

CHAPTER 8

RIGHT-OF-WAYS, STREETS AND SIDEWALKS

Section 800 - Right-Of-Way Regulations

800.01. Street Openings and Excavations. The purpose of this Subsection is to govern excavations and construction within public streets, alleys, and right-of-ways by developers, contractors, and other persons within the City of Blue Earth.

Subd. 1. Definitions. The terms used in this Chapter shall have the meaning given to them in Minnesota Statutes Chapter 237 or any successor statute and Minnesota Rules Chapter 7819 or any successor Rules.

Subd. 2. Administration. The City Clerk/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 Clerk/Administrator may delegate any or all of the duties hereunder.

Subd. 4. Excavations Permit. It shall be unlawful for any person, other than authorized City employees, to dig up, excavate, tunnel, drill, bore, undermine, or in any other manner break up any public way or public ground or to make or cause to be made any excavation in or under the surface of any public way or public ground, or to place, deposit, or leave upon any public way or public ground earth or excavated material obstructing or tending to interfere with the free use of the public way or public ground unless such person shall have first obtained a permit from the City.

Subd. 5. Permit Application. Application for a permit to make a street opening, excavation, or any disturbance of the public infrastructure shall be made at City Hall and shall describe with reasonable particularity the name and address of the applicant, the place, purpose and size of the excavation or other disturbance of the infrastructure and such other information as may be necessary or desirable to facilitate the investigation hereinafter provided for, and shall be filed with the Clerk-Administrator.

Subd. 6. 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.

Subd. 7. 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.

Subd. 8. Limitation on Area. A right-of-way permit is valid only for the area of the right-of-way specified in the permit. No permittee may do any work outside the area specified in the permit, except as provided herein. Any permittee which determines that an area greater than that specified in the permit must be obstructed or excavated must before working in that greater area (i)

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

Subd. 9. 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.

Subd. 10. Investigation of Estimated Costs and Deposits.

A. Upon receipt of such application, the Clerk-Administrator shall cause an investigation to be made as he or she may deem necessary to determine estimated cost of repair, such as back-filling, compacting, resurfacing and replacement, manner of procedure and time limitation upon such excavation. The foregoing estimated costs shall include permanent and temporary repairs due to weather or other conditions, and the cost of such investigation shall be included in such estimate.

B. Upon submission of an application, the City may require an applicant to deposit with the Clerk-Administrator a construction bond or cash deposit to cover the estimated cost of repair as security for the proper completion of the excavation or other disturbance of the infrastructure and the restoration of the site to its previous condition. The security shall be held until the completion of the construction work to guaranty that the restoration work has been satisfactorily completed. If the restoration work done by the applicant needs repair as determined by the Clerk-Administrator, the applicant shall do all necessary repair work. In the event the applicant fails or refuses to do the necessary repair work, the City may do the work and the cost of repair plus any administrative expenses shall be deducted from the security. Upon completion of the restoration of the site, the security or balance thereof remaining shall be refunded to the applicant. In the event that any restoration cost or completion of any work shall exceed the amount of the security, the applicant shall be liable for the additional costs.

C. The applicant may in lieu of individual security or bond for each excavation deposit with the City a bond on the amount of \$5,000.00 or more based on the circumstances. The bond shall be held until construction is completed and for a period of twelve months thereafter to guaranty that the restoration work has been satisfactorily completed.

Subd. 11. Indemnification. Before issuance of the permit, the applicant shall in writing agree to indemnify and hold the City harmless for any liability injury or damage arising out of the action of the applicant in the performance of the work to include any expense whatsoever incurred by the City incident to a claim or action brought or commenced by any person arising therefrom.

Subd. 12. Permit Fee. Upon approval of the application for the excavation permit, the applicant shall pay the fee specified in the City's fees schedule, as periodically set by resolution of the Council, subject to any limitations imposed by State law. The amount of the fee shall be to cover reasonable costs for the issuance of the permit and inspection required.

Subd. 13. Issuance of Permit. If the Clerk-Administrator finds that the applicant has satisfied the requirements of this Subsection and it appears that the applicant can comply with the current regulations, then the Clerk-Administrator shall issue a written permit. The City shall attempt to grant approval within twenty-four (24) hours of submission of the application.

Subd. 14. Duties of the Applicant. The applicant shall notify the City of the date that construction will begin prior to beginning construction. The applicant is required to provide effective safeguards to protect pedestrians and vehicular traffic. The applicant shall be responsible for any damage which may occur to the owners of any other improvements as a result of the excavation or disturbance of the infrastructure.

