any or all of the duties hereunder.

§ 93.05 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 city 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.

§ 93.06 REGISTRATION AND RIGHT-OF-WAY OCCUPANCY

(A) Registration. Each person who occupies or uses, or seeks to occupy or use, the right-of-way or place any equipment or facilities in or on the right-of-way, including persons with installation and maintenance responsibilities by lease, sublease or assignment, must register with the city. Registration will consist of providing application information

(B) Registration Prior to Work. No person may construct, install, repair, remove, relocate, or perform any other work on, or use any facilities or any part thereof, in any right-of-way without first being registered with the city.

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

§ 93.07 REGISTRATION INFORMATION

(A) Information Required. The information provided to the city at the time of registration shall include, but not be limited to:

- (1) Each registrant's name, Gopher One-Call registration certificate number, address and e-mail address, if applicable, and telephone and facsimile numbers.

- (2) 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.
- (3) A certificate of insurance or self-insurance:
 - (a) 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 city;
 - (b) 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 and equipment in the right-of-way by the registrant, its officers, agents, employees and permittees, including, but not limited to, protection against liability arising from completed operations, damage of underground facilities and collapse of property;
 - (c) 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;
 - (d) Requiring that the city be notified thirty (30) days in advance of cancellation of the policy or material modification of a coverage term; and
 - (e) Indicating comprehensive liability coverage, automobile liability coverage, workers compensation and umbrella coverage established by the city in amounts sufficient to protect the city and the public and to carry out the purposes and policies of this chapter.
 - (f) The city may require a copy of the actual insurance policies.
 - (g) If the person is a corporation, a copy of the certificate is required to be filed under Minn. Stat. Sec. 300.06 as recorded and certified to by the Secretary of State.
 - (h) A copy of the person's order granting a certificate of authority from the Minnesota Public Utilities Commission or other authorization or approval from the applicable state or federal agency to lawfully operate, where the person is lawfully required to have such authorization or approval from said commission or other state or federal agency.

(B) Notice of Changes. The registrant shall keep all of the information listed above current at all times by providing to the city information as to changes within fifteen (15) days following the date on which the registrant has knowledge of any change.

Sec. 93.08 REPORTING OBLIGATIONS

(A) Operations. Each registrant shall, at the time of registration and by December 1 of each year, file a construction and major maintenance plan for underground facilities with the city. Such plan shall be submitted using a format designated by the city and shall contain the information determined by the city 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 following information:

- (1) 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"); and
- (2) To the extent known, the tentative locations and estimated beginning and ending dates for all projects contemplated for the five years following the next calendar year (in this section, a "five-year project").

The term "project" in this section shall include both next-year projects and five-year projects.

By January 1 of each year, the city will have available for inspection in the city's office a composite list of all projects of which the city has been informed of 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 city 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.

- (B) *Additional Next-Year Projects.*** Notwithstanding the foregoing, the city 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.

§ 93.09 PERMIT REQUIREMENT

- (A) *Permit Required.*** Except as otherwise provided in this code, no person may obstruct or excavate any right-of-way, or install or place facilities in the right-of-way, without first having obtained the appropriate right-of-way permit from the city to do so.

- (1) *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.
- (2) *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.
- (3) *Small Wireless Facility Permit.* A small wireless facility permit is required by a registrant to erect or install a wireless support structure, to collocate a small wireless facility, or to otherwise install a small wireless facility in the specified portion of the right-of-way, to the extent specified therein, provided that such permit shall remain in effect for the length of time the facility is in use, unless lawfully revoked.

Note: Minn. Stat. § 237.163, Subd. 13.

- (4) **Permit Extensions.** No person may excavate or obstruct the right-of-way beyond the date or dates specified in the permit unless (i) such person 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.
- (5) **Delay Penalty.** In accordance with Minnesota Rule 7819.1000 subp. 3 and notwithstanding subd. 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.
- (6) **Permit Display.** Permits issued under this chapter shall be conspicuously displayed or otherwise available at all times at the indicated work site and shall be available for inspection by the city.

§ 93.10 PERMIT APPLICATIONS

Application for a permit is made to the city. 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 city pursuant to this chapter;
- (B) Submission of a completed permit application form, including all required attachments, and scaled drawings showing the location and area of the proposed project and the location of all known existing and proposed facilities.
- (C) Payment of money due the city for:
 - (1) permit fees, estimated restoration costs and other management costs;
 - (2) prior obstructions or excavations;
 - (3) any undisputed loss, damage, or expense suffered by the city because of applicant's prior excavations or obstructions of the rights-of-way or any emergency actions taken by the city;
 - (4) franchise fees or other charges, if applicable.
- (D) Payment of disputed amounts due the city by posting security or depositing in an escrow account an amount equal to at least 110% of the amount owing.
- (E) Posting an additional or larger construction performance bond for additional facilities when applicant requests an excavation permit to install additional facilities and the city deems the existing construction performance bond inadequate under applicable standards.

§ 93.11 ISSUANCE OF PERMIT; CONDITIONS

- (A) **Permit Issuance.** If the applicant has satisfied the requirements of this chapter, the city shall issue a permit.
- (B) **Conditions.** The city may impose reasonable conditions upon the issuance of the permit and the

performance of the applicant thereunder to protect the health, safety and welfare or when necessary to protect the right-of-way and its current use. In addition, a permittee shall comply with all requirements of local, state and federal laws, including but not limited to Minnesota Statutes §§ 216D.01 - .09 (Gopher One Call Excavation Notice System) and Minnesota Rules Chapter 7560.

(C) *Small Wireless Facility Conditions.* In addition to subdivision 2, the erection or installation of a wireless support structure, the collocation of a small wireless facility, or other installation of a small wireless facility in the right-of-way, shall be subject to the following conditions: A small wireless facility shall only be collocated on the particular wireless support structure, under those attachment specifications, and at the height indicated in the applicable permit application.

- (1) No new wireless support structure installed within the right-of-way shall exceed 50 feet in height without the city's written authorization, provided that the city may impose a lower height limit in the applicable permit to protect the public health, safety and welfare or to protect the right-of-way and its current use, and further provided that a registrant may replace an existing wireless support structure exceeding 50 feet in height with a structure of the same height subject to such conditions or requirements as may be imposed in the applicable permit.
- (2) No wireless facility may extend more than 10 feet above its wireless support structure.
- (3) Where an applicant proposes to install a new wireless support structure in the right-of-way, the city may impose separation requirements between such structure and any existing wireless support structure or other facilities in and around the right-of-way.
- (4) Where an applicant proposes collocation on a decorative wireless support structure, sign or other structure not intended to support small wireless facilities, the city may impose reasonable requirements to accommodate the particular design, appearance or intended purpose of such structure.
- (5) Where an applicant proposes to replace a wireless support structure, the city may impose reasonable restocking, replacement, or relocation requirements on the replacement of such structure.

Note: Minn. Stat. § 237.163, Subd. 3b.

(D) *Small Wireless Facility Agreement.* A small wireless facility shall only be collocated on a small wireless support structure owned or controlled by the city, or any other city asset in the right-of-way, after the applicant has executed a standard small wireless facility collocation agreement with the city. The standard collocation agreement may require payment of the following:

- (1) Up to \$150 per year for rent to collocate on the city structure.
- (2) \$25 per year for maintenance associated with the collocation;
- (3) A monthly fee for electrical service as follows:
 - (a) \$73 per radio node less than or equal to 100 maximum watts;
 - (b) \$182 per radio node over 100 maximum watts; or

- (c) The actual costs of electricity, if the actual cost exceed the foregoing.

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

Note: Minn. Stat. § 237.163, Subd. 6(g).

§ 93.12 ACTION ON SMALL WIRELESS FACILITY PERMIT APPLICATIONS

- (A) *Deadline for Action.*** The city shall approve or deny a small wireless facility permit application within 90 days after filing of such application. The small wireless facility permit, and any associated building permit application, shall be deemed approved if the city fails to approve or deny the application within the review periods established in this section.
- (B) *Consolidated Applications.*** An applicant may file a consolidated small wireless facility permit application addressing the proposed collocation of up to 15 small wireless facilities, or a greater number if agreed to by a local government unit, provided that all small wireless facilities in the application:
- (1) are located within a two-mile radius;
 - (2) consist of substantially similar equipment; and
 - (3) are to be placed on similar types of wireless support structures.