Subd. 15. Emergencies. The permit requirement may be waived in emergency situations that require the restoration of utility services to customers. Notice shall be provided and an application for permit submitted to the City within a reasonable time after service has been restored.

Subd. 16. Denial of Permit. 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.

Subd. 17. 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 or any successor Rules, and other applicable local requirements, insofar as they are not inconsistent with the Minnesota Statutes §237.162 and §237.163 or any successor Statute.

Subd. 18. Penalty for Violation. Persons violating this Section shall be guilty of a misdemeanor.

Section 800.013 Revocation of Permits.

Subd. 1. Substantial Breach. The City reserves its right, as provided herein, to revoke any right-of-way permit, without a fee refund, if there is a substantial breach of the terms and conditions of any statute, ordinance, rule or regulation, or any material condition of the permit. A substantial breach by permittee shall include, but shall not be limited to, the following:

- (a) The violation of any material provision of the right-of-way permit;
- (b) An evasion or attempt to evade any material provision of the right-of-way permit, or the perpetration or attempt to perpetrate any fraud or deceit upon the City or its citizens;
- (c) Any material misrepresentation of fact in the application for a right-of-way permit;
- (d) The failure to complete the work in a timely manner, unless a permit extension is obtained or unless the failure to complete work is due to reasons beyond the permittee's control; or
- (e) The failure to correct, in a timely manner, work that does not conform to a condition indicated on an order issued pursuant to Sec. 1.15.

Subd. 2. Written Notice of Breach. If the City determines that the permittee has committed a substantial breach of a term or condition of any statute, ordinance, rule, regulation or any condition of the permit, the City shall make a written demand upon the permittee to remedy 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.

Subd. 3. 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.

Subd. 4. 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 attorney's fees incurred in connection with such revocation.

Subd. 5. Appeal. A right-of-way user that: (1) has been denied a permit; (2) has had permit revoked; or (3) believes that the fees imposed are invalid, may have the denial, revocation, or fee imposition reviewed, upon written request, by the City Council. The City Council shall act on a timely written request at its next regularly scheduled meeting. A decision by the City Council affirming or reversing the denial, revocation, or fee imposition will be in writing and supported by written findings establishing the reasonableness of the decision.

Section 800.015 Right-of-Way Patching and Restoration.

Subd. 1. Timing. The work to be done under the excavation permit, and the patching and restoration of the right-of-way as required herein, must be completed within the dates specified in the permit, increased by as many days as work could not be done because of circumstances beyond the control of the permittee or when work was prohibited as unseasonable or unreasonable under Section 1.12.

Subd. 2. Patch and Restoration. Permittee shall patch its own work.. The permittee shall restore or coordinate with the City to provide restoration of the right of way.

(a) 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.

(b) Permittee Restoration. If the permittee restores the right-of-way itself, it shall restore concrete or bituminous materials by employing only contractors licensed to restore concrete or bituminous materials by the City of Blue Earth.

Subd. 3. 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 or any successor Rule, and according to the specifications and standards on file in the office of the Clerk-Administrator and then open to inspection and copying there.

Subd. 4. Duty to Correct Defects. The permittee shall correct defects in patching, or restoration performed by permittee or its agents. 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 1.12.

Subd. 5. Failure to Restore. If the permittee fails to restore the right-of-way in the manner and to the condition required by the City, or fails to satisfactorily and timely complete all restoration required by the City, the City at its option may do 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, if any.

Subd. 6. Inspection. The Council shall designate a suitable and competent person to perform inspections required herein and such other inspection of such work as deemed necessary. Any work not done according to the applicable specifications and standards shall be removed and corrected at the expense of the permit holder. Any work done hereunder may be stopped by the Inspector if found to be unsatisfactory or not in accordance with the specifications and standards, but this shall not place a continuing burden upon the City to inspect or supervise such work.

Section 800.017 License to Replace Bituminous or Concrete Materials in a Public Right-of-Way

Subd. 1. Necessity of License. Any person who replaces or repairs bituminous or concrete materials in a public right-of-way must first obtain a license from the City of Blue Earth authorizing them to repair or replace pavement or bituminous materials in the right-of-way. It is a misdemeanor to repair or replace pavement or bituminous materials in the right-of-way without first obtaining a license from the City.