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

- (C) *Tolling of Deadline.*** The 90-day deadline for action on a small wireless facility permit application may be tolled if:
- (1) The city receives applications from one or more applicants seeking approval of permits for more than 30 small wireless facilities within a seven-day period. In such case, the city may extend the deadline for all such applications by 30 days by informing the affected applicants in writing of such extension.
 - (2) The applicant fails to submit all required documents or information and the city provides written notice of incompleteness to the applicant within 30 days of receipt the application. Upon submission of additional documents or information, the city shall have ten days to notify the applicant in writing of any still-missing information.
 - (3) The city and a small wireless facility applicant agree in writing to toll the review period.

Note: Minn. Stat. § 237.163, Subd. 3c.

§ 93.13 PERMIT FEES

- (A) *Excavation Permit Fee.*** The city shall impose an excavation permit fee in an amount sufficient to recover:
- (1) management costs;
 - (2) degradation costs, if applicable.

- (B) *Obstruction Permit Fee.*** The city shall impose an obstruction permit fee in an amount sufficient to recover management costs.
- (C) *Small Wireless Facility Permit Fee.*** The city shall impose a small wireless facility permit fee in an amount sufficient to recover:
- (1) management costs, and;
 - (2) city engineering, make-ready, and construction costs associated with collocation of small wireless facilities.
- (D) *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 thirty (30) days of billing.
- (E) *Non Refundable.*** Permit fees that were paid for a permit that the city has revoked for a breach as stated in Section 1.22 are not refundable.
- (F) *Application to Franchises.*** Unless otherwise agreed to in a franchise, management costs may be charged separately from and in addition to the franchise fees imposed on a right-of-way user in the franchise.

§ 93.14 RIGHT-OF-WAY PATCHING AND RESTORATION

- (A) *Timing.*** The work to be done under the excavation permit, and the patching and restoration of the right-of-way as required herein, must be completed within the dates specified in the permit, increased by as many days as work could not be done because of circumstances beyond the control of the permittee or when work was prohibited as unseasonal or unreasonable under Section 1.16.
- (B) *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.
- (1) *City Restoration.*** If the city restores the right-of-way, permittee shall pay the costs thereof within thirty (30) days of billing. If, following such restoration, the pavement settles due to permittee's improper backfilling, the permittee shall pay to the city, within thirty (30) days of billing, all costs associated with correcting the defective work.
 - (2) *Permittee Restoration.*** If the permittee restores the right-of-way itself, it shall at the time of application for an excavation permit post a construction performance bond in accordance with the provisions of Minnesota Rule 7819.3000.
 - (3) *Degradation Fee in Lieu of Restoration.*** In lieu of right-of-way restoration, a right-of-way user may elect to pay a degradation fee. However, the right-of-way user shall remain responsible for patching and the degradation fee shall not include the cost to accomplish these responsibilities.
- (C) *Standards.*** The permittee shall perform excavation, backfilling, patching and restoration according to the standards and with the materials specified by the city and shall comply with Minnesota Rule 7819.1100.
- (D) *Duty to Correct Defects.*** The permittee shall correct defects in patching or restoration

performed by permittee or its agents. The permittee upon notification from the city, shall correct all restoration work to the extent necessary, using the method required by the city. Said work shall be completed within five (5) calendar days of the receipt of the notice from the city, not including days during which work cannot be done because of circumstances constituting force majeure or days when work is prohibited as unseasonable or unreasonable under Section 1.16.

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

§ 93.15 JOINT APPLICATIONS

(A) *Joint application.* Registrants may jointly apply for permits to excavate or obstruct the right-of-way at the same place and time.

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

(C) *With city projects.* Registrants who join in a scheduled obstruction or excavation performed by the city, whether or not it is a joint application by two or more registrants or a single application, are not required to pay the excavation or obstruction and degradation portions of the permit fee, but a permit would still be required.

§ 93.16 SUPPLEMENTARY APPLICATIONS

(A) *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.

(B) *Limitation on Dates.* A right-of-way permit is valid only for the dates specified in the permit. No permittee may begin its work before the permit start date or, except as provided herein, continue working after the end date. If a permittee does not finish the work by the permit end date, it must apply for a new permit for the additional time it needs, and receive the new permit or an extension of the old permit before working after the end date of the previous permit. This supplementary application must be submitted before the permit end date.

§ 93.17 OTHER OBLIGATIONS

(A) *Compliance with Other Laws.* Obtaining a right-of-way permit does not relieve permittee of its duty to obtain all other necessary permits, licenses, and authority and to pay all fees required by the city or other applicable rule, law or regulation. A permittee shall comply with all requirements of local, state and federal laws, including but not limited to Minnesota Statutes, Section 216D.01-.09 (Gopher One Call Excavation Notice System) and Minnesota Rules Chapter 7560. A permittee shall perform all work in conformance with all applicable codes and

established rules and regulations, and is responsible for all work done in the right-of-way pursuant to its permit, regardless of who does the work.

(B) *Prohibited Work.* Except in an emergency, and with the approval of the city, no right-of-way obstruction or excavation may be done when seasonally prohibited or when conditions are unreasonable for such work.

(C) *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.

(D) *Trenchless excavation.* As a condition of all applicable permits, permittees employing trenchless excavation methods, including but not limited to Horizontal Directional Drilling, shall follow all requirements set forth in Minnesota Statutes Chapter 216D and Minnesota Rules Chapter 7560 and shall require potholing or open cutting over existing underground utilities before excavating, as determined by the City Administrator.

§ 93.18 DENIAL OR REVOCATION OF PERMIT

(A) *Reasons for Denial.* The city may deny a permit for failure to meet the requirements and conditions of this chapter or if the city determines that the denial is necessary to protect the health, safety, and welfare or when necessary to protect the right-of-way and its current use.

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

Note: Minn. Stat. § 237.163, Subds. 4(c) and 5(f).

§ 93.19 INSTALLATION REQUIREMENTS

The excavation, backfilling, patching and restoration, and all other work performed in the right-of-way shall be done in conformance with Minnesota Rules 7819.1100 and 7819.5000 and other applicable local requirements, in so far as they are not inconsistent with the Minnesota Statutes, Sections 237.162 and 237.163. Installation of service laterals shall be performed in accordance with Minnesota Rules Chapter 7560 and these ordinances. Service lateral installation is further subject to those requirements and conditions set forth by the city in the applicable permits and/or agreements referenced in Section 1.23 subd. 2 of this ordinance.

§ 93.20 INSPECTION

(A) *Notice of Completion.* When the work under any permit hereunder is completed, the permittee shall furnish a completion certificate in accordance Minnesota Rule 7819.1300.

(B) *Site Inspection.* Permittee shall make the work-site available to the city and to all others as authorized by law for inspection at all reasonable times during the execution of and

upon completion of the work.

(C) Authority of City Administrator.

- (1) At the time of inspection, the City Administrator may order the immediate cessation of any work which poses a serious threat to the life, health, safety or well-being of the public.
- (2) The City Administrator may issue an order to the permittee for any work that does not conform to the terms of the permit or other applicable standards, conditions, or codes. The order shall state that failure to correct the violation will be cause for revocation of the permit. Within ten (10) days after issuance of the order, the permittee shall present proof to the City Administrator that the violation has been corrected. If such proof has not been presented within the required time, the City Administrator may revoke the permit pursuant to Sec. 1.22.

§ 93.21 WORK DONE WITHOUT A PERMIT

(A) Emergency Situations. Each registrant shall immediately notify the City Administrator of any event regarding its facilities that it considers to be an emergency. The registrant may proceed to take whatever actions are necessary to respond to the emergency. Excavators' notification to Gopher State One Call regarding an emergency situation does not fulfill this requirement. Within two (2) 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 chapter for the actions it took in response to the emergency.

If the city becomes aware of an emergency regarding a registrant's facilities, the city will attempt to contact the local representative of each registrant affected, or potentially affected, by the emergency. In any event, the city may take whatever action it deems necessary to respond to the emergency, the cost of which shall be borne by the registrant whose facilities occasioned the emergency.

(B) 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 the city code, deposit with the city the fees necessary to correct any damage to the right-of-way, and comply with all of the requirements of this chapter.

§ 93.22 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 city of the accurate information as soon as this information is known.

§ 93.23 REVOCATION OF PERMITS

(A) Substantial Breach. The city reserves its right, as provided herein, to revoke any right-of-way permit without a fee refund, if there is a substantial breach of the terms and conditions of any

statute, ordinance, rule or regulation, or any material condition of the permit. A substantial breach by permittee shall include, but shall not be limited to, the following:

- (1) The violation of any material provision of the right-of-way permit;
- (2) 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;
- (3) Any material misrepresentation of fact in the application for a right-of-way permit;
- (4) 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
- (5) The failure to correct, in a timely manner, work that does not conform to a condition indicated on an order issued pursuant to Sec. 1.19.

(B) *Written Notice of Breach.* If the city determines that the permittee has committed a substantial breach of a term or condition of any statute, ordinance, rule, regulation or any condition of the permit, the city shall make a written demand upon the permittee to remedy 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 city, at its discretion, to place additional or revised conditions on the permit to mitigate and remedy the breach.

(C) *Response to Notice of Breach.* Within twenty-four (24) hours of receiving notification of the breach, permittee shall provide the city with a plan, acceptable to the city, that will cure the breach. Permittee's failure to so contact the city, or permittee's failure to timely 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 city, or 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 (1) full year.

(D) *Cause for Probation.* From time to time, the city may establish a list of conditions of the permit, which if breached will automatically place the permittee on probation for one full year, such as, but not limited to, working out of the allotted time period or working on right-of-way grossly outside of the permit authorization.

(E) *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.

(F) *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.

§ 93.24 **MAPPING DATA**

(A) *Information Required.* Each registrant and permittee shall provide mapping information required by the city in accordance with Minnesota Rules 7819.4000 and 7819.4100. Within ninety (90) days following completion of any work pursuant to a

permit, the permittee shall provide the City Administrator accurate maps and drawings certifying the "as-built" location of all equipment installed, owned and maintained by the permittee. Such maps and drawings shall include the horizontal and vertical location of all facilities and equipment and shall be provided consistent with the city's electronic mapping system, when practical or as a condition imposed by the City Administrator. Failure to provide maps and drawings pursuant to this subsection shall be grounds for revoking the permit holder's registration.

(C) **Service Laterals.** All permits issued for the installation or repair of service laterals, other than minor repairs as defined in Minnesota Rules 7560.0150 subpart 2, shall require the permittee's use of appropriate means of establishing the horizontal locations of installed service laterals and the service lateral vertical locations in those cases where the City Administrator reasonably requires it. Permittees or their subcontractors shall submit to the City Administrator evidence satisfactory to the City Administrator of the installed service lateral locations. Compliance with this subdivision 2 and with applicable Gopher State One Call law and Minnesota Rules governing service laterals installed after December 31, 2005 shall be a condition of any city approval necessary for

(1) payments to contractors working on a public improvement project including those under Minnesota Statutes Chapter 429 and

(2) city approval under development agreements or other subdivision or site plan approval under Minnesota Statutes Chapter 462. The City Administrator shall reasonably determine the appropriate method of providing such information to the city. Failure to provide prompt and accurate information on the service laterals installed may result in the revocation of the permit issued for the work or future permits to the offending permittee or its subcontractors.

§ 93.25 LOCATION AND RELOCATION OF FACILITIES

(A) Placement, location, and relocation of facilities must comply with the Act, with other applicable law, and with Minnesota Rules 7819.3100, 7819.5000 and 7819.5100, to the extent the rules do not limit authority otherwise available to cities.

(B) **Undergrounding.** Unless otherwise agreed in a franchise or other agreement between the applicable right-of-way user and the City, Facilities in the right-of-way must be located or relocated and maintained underground in accordance with Section _____ of the City Code.

(C) **Corridors.** The city may assign a specific area within the right-of-way, or any particular segment thereof as may be necessary, for each type of facilities that is or, pursuant to current technology, the city expects will someday be located within the right-of-way. All excavation, obstruction, or other permits issued by the city involving the installation or replacement of facilities shall designate the proper corridor for the facilities at issue.

Any registrant who has facilities in the right-of-way in a position at variance with the corridors established by the city shall, no later than at the time of the next reconstruction or excavation of the area where the facilities are located, move the facilities to the assigned position within the right-of-way, unless this requirement is waived by the city for good cause shown, upon consideration of such factors as the remaining economic life of the facilities, public safety, customer service needs and hardship to the registrant.

(D) **Nuisance.** One year after the passage of this chapter, any facilities found in a right-of-way

that have not been registered shall be deemed to be a nuisance. The city may exercise any remedies or rights it has at law or in equity, including, but not limited to, abating the nuisance or taking possession of the facilities and restoring the right-of-way to a useable condition.

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

§ 93.26 PRE-EXCAVATION FACILITIES LOCATION

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

§ 93.27 DAMAGE TO OTHER FACILITIES

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

§ 93.28 RIGHT-OF-WAY VACATION

Reservation of right. If the city vacates a right-of-way that contains the facilities of a registrant, the registrant's rights in the vacated right-of-way are governed by Minnesota Rules 7819.3200.

§ 93.29 INDEMNIFICATION AND LIABILITY

By registering with the city, or by accepting a permit under this chapter, a registrant or permittee agrees to defend and indemnify the city in accordance with the provisions of Minnesota Rule 7819.1250.

§ 93.30 ABANDONED AND UNUSABLE FACILITIES

(A) *Discontinued Operations.* A registrant who has determined to discontinue all or a portion of its operations in the city must provide information satisfactory to the city that the registrant's obligations for its facilities in the right-of-way under this chapter have been lawfully assumed by another registrant.

(B) *Removal.* Any registrant who has abandoned facilities in any right-of-way shall remove it

from that right-of-way if required in conjunction with other right-of-way repair, excavation, or construction, unless this requirement is waived by the city.

§ 93.31 APPEAL

A right-of-way user that: (1) has been denied registration; (2) has been denied a permit; (3) has had a permit revoked; (4) believes that the fees imposed are not in conformity with Minn. Stat. § 237.163, Subd. 6; or (5) disputes a determination of the City Administrator regarding Section 1.23 subd.2 of this ordinance may have the denial, revocation, fee imposition, or decision reviewed, upon written request, by the city council. The city council shall act on a timely written request at its next regularly scheduled meeting, provided the right-of-way user has submitted its appeal with sufficient time to include the appeal as a regular agenda item. 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.

§ 93.32 RESERVATION OF REGULATORY AND POLICE POWERS

A permittee's rights are subject to the regulatory and police powers of the city to adopt and enforce general ordinances as necessary to protect the health, safety and welfare of the public.

§ 93.33 SEVERABILITY

If any portion of this chapter is for any reason held invalid by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions thereof. Nothing in this chapter precludes the city from requiring a franchise agreement with the applicant, as allowed by law, in addition to requirements set forth herein.

ASSESSABLE CURRENT SERVICES; OBLIGATION OF PROPERTY OWNERS AND OCCUPANTS

§ 93.50 CURRENT SERVICES

CURRENT SERVICES includes one or more of the following: snow, ice or rubbish removal from sidewalks, weed elimination from street grass plots adjacent to sidewalks or from private property, removal or elimination of public health or safety hazards from private property, excluding any hazardous building included in M.S. §§ 463.15 to 463.26, as they may be amended from time to time; installations or repair of water service lines, street sprinkling, street flushing, light street oiling or other dust treatment of streets, repair of sidewalks and alleys and the operation of a street lighting system.

§ 93.51 SNOW, ICE, DIRT AND RUBBISH

(A) *Duty of owners and occupants.* The owner and the occupant of any property adjacent to a public sidewalk shall use diligence to keep the walk safe for pedestrians. No owner or occupant shall allow snow, ice, dirt or rubbish to remain on the walk longer than 12 hours after its deposit thereon, or in the case of snow after it has ceased falling. No owner or occupant shall deposit snow, ice, dirt, or rubbish into any street, sidewalk, or other public right-of-way.

(B) *Removal by city.* The city shall remove from all public sidewalks all snow, ice, dirt and rubbish

as soon as possible beginning 12 hours after any matter has been deposited thereon or after the snow has ceased to fall. The City Council may establish a fee in the city's fee schedule to recover the costs for removal when any cleanup is necessary. The city shall keep a record of the removals for collection. Any unpaid fees may be certified to the county for collection as a special assessment.

§ 93.52 WEED ELIMINATION

(A) *Weeds as a nuisance.* Any weeds, whether noxious as defined by law or not, growing upon any lot or parcel of land outside the traveled portion of any street or alley in the City of Cokato to a greater height than 12 inches or which have gone or are about to go to seed are a nuisance. The owner and the occupant shall abate or prevent the nuisance on the property and on land outside the traveled portion of the street or alley abutting on the property.

(B) *Notice.* The city shall mail notice directing owners and occupants of property within the city to destroy all weeds declared by division (A) above to be a nuisance and stating that if not so destroyed within ten days after mailing of the notice, the weeds will be destroyed at the expense of the owner and if not paid, the charge for the work will be made a special assessment against the property concerned.

(C) *Removal by city.* If the owner or occupant of any property in the city fails to comply with the notice within ten days after it has been mailed, the city shall have the weeds removed. A record shall be kept showing the cost of the work attributable to each separate lot and parcel for collection and assessment purposes.

§ 93.53 PUBLIC HEALTH AND SAFETY HAZARDS

(A) When the city removes or eliminates public health or safety hazards from private property under city ordinance, the administrative officer responsible for doing the work shall keep a record of the cost of the removal or elimination against each parcel of property affected.

(B) This section does not apply to hazardous buildings under the hazardous building law, M.S. §§ 463.15 to 463.26, as it may be amended from time to time.

§ 93.54 INSTALLATION AND REPAIR OF WATER SERVICE LINES

Whenever the city installs or repairs water service lines serving private property under Title V, the city shall keep a record of the total cost of the installation or repair, and the property owner shall be responsible for those costs. Any costs that remain unpaid at the time of annual assessment shall be certified to the county as a special assessment.

§ 93.55 REPAIR OF SIDEWALKS AND ALLEYS

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

(B) *Inspection; notice.* The city shall make the inspections as are necessary to determine that public sidewalks and alleys within the city are kept in repair and safe for pedestrians or vehicles. If

it is determined that any sidewalk or alley abutting on private property is unsafe and in need of repairs, the city shall cause a notice to be served, by registered or certified mail or by personal service, upon the record owner of the property and the occupant, if the owner does not reside within the city or cannot be found therein ordering the owner to have the sidewalk or alley repaired and made safe within 30 days and stating that if the owner fails to do so, the city will do so, that the expense thereof must be paid by the owner, and that if unpaid it will be made a special assessment against the property concerned.

(C) *Repair by city.* If the sidewalk or alley is not repaired within 30 days after receipt of the notice, staff shall report the facts to the City Council and the City Council shall, by resolution, order the repairs to the sidewalk or alley. The city shall keep a record of the total cost of the repair attributable to each lot or parcel of property.

§ 93.56 ASSESSMENT

On or before the due date established by the County Auditor, the city shall list the total unpaid charges for each type of current service against each separate lot or parcel to which they are attributable under this subchapter. The Council may then certify the charges against the property benefitted as a special assessment under M.S. § 429.101, as it may be amended from time to time, and other pertinent statutes for certification to the County Auditor and collection along with current taxes the following year or in annual installments, not exceeding ten, as the Council may determine in each case.

CHAPTER 94: ANIMALS

Section

Dogs

- 94.01 Definitions
- 94.02 Dog nuisances
- 94.03 Running-at-large prohibited
- 94.04 Licenses required
- 94.05 Affixing tags
- 94.06 Confinement of certain dogs
- 94.07 Limit of dogs at one premises
- 94.08 Abandonment
- 94.09 Quarantine of certain dogs
- 94.10 Muzzling proclamation
- 94.11 Proceedings for destruction of certain dogs
- 94.12 Impounding
- 94.13 Redemption

Other Animals

- 94.30 General prohibition
- 94.31 Areas where keeping prohibited
- 94.32 Treatment
- 94.33 Animals at-large
- 94.34 Diseased animals
- 94.35 Manner of keeping
- 94.36 Care of premises
- 94.37 Impounding

- 94.99 Penalty

DOGS**§ 94.01 DEFINITIONS**

For the purpose of this subchapter, the following definitions shall apply unless the context indicates or requires a different meaning.

HARBORER OF A DOG. Any person who has custody of any dog or permits the same to be kept or to stay on or about his or her premises.

OWNER. Any person, firm or corporation owning, harboring or keeping a dog.

RUNNING-AT-LARGE OF DOGS. Permitting any dog to go on or about the public streets, alleys or other places in the city, except on the premises of the owner or harborer thereof, and except on a leash, in an automobile or similar confinement, and at all times is under control.
(Res. 0022, passed 8-14-2000)

§ 94.02 DOG NUISANCES

(A) *Nuisances.*

(1) The owner or custodian of any dog shall prevent the dog from committing in the city any act which constitutes a nuisance such as to habitually, frequently bark or cry, to frequent school grounds, parks or public beaches, to chase vehicles, to molest or annoy any person away from the property of his or her owner or custodian, or to damage or destroy public or private property.

(2) Defecation on property other than that of the dog owner is a nuisance. Failure of the owner or custodian to prevent the dog from committing a nuisance is a violation of this subchapter.

(B) *Habitual barking.* It shall be unlawful for any person to keep or harbor a dog which habitually barks or cries. ***HABITUAL BARKING*** shall be defined as barking for repeated intervals of at least five minutes with less than one minute of interruption. The barking must also be audible off of the owner's or caretaker's premises.

(C) *Warrant required.* The Animal Control Officer or police officer shall not enter the property of the owner of an animal described in this section unless the officer has first obtained the permission of the owner to do so or has obtained a warrant issued by a court of competent jurisdiction, as provided for in § 10.20, to search for and seize the animal.

(Res. 0022, passed 8-14-2000) Penalty, see § 94.99

Cross-reference:

Manner of keeping, see § 94.35

§ 94.03 RUNNING-AT-LARGE PROHIBITED

It shall be unlawful for the dog or cat of any person who owns, harbors or keeps a dog or cat, to run-at-large. A person, who owns, harbors or keeps a dog or cat which runs-at-large shall be guilty of a misdemeanor. Dogs or cats on a leash and accompanied by a responsible person or accompanied by and under the control and direction of a responsible person, so as to be effectively restrained by command as by leash, shall be permitted in streets or on public land unless the city has posted an area with signs reading Dogs or Cats Prohibited.

§ 94.04 LICENSES REQUIRED

- (A) No person shall keep any dog within the city without securing an annual license from the city.
- (B) Records are kept for licenses issued with proof of vaccinations.
- (C) License fees shall be established by the City Council by ordinance.
(Res. 0022, passed 8-14-2000) Penalty, see § 94.99

§ 94.05 AFFIXING TAGS

- (A) The owner shall cause the tag to be affixed by a permanent metal fastener to the collar of the dog in such a manner that the tag may easily be seen.
- (B) The owner shall see that the tag is constantly worn by the dog in public.
(Res. 0022, passed 8-14-2000)

§ 94.06 CONFINEMENT OF CERTAIN DOGS

Every female dog in heat shall be confined in a building or other secure enclosure in such manner that it cannot come into contact with another dog, except for planned breeding.
(Res. 0022, passed 8-14-2000)

§ 94.07 LIMIT OF DOGS AT ONE PREMISES

Not more than two dogs over six months of age shall be kept on any one premises except at a licensed commercial kennel. However, if more than two dogs are now currently kept at the premises, the dogs will be permitted to remain if no violations occur under the provisions of this chapter.
(Res. 0022, passed 8-14-2000)

§ 94.08 ABANDONMENT

It is unlawful for any person to abandon any dog or other animal within the city limits.
(Res. 0022, passed 8-14-2000)

§ 94.09 QUARANTINE OF CERTAIN DOGS

Any dog which bites a person shall be quarantined for such a time as may be directed by the city. During quarantine, the dog shall be securely confined and kept from contact with any other animal. At the discretion of the city, the quarantine may be on the premises of the owner. However, if the conditions require other confinement, the owner shall surrender the dog for the quarantine period to an animal shelter/clinic or shall, at his or her own expense, place it in a veterinary clinic as determined by the city.
(Res. 0022, passed 8-14-2000)

§ 94.10 MUZZLING PROCLAMATION

Whenever the prevalence of rabies renders the action necessary to protect the public health and safety, the Council shall issue a proclamation ordering every person owning or keeping a dog to muzzle it securely so that it cannot bite. No person shall violate the proclamation and any unmuzzled dog unrestrained during the time fixed in the proclamation shall be subject to impoundment as heretofore provided, and the owner of the dog shall be subject to the penalty hereinafter provided.
(Res. 0022, passed 8-14-2000)

§ 94.11 PROCEEDINGS FOR DESTRUCTION OF CERTAIN DOGS

(A) Upon sworn complaint to the Wright County Court that any of the facts set forth in division (A)(1) through (A)(4), the judge shall issue a summons directed to the owner of the dog commanding him or her to appear before the court to show cause why the dog should not be seized by Sheriff's Department or otherwise disposed of in the manner authorized in this subchapter:

- (1) That any dog at any time has destroyed property or habitually trespasses in a damaging manner on the property of persons other than the owner;
- (2) That any dog at any time has attacked or bitten a person outside the owner's or custodians premises;
- (3) That any dog is vicious, shows vicious habits or molests pedestrians and/or interferes with vehicles on the public streets; or
- (4) That any dog is deemed public nuisance as heretofore defined.

(B) The summons shall be thereof and shall be served at least two days before the time of the scheduled court appearance. Upon the hearing and finding the facts true as complained of, the court may either order the dog killed, order the dog owner/custodian to remove it from the city limits or may order the owner or custodian to keep it confined to a designated place. If the owner or custodian violates the order, and Sheriff's Department may impound the dog described in the order. The provisions are in addition to and supplemental to other provisions of this subchapter.

(C) Costs of the proceeding as specified by this subchapter shall be charged back and/or assessed to the owner or custodian of the dog, if the facts in the complaint are found to be true; or to the complainant, if the facts are found not to be true.

(Res. 0022, passed 8-14-2000)

§ 94.12 IMPOUNDING

Unclaimed dogs found unlicensed or running-at-large may be impounded by the city and/or Sheriff's Department. Notice of the impounding shall be given to the owner of the dog if known. If the owner is unknown, the city or deputy sheriff shall post a notice at City Hall. If the dog is not claimed within seven days including Saturday, Sunday or Monday of the posting the notice, the animal will become the property of the designated clinic/shelter as described under the adopted Animal Control contract and put up for adoption or euthanized if injured, ill or a suitable home cannot be found.

(Res. 0022, passed 8-14-2000)

§ 94.13 REDEMPTION

Any dog to be redeemed from the impoundment location by the owner/custodian within the time stated in the notice shall pay the fee amount as designated in the Animal Control contract to the city. Any unpaid fee will be paid together with any impounding fines for each time the dog is impounded. All boarding costs for feeding the dog each day per the Animal Control Contract as approved by the City Council will be the responsibility of the owner and/or custodian.

(Res. 0022, passed 8-14-2000)

OTHER ANIMALS

§ 94.30 GENERAL PROHIBITION

No person shall keep any horse, cattle, sheep or goat in the city or permit the animal to be kept on premises owned, occupied or controlled by him or her except under the conditions prescribed by this subchapter.

(Prior Code, § 504.01) Penalty, see § 94.99

§ 94.31 AREAS WHERE KEEPING PROHIBITED

No horse, cattle, sheep or goat shall be kept within the city except within the agricultural zone (or on a parcel of land exceeding three acres).

(Prior Code, § 504.02)

§ 94.32 TREATMENT

No person shall treat any animal in a cruel or inhumane manner.

(Prior Code, § 504.03)

§ 94.33 ANIMALS AT-LARGE

(A) No person shall permit any horse, mule, donkey, pony, cattle, sheep, goat, swine, rabbit, chicken, geese, duck or turkey of which he or she is the owner, caretaker or custodian to be at-large within the city.

(B) Any animal is deemed to be at-large when it is off the premises owned or rented by the owner or his or her agent and not under his or her individual restraint.

(Prior Code, § 504.04)

§ 94.34 DISEASED ANIMALS

Any animal with a contagious disease shall be so confined that it cannot come within 50 feet of any public roadway or any place where animals belonging to or harbored by another person are kept.

(Prior Code, § 504.05)

§ 94.35 MANNER OF KEEPING

No person shall keep any dog, cat or other animal in the city in an unsanitary place or condition or in a manner resulting in objectionable odors or in such a way as to constitute a nuisance or disturbance by reason of barking, howling, fighting or other noise or in such a way as to permit the animal to annoy, injure or endanger any person or property.

(Prior Code, § 504.06)

Cross-reference:

Dog nuisances, see § 94.02

§ 94.36 CARE OF PREMISES

(A) *Clean shelters.* Every structure and yard in which animals or fowl are kept shall be maintained in a clean and sanitary condition and free of rodents, vermin and objectionable odors. The interior walls, ceilings, floors, partitions and appurtenances of any structure shall be whitewashed or painted, as the Health Officer shall direct. Upon the complaint of any individual or otherwise, the Health Officer shall inspect the structure or yard and issue any order as may be reasonably necessary to carry out the provisions of §§ 94.30 through 94.35.

(B) *Manure.* Manure shall be removed with sufficient frequency to avoid nuisance from odors or from the breeding of flies, but at least once per month from October 1 to May 1 each year and once every two weeks at other times. Unless used for fertilizer, manure shall be removed by hauling beyond the city limits. If used for fertilizer, manure shall be spread upon the ground evenly and turned under at once or as soon as the frost leaves the ground.

(Prior Code, § 504.07)

§ 94.37 IMPOUNDING

(A) *Who impounds.* The Public Works Director or any police officer may take up and impound in the city pound any animal or fowl found running-at-large in violation of this subchapter and shall provide proper sustenance for every animal impounded.

(B) *Notice.* Within 24 hours after any animal has been impounded, the pound master shall post notice in the City Hall and post office in the city describing the animal and stating that it has been impounded. He or she shall also make a reasonable attempt to give oral or written notice to the owner if known.

(C) *Release.* No animal impounded shall be released except to a person displaying a receipt from the City Clerk-Treasurer showing payment of the impounding fee or the sale price.

(D) *Fees.* The fee for impounding and feeding fowl and any other impounded animal, except a dog shall be as set by Council.

(E) *Sale.* If any impounded animal is not redeemed within six days, the pound master shall give an additional three-day posted notice, as provided in division (B) above, of the time and place when and where the animal shall be sold. If the pound master is unable to sell the animal on the day stated, he or she may sell the animal as soon thereafter as possible without further notice.

(F) *Illegal release.* No unauthorized person shall break into the pound or release any animal legally placed therein.
(Prior Code, § 504.08)

§ 94.99 PENALTY

General. Any person violating any provision of this chapter shall be guilty of a misdemeanor.
(Res. 0022, passed 8-14-2000)

CHAPTER 95: NUISANCES

Section

Public Nuisances

- 95.01 Public nuisances prohibited
- 95.02 Public nuisances affecting health
- 95.03 Public nuisances affecting morals and decency
- 95.04 Public nuisances affecting peace and safety
- 95.05 Abandoned, junk and unauthorized vehicles
- 95.06 Enforcement by city officers
- 95.07 Abatement procedure
- 95.08 Recovery of cost

- 95.99 Penalty

PUBLIC NUISANCES

§ 95.01 PUBLIC NUISANCES PROHIBITED

Whoever by his or her act or failure to act does any of the following is guilty of maintaining a public nuisance:

- (A) Maintains or permits a condition which unreasonably annoys, injures or endangers the safety, health, morals, comfort or repose of any considerable number of members of the public;
- (B) Interferes with, obstructs or renders dangerous for passage, any public highway or right-of-way, or waters used by the public; or
- (C) Does any other act or omission declared by law or city ordinance to be a public nuisance.
(Prior Code, § 801.01) (Am. Ord. 02-2011, passed 5-9-2011)

§ 95.02 PUBLIC NUISANCES AFFECTING HEALTH

The following are hereby declared to be nuisances affecting health:

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- (A) Exposed accumulation of decayed or unwholesome food or vegetable matter;
- (B) All diseased animals running-at-large;
- (C) All ponds or pools of stagnant water;
- (D) Carcasses of animals not buried or destroyed within 24 hours after death;
- (E) Accumulations of manure, refuse or other debris;
- (F) Privy vaults and garbage cans which are not rodent-free or fly-tight or which are so maintained as to constitute a health hazard or to emit foul and disagreeable odors;
- (G) The pollution of any public well or cistern, stream or lake, canal or body of water by sewage, industrial waste or other substances;
- (H) All noxious weeds and other rank growths of vegetation upon public or private property or grass or weeds in excess of eight inches in height in an area maintained as lawn;
- (I) Dense smoke, noxious fumes, gas and soot or cinders, in unreasonable quantities;
- (J) All public exposure of persons having a contagious disease; and
- (K) Any offensive trade or business as defined by statute or city ordinance not licensed by the appropriate authority.
(Prior Code, § 801.02) (Am. Ord. 02-2011, passed 5-9-2011)

§ 95.03 PUBLIC NUISANCES AFFECTING MORALS AND DECENCY

The following are hereby declared to be nuisances affecting public morals and decency:

- (A) All gambling devices, slot machines and punch boards except as authorized and permitted by law;
- (B) Betting, book making and all apparatus used in those occupations;
- (C) All houses kept for the purpose of prostitution or promiscuous sexual intercourse, gambling houses, houses of ill fame and bawdy houses;
- (D) All places where intoxicating or 3.2 malt liquor is manufactured or disposed of in violation of law or where, in violation of law, persons are permitted to resort for the purpose of drinking intoxicating or 3.2 malt liquor, or where intoxicating or 3.2 malt liquor is kept for sale or other disposition in violation of law and all liquor and other property used for maintaining such a place; and

(E) Any vehicle used for the transportation of intoxicating or 3.2 malt liquor, or for promiscuous sexual intercourse or any other immoral or illegal purpose.
(Prior Code, § 801.03) (Am. Ord. 02-2011, passed 5-9-2011)

§ 95.04 PUBLIC NUISANCES AFFECTING PEACE AND SAFETY

The following are declared to be nuisances affecting public peace and safety:

- (A) All snow and ice not removed from public sidewalks 24 hours after the snow fall or other precipitation causing the condition has ceased to fall;
- (B) All trees, hedges, billboards or other obstructions which prevent persons from having a clear view of all traffic approaching an intersection;
- (C) All wires and limbs of trees which are so close to the surface of a sidewalk or street as to constitute a danger to pedestrians or vehicles;
- (D) All unnecessary noises and annoying vibrations;
- (E) Obstructions all excavations affecting the ordinary use by the public of streets, alleys, sidewalks or public grounds except under the conditions as are permitted by this code or other applicable law;
- (F) Radio aerial or television antennae erected or maintained in a dangerous manner;
- (G) Any use of property abutting on a public street or any use of a public street or sidewalk which causes large crowds of people to gather, obstructing traffic and the free uses of the streets or sidewalks;
- (H) All hanging signs, awnings and other similar structures over streets and sidewalks, or so situated so as to endanger public safety, or not constructed and maintained as provided by ordinance;
- (I) The allowing of rainwater, ice or snow to fall from any building or structure upon any street or sidewalk or to flow across any sidewalk;
- (J) Any barb-wire fence less than six feet above the ground and within three feet of a public sidewalk or way;
- (K) All dangerous, unguarded machinery in any public place, or so situated or operated on private property as to attract the public;
- (L) Waste water cast upon or permitted to flow upon streets or other public property;

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(M) Accumulations in the open of discarded or disused machinery, household appliances, automobile bodies or other material, in a manner conducive to the harboring of rats, mice, snakes or vermin, or to fire, health or safety hazards from the accumulation or from the rank growth of vegetation among the items so accumulated;

(N) Any well, hole or similar excavation which is left uncovered or in such other condition as to constitute a hazard to any child or other person coming on the premises where it is located;

(O) Obstruction to the free flow of water in a natural waterway or a public street drain, gutter or ditch with trash or other materials;

(P) The placing or throwing on any street, sidewalk or other public property of any glass, tacks, nails, bottles or other substance which may injure any person or animal or damage any pneumatic tire when passing over the substance;

(Q) The depositing of garbage or refuse on a public right-of-way or on adjacent private property;

(R) All other conditions or things that are likely to cause injury to the person or property of anyone or which are declared nuisances by any statute or other city ordinance;

(S) Any distinctly and loudly audible noise that unreasonably annoys, disturbs, injures, or endangers the comfort, repose, health, peace, safety, or welfare of any person, or precludes the enjoyment of property, or adversely affects the value of property;

(T) All noise in violation of Minn. Rules. Ch. 7030, as it may be amended from time to time;

(U) The use of any vehicle so out of repair or so loaded as to create loud and unnecessary grating, grinding, rattling, or other noise;

(V) The discharging of the exhaust or permitting the discharge of the exhaust of any internal combustion engine, motor boat, motor vehicle, motorcycle, all-terrain vehicle, snowmobile, or any recreational device, except through a muffler or other device that effectively prevents loud or explosive noises and complies with all applicable state laws and regulations;

(W) Any loud or excessive noise in the loading, unloading, or unpacking of any vehicle;

(X) The use or operation, or permitting the use or operation, of any radio receiving set, musical instrument, music device, paging system, machine, or other device for producing or reproduction of sound in a distinctly and loudly audible manner so as to disturb the peace, quiet, and comfort of any person nearby; and

(Y) The parking or storage of any recreational vehicle in violation of § 70.07 or other vehicles in violation of § 70.08 of this code.

(Prior Code, § 801.04) (Am. Ord. 02-2011, passed 5-9-2011)

§ 95.05 ABANDONED, JUNK AND UNAUTHORIZED VEHICLES

The parking, storage, repairing, dismantling, demolition or maintenance of any junk or abandoned vehicle in violation of § 92.02 of this code constitutes a public nuisance. Abandoned, junk or unauthorized vehicles may be impounded and disposed of as permitted under § 92.03 of this code. (Ord. 02-2011, passed 5-9-2011)

§ 95.06 ENFORCEMENT BY CITY OFFICERS

City officials may apply and enforce any provision of this chapter relating to public nuisances in the city. Any peace officer or other designated city official shall have the power to inspect private premises and take all reasonable precautions to prevent the commission and maintenance of public nuisances. Except in emergency situations of imminent danger to human life and safety, no peace officer or designated city official may enter private property for the purpose of inspecting or preventing public nuisances without the permission of the owner, resident, or other person in control of the property, unless the officer or person designated has obtained a warrant or order from a court of competent jurisdiction authorizing entry.

(Ord. 02-2011, passed 5-9-2011)

§ 95.07 ABATEMENT PROCEDURE

(A) *Procedure.* Except with regard to abandoned, junk or unauthorized vehicles, whenever the peace officer or other designated official determines that a public nuisance is being maintained or exists on the premises in the city, the official shall notify in writing the owner of record or occupant of the premises of such fact and order that the nuisance be terminated or abated. The notice of violation shall specify the steps to be taken to abate the nuisance and the time within which the nuisance is to be abated. If the notice of violation is not complied with within the time specified, the official shall report that fact forthwith to the City Council. Thereafter, the City Council may, after notice to the owner or occupant and an opportunity to be heard, determine that the condition identified in the notice of violation is a nuisance and further order that if the nuisance is not abated within the time prescribed by the City Council, the city may seek injunctive relief by serving a copy of the City Council order and notice of motion for summary enforcement or obtain an administrative search and seizure warrant and abate the nuisance.

(B) *Notice.* Written notice of the violation, notice of the time, date, place, and subject of any hearing before the City Council, notice of the City Council order, and notice of motion for summary enforcement hearing shall be served by a peace officer or designated official on the owner of record or occupant of the premises either in person or by certified or registered mail. If the premise is not occupied, the owner of record is unknown, or if the owner of record or occupant refuses to accept notice, notice shall be served by posting it on the premises.

(C) *Emergency procedure; summary enforcement.* In cases of emergency, where delay in abatement required to complete the procedure and notice requirements as set forth in divisions (A) and (B) of this section will permit a continuing nuisance to unreasonably endanger public health, safety, or welfare, the City Council may order summary enforcement and abate the nuisance. To proceed with summary enforcement, the peace officer or other designated official shall determine that a public nuisance exists or is being maintained on premises in the city and that delay in abatement will unreasonably endanger public health, safety, or welfare. The officer or designated official shall notify in writing the occupant or owner of the premises of the nature of the nuisance, whether public health, safety, or welfare will be unreasonably endangered by delay in abatement required to complete the procedure set forth in division (A) of this section and may order that the nuisance be immediately terminated or abated. If the nuisance is not immediately terminated or abated, the City Council may order summary enforcement and abate the nuisance.

(D) *Immediate abatement.* Nothing in this section shall prevent the city, without notice or other process, from immediately abating any condition that poses an imminent and serious hazard to human life or safety.

(E) *Noisy parties or gatherings.* When a peace officer determines that a gathering is creating such a noise disturbance as prohibited under § 95.04, the officer may order all persons present, other than the owner or tenant of the premises where the disturbance is occurring, to disburse immediately. No person shall refuse to leave after being ordered to do so by law enforcement. Every owner or tenant of the premises who has knowledge of the disturbance shall make every reasonable effort to see that the disturbance is stopped.

(F) *Judicial remedy.* Nothing in this section shall prevent the city from seeking a judicial remedy when no other adequate administrative remedy exists.

(Ord. 02-2011, passed 5-9-2011)

§ 95.08 RECOVERY OF COSTS

(A) *Personal liability.* The owner of the premises on which a nuisance has been abated by the city, or a person who has caused a public nuisance on property not owned by that person, shall be personally liable for the cost to the city of the abatement, including administrative costs. As soon as the work has been completed and the cost determined, the City Clerk or other city official shall prepare a bill for the cost and mail it to the owner. Thereupon the amount shall be immediately due and payable at the office of the City Clerk.

(B) *Assessment.* After notice and hearing as provided in M.S. § 429.061, as it may be amended from time to time, if the nuisance is a public health or safety hazard on private property, the accumulation of snow and ice on public sidewalks, the growth of weeds on private property or outside the traveled portion of streets, or unsound or insect-infected trees, the City Clerk shall, on or before September 1 next following abatement of the nuisance, list the total unpaid charges along with all other such charges as well as other charges for current services to be assessed under M.S. § 429.101 against

each separate lot or parcel to which the charges are attributable. The City Council may then spread the charges against the property under that statute and any 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 City Council may determine in each case.

(C) *Collection of other charges.* This division applies to the collection of services charges for the abatement of nuisances other than those subject to assessment pursuant to M.S. § 429.101. For all such other services charges and pursuant to M.S. § 415.01, the city hereby avails itself of the authority under M.S. §§ 366.011 and 366.012 to impose and provide for the collection of services charges related to the abatement of nuisances. All unpaid charges shall be delinquent 30 days after a notice of delinquency is sent by the city to the owner of the affected property. The city may certify any unpaid charge to the County Auditor on or before October 15 of each year for collection with the property taxes levied against the property if, on or before September 15, the city has given written notice to the owner of the property of its intention to certify the charge to the auditor. All charges shall be subject to the same penalties, interest and other conditions provided for the collection of property taxes.

(Ord. 02-2011, passed 5-9-2011)

§ 95.99 PENALTY

Any person convicted of violating any provision of this chapter is guilty of a misdemeanor.

(Ord. 02-2011, passed 5-9-2011)

CHAPTER 96: VACANT BUILDINGS

Section

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§ 96.01 PURPOSE AND FINDINGS

(A) The purpose of this chapter is to protect the public health, safety and welfare by establishing a program for the identification and regulation of vacant buildings within the city. This chapter also determines the responsibilities of owners of vacant buildings and provides for administration, enforcement, and penalties associated with same.

(B) The City Council finds that vacant buildings are a major cause and source of blight in residential and non-residential neighborhoods, especially when the owner or responsible party of the building fails to maintain and manage the building to ensure it does not become a liability to the neighborhood. Vacant buildings often attract transients, trespassers and criminals. Neglect of vacant buildings and the use of vacant buildings by transients and criminals creates a risk of fire, explosion or flooding for the vacant building and adjacent properties. Vacant properties often are used as dumping grounds for junk and debris and frequently are overgrown with weeds and tall grass. Vacant buildings that are boarded to prevent entry by transients and other long-term vacancies are unsightly, discourage economic development and inhibit the increase of property values. There is a substantial cost to the city in monitoring vacant buildings regardless of whether they are boarded. This cost should not be borne by the general taxpayers but should be borne by those who choose to leave their buildings vacant.

(Ord. 08-2010, passed 12-13-2010)

§ 96.02 DEFINITIONS

For purposes of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ABANDONED PROPERTY. Any property that the owner has surrendered, relinquished, disclaimed, or ceded all right, title, claim, and possession, with the intention of not reclaiming it.

BUILDING. A roofed structure used or intended for supporting or sheltering any use or occupancy.

COMPLIANCE OFFICIAL. The City Administrator or the City Administrator's designee authorized to administer and enforce this section.

OWNER or PROPERTY OWNER. The owner of record according to Wright County property tax records; those identified as owner or owners on a vacant building registration form; a holder of an unrecorded contract for deed; a mortgagee or vendee in possession; a mortgagor or vendor in possession; an assignee of rents; or a receiver, executor, trustee, lessee, other person, firm or corporation in control of the freehold of the premises or lesser estate therein. **OWNER** also means any person, partnership, association, corporation or fiduciary having legal or equitable title or any interest in the property or building, including any partner, officer or director of any partnership, corporation, association or other legally constituted business entity. All owners shall have joint and several obligations for compliance with the provisions of this section.

RESPONSIBLE PARTY. An owner, entity or person acting as an agent for the owner who has direct or indirect control or authority over the building or real property upon which the building is located or any party having a legal or equitable interest in the property, including but not limited to, a realtor, service provider, mortgagor, leasing agent, management company or similar person or entity.

VACANT BUILDING. A building in which no person actually and currently conducts a lawful business or lawfully resides or lives on a permanent, non-transient basis in accordance with city zoning regulations.

(Ord. 08-2010, passed 12-13-2010)

§ 96.03 VACANT BUILDING REGISTRATION

(A) *Application.*

- (1) The owner or responsible party shall register a vacant building with the city no later than 30 days after the building becomes vacant. The registration shall be submitted on a form provided by the city and shall include the following information supplied by the owner:

- (a) The name, address, telephone number and email address of each owner and each owner's representative;
- (b) The tax parcel identification number and street address of the premises on which the building is situated;
- (c) The names, addresses, telephone numbers and email addresses of all known lien holders and all other parties with any legal interest in the building;
- (d) The name, address, telephone number and email address of a local agent or person responsible for managing or maintaining the property;
- (e) The status of water, sewer, natural gas and electric utilities; and
- (f) The date the building became vacant, the period of time the building is expected to remain vacant, and a property plan and timetable for returning the building to appropriate occupancy or use and correcting code violations and nuisances, or for demolition of the building.

(2) The owner shall notify the Compliance Official within 30 days of changes in any of the information supplied as part of the vacant building registration and shall continue to do so on an ongoing basis during vacancy.

(B) *Property plan.* The property plan identified above in division (A)(1)(f) above shall meet the following requirements:

- (1) *General provisions.* The plan shall comply with all applicable regulations and meet the approval of the Compliance Official. It shall contain a timetable regarding use or demolition of the property. The plan shall be completed within 30 days after the building is registered.
- (2) *Maintenance of building.* The plan shall identify the means and timetable for addressing all maintenance and nuisance-related items identified in the application. Any repairs, improvements or alterations to the property shall comply with building code provisions and applicable city regulations.
- (3) *Plan changes.* If the property plan or timetable for the vacant building is revised in any way for any purpose, the revisions shall meet the approval of the Compliance Official.
- (4) *Demolition required.* If a building has remained vacant for a period of 365 consecutive days or more, and the Compliance Official has not approved an alternative schedule in the property plan, the city may declare the building to be a nuisance and direct the owner to demolish the building and restore the grounds. If the owner does not demolish the building and thereby eliminate the nuisance conditions, the city may commence abatement and cost recovery proceedings for the abatement of the violation in accordance with Chapter 95 of this code and M.S. § 429.101, as it may be amended from time to time.

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(C) *Non-compliance and notification.* If the owner does not comply with the property plan, or maintain or correct nuisance violations, the city may commence abatement and recover its costs for correction of those items in accordance with Chapter 95 of this code and M.S. § 429.101, as it may be amended from time to time. In the case of an absent owner and ongoing nuisance issues, the city need not provide notice of each abatement act to the owner. A single notice by the city to the owner is determined to be sufficient notice that it intends to provide ongoing abatement until the owner corrects the violations.

(D) *Exemptions.*

(1) *Casualty damage.* A building that has suffered casualty damage is exempt from the registration requirement for a period of 90 days after the date of the casualty event if the owner submits a request for exemption in writing to the Compliance Official. An exemption request for review by the Compliance Official shall include the following information supplied by the owner:

- (a) A description of the premises;
- (b) The name and address of owner or owners;
- (c) A statement of intent to repair and reoccupy the building in an expeditious manner and the time frame for completion; and
- (d) Actions the owner will take to ensure the property does not become a nuisance.

(2) *Snowbirds.* Those persons who leave their residential buildings on a temporary basis for vacation purposes or to reside elsewhere during the winter season and have the intent to return are exempt from the registration requirement. Requests for "snowbird" exemption will be considered annually with proper verification.

(E) *Fees.* The owner shall pay an annual registration fee. The registration fee will be in an amount adopted by ordinance by the City Council. The amount of the registration fee shall be reasonably related to the administrative costs for registering and processing the registration form and for the costs of the city in monitoring the vacant building site. The fee shall be paid in full prior to the issuance of any building permits or licenses, with the exception of a demolition permit.

(F) *Assessment.* If the registration fee or any portion thereof is not paid within 60 days after billing or within 60 days after any appeal becomes final, the City Council may certify the unpaid fees against the property in accordance with M.S. § 429.101, as it may be amended from time to time.

(G) *Issuance of registration.* Upon completion of the registration process and payment of the fee, the city will issue a vacant building registration to the owner. The owner shall securely post the registration on the vacant building on a side entrance door, where possible, that is not generally visible from the public street. If no side entrance door is available, the registration shall be securely posted on another available entrance door.

(H) *Failure to register.* If the property is abandoned or the owner or responsible party fails to complete the registration process, the property will be registered administratively as a vacant property and the registration fee shall be assessed against the property.
(Ord. 08-2010, passed 12-13-2010)

§ 96.04 CHANGE OF OWNERSHIP

A new owner shall register or re-register a vacant building in accordance with § 96.03 within 15 days of any transfer of an ownership interest in a vacant building. The new owner shall comply with the approved property plan and timetable submitted by the previous owner or shall submit a revised or amended property plan to the Compliance Official for review and approval. For the purposes of this section, the new owner is an **OWNER** as defined in § 96.02 if the new owner has purchased the vacant building since its registration by the previous owner or has otherwise succeeded to all rights of the previous owner.
(Ord. 08-2010, passed 12-13-2010)

§ 96.05 INSPECTIONS

The Compliance Official may inspect any vacant building in the city for the purpose of enforcing and assuring compliance with this section and other applicable regulations. Upon the request of the Compliance Official, an owner or responsible party shall provide access to all interior portions of the building and the exterior of the property in order to complete an inspection. If the owner or responsible party is not available, is unresponsive, or refuses to provide access to the interior of the building, the city may use any legal means to gain entrance to the building for inspection purposes. Prior to any re-occupancy, the owner or responsible party shall request an inspection of the vacant building by the Compliance Official to determine compliance with this chapter and all other applicable regulations. All application and re-inspection fees also shall be paid prior to building occupancy.
(Ord. 08-2010, passed 12-13-2010)

§ 96.06 MAINTENANCE OF VACANT BUILDINGS

The owner shall comply with and address the following items in the property plan, as described in § 96.03(B):

(A) *Appearance.* All vacant buildings shall be maintained and kept so that they appear to be occupied.

(B) *Securing.* All vacant buildings shall be secured from outside entry by unauthorized persons or pests. Security shall be ensured by normal building amenities such as windows and doors having

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adequate strength to resist intrusion. All doors and windows shall remain locked. There shall be at least one operable door into every building and into each dwelling unit. Exterior walls and roofs shall remain intact without holes.

(1) *Architectural (cosmetic) structural panels.* Architectural structural panels may be used to secure windows, doors and other openings provided they are cut to fit the opening and match the characteristics of the building. Architectural panels may be of exterior grade-finished plywood or Medium Density Overlaid plywood (MDO) that is painted to match the building exterior or covered with a reflective material such as plexiglass to simulate windows.

(2) *Temporary securing.* Untreated, exterior grade (CDX) plywood or similar structural panels may be used to secure windows, doors and other openings for a maximum period of 90 days.

(3) *Emergency securing.* The Compliance Official may take immediate steps to secure a vacant building at his or her discretion in emergency circumstances.

(C) *Fire safety.*

(1) *Fire protection systems.* Owners of non-residential vacant buildings shall maintain all fire protection systems, appliances and assemblies in operating condition and maintain underwriter laboratories (UL) monitoring of all systems.

(2) *Removal of hazardous and combustible materials.* The owner of any vacant building shall remove all hazardous material and hazardous refuse that could constitute a fire hazard or contribute to the spread of fire.

(D) *Plumbing fixtures.* Plumbing fixtures connected to an approved water system, an approved sewage system, or an approved natural gas utility system shall be installed in accordance with applicable codes and be maintained in sound condition and good repair or removed and the service terminated in the manner prescribed by applicable codes. The building's water systems shall be protected from freezing.

(E) *Electrical.* Electrical service lines, wiring, outlets or fixtures not installed or maintained in accordance with applicable codes shall be repaired, removed or the electrical services terminated to the building in accordance with applicable codes.

(F) *Lighting.* All exterior lighting fixtures shall be maintained in good repair, and illumination shall be provided to the building and all walkways in the same manner as provided at the time the building was last occupied or as otherwise provided in the approved vacant building plan.

(G) *Heating.* Heating facilities or heating equipment in vacant buildings shall be removed, rendered inoperable, or maintained in accordance with applicable codes.

(H) *Termination of utilities.* The Compliance Official may require that water, sewer, electricity, or gas service to the vacant building be terminated or disconnected. Prior to the termination of any utility service, the city will provide written notice to the owner as provided in city Code of Ordinances. No utility may be restored until consent is given by the Compliance Official. Utilities may be discontinued at the request of the owner or responsible party as part of the approved vacant building property plan. The Compliance Official may authorize immediate termination of utilities at his or her discretion in emergency circumstances and provide subsequent notice to the owner or responsible party.

(I) *Signs.* On non-residential properties, obsolete or unused exterior signs and installation hardware shall be removed. Holes and penetrations shall be properly patched and painted to match the building. Surfaces beneath the signs that do not match the building shall be repaired, resurfaced, painted or otherwise altered to be compatible with the building surfaces. All signs remaining on the property shall be maintained in good condition and comply with the provisions of this code.

(J) *Exterior maintenance.* The owner shall comply with all applicable property maintenance regulations and city codes including, but not limited to, the following:

(1) *Nuisances.* The owner shall eliminate any activity on the property that constitutes a nuisance as defined by this code or state statute.

(2) *Grass and weeds.* Any weeds or grass shall be maintained at a height of no greater than eight inches and in accordance with this code.

(3) *Exterior structure maintenance.* The owner shall maintain the vacant building in a manner so that it does not constitute a nuisance or as otherwise determined to be necessary by the Code Official to protect public health and safety.

(4) *Abandoned or junk vehicles.* The owner shall keep the property free of unlicensed, inoperable, abandoned or junk vehicles. The city may cause such vehicles to be removed.

(5) *Storage and disposal of refuse.* The storage and disposal of refuse shall comply with the requirements of this code.

(6) *Animals.* The owner shall ensure that all animals, including domestic, exotic and feral, are removed from the property and handled in a humane manner.

(7) *Diseased, dead or hazardous trees.* The owner shall remove diseased, dead or hazardous trees or branches from the property in accordance with this code.

(8) *Graffiti.* The owner shall keep the property free from graffiti.

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(9) *Abandoned pools.* Swimming pools shall be covered and secured to prevent accidental entry, treated to prevent pest harborage, and properly drained and winterized.

(K) *Removal of garbage and refuse.* The owner of any vacant building shall keep the building and property free of all garbage, refuse, litter, rubbish, swill, film, or other materials identified in this code.

(L) *Police protection systems.* All alarm systems in any vacant building or portion thereof shall be maintained in operating condition.

(M) *Loitering, criminal activities.* Loitering or engaging in criminal activities is prohibited in the vacant building or on the real property upon which the vacant building is located. The owner or responsible party shall not allow these activities and shall take immediate actions to eliminate these conditions upon notification by the city or upon discovery.

(N) *Emergency abatement.* The Compliance Official may authorize immediate abatement of any public nuisance or correction of any maintenance item if the Compliance Official determines that conditions exist that present an imminent threat to the public health and safety in accordance with Chapter 95 of this code.

(O) *Other codes.* The property owner or responsible party shall comply with all other city codes and applicable regulations.

(Ord.08-2010, passed 12-13-2010)

§ 96.07 NO OCCUPANCY OR TRESPASS

No person may trespass, occupy or reside, on a temporary or permanent basis, in any vacant building, registered or not, without the owner's consent.

(Ord. 08-2010, passed 12-13-2010)

§ 96.08 VANDALISM OR REMOVAL OF ITEMS PROHIBITED

No person may vandalize or remove items from a vacant building or the property upon which it is located, including, but not limited to, appliances, fixtures, electrical wiring, copper, or other similar items without the owner's consent.

(Ord. 08-2010, passed 12-13-2010)

§ 96.09 APPEAL

Any person or responsible party aggrieved by a decision rendered under this chapter by the Compliance Official may appeal to the City Council. The appeal shall be made in writing, shall specify the grounds for the appeal, and shall be submitted to the City Administrator within ten business days of the decision that is basis of the appeal.

(Ord. 08-2010, passed 12-13-2010)

§ 96.99 PENALTY

Any person or responsible party who violates the provisions of this chapter is guilty of a misdemeanor. Nothing in this section, however, is deemed to limit other remedies or civil penalties available to the city under this code or state law, including but not limited to, M.S. §§ 429.101 and 463.15 through 463.261, as they may be amended from time to time.

(Ord. 08-2010, passed 12-13-2010)