Subd. 2. Conditions. Prior to being issued a license to repair or replace bituminous or concrete materials in a right-of-way, a person must first attend and complete an informational meeting held by the City setting out the manner in which bituminous and concrete repairs or replacements must be done. This meeting shall be scheduled and presented by the City Clerk/Administrator or his designee.

Subd. 3. Term of License. Each license shall be issued for a one year period.

Subd. 4. Revocation of License. The City may revoke any license issued to any individual for repair or replacement of bituminous or pavement materials in the City right-of-way if that individual fails to repair or replace bituminous or concrete materials according to the specifications required by the City. This revocation shall be made upon the recommendation of the City Clerk/Administrator after approval by the City Council. An individual whose license is subject to revocation shall be given notice of the date and time that the City Council will meet to consider the City Clerk/Administrator's recommendation that his license be revoked, and shall be given an opportunity to be heard at that City Council meeting prior to a decision by the Council.

Subd. 5. Appeal. A right-of-way user that: (1) has been denied a license; or (2) has had license revoked; may have the denial or revocation reviewed, upon written request, by the City Council. The City Council shall act on a timely written request at its next regularly scheduled meeting. A decision by the City Council affirming the denial or revocation will be in writing and supported by written findings establishing the reasonableness of the decision.

800.02. Construction and Reconstruction of Roadway Surfacing, Sidewalk, Curb and Gutter.

Subd. 1. Methods of Procedure.

A. Abutting or affected property owners may contract for, construct or reconstruct roadway surfacing, sidewalk or curb and gutter in accordance with this subsection if advance payment is made therefor or arrangements for payment considered adequate by the City are completed in advance.

B. With or without petition by the methods set forth in the Local Improvement Code of Minnesota Statutes, presently beginning with Section 429.011, as the same may from time to time be amended.

Subd. 2. Permit Required. It is a misdemeanor to construct a sidewalk, curb and gutter, driveway, or roadway surfacing in any street or other public property in the City without a permit in writing from the City. Application for such permit shall be made on forms approved and provided by the City and shall sufficiently describe the contemplated improvements, the contemplated date of beginning of work, and the length of time required to complete the same, provided, that no permit shall be required for any such improvement ordered installed by the Council. All such applications shall contain an agreement by the applicant to be bound by this Chapter and plans and specifications consistent with the provisions of this Chapter and good engineering practices shall also accompany the application. A permit from the City shall not relieve the holder from damages to the person or property of another caused by such work.

Subd. 3. Specifications and Standards. All construction and reconstruction of roadway surfacing, sidewalk and curb and gutter improvements, including curb cuts, shall be strictly in accordance with specifications and standards on file in the office of the Clerk-Administrator and open to inspection and copying there. Such specifications and standards may be amended from time to time by the City, but shall be uniformly enforced.

Subd. 4. Inspection. The Council shall designate a suitable and competent person to perform inspections required herein and such other inspection of such work as deemed necessary. Any work not done according to the applicable specifications and standards shall be removed and corrected at the expense of the permit holder. Any work done hereunder may be stopped by the Inspector if found to be unsatisfactory or not in accordance with the specifications and standards, but this shall not place a continuing burden upon the City to inspect or supervise such work.

Subd. 5. Special Assessments and Payment. In the event any portion of the cost of construction or repair of any roadway surface, sidewalk or curb and gutter upon any public property is to be defrayed by special assessment, the procedure prescribed in Minnesota Statutes Chapter 429, as amended, shall be followed. Any abutting or affected property owner shall be allowed to make either full or partial pre-payment to the City for said special assessments as authorized by Minnesota Statutes §429.061 as amended.

800.03. Requirements of Sewer and Water Main Lateral Installation.

Subd. 1. Requirement of Sewer and Water Laterals. No petition for the improvement of a street shall be considered by the Council if such petition contemplates constructing therein any part

of a pavement or stabilized base, or curb and gutter, unless all sewer and water main installations shall have been made therein, including the installation of service laterals to the curb, if the area along such street will be served by such utilities installed in the street.

Subd. 2. Sewer System Service and Water Main Service Laterals. No sewer system shall be hereafter constructed or extended unless service laterals to platted lots and frontage facing thereon shall be extended simultaneously with construction of mains.

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

800.04. Curb Set-Back.

Subd. 1. Permit Required. It is a misdemeanor for any person to hereafter remove, or cause to be removed, any curb from its position abutting upon the roadway to another position without first making application to the Council and obtaining a permit therefor.

Subd. 2. Agreement Required. No such permit shall be issued until the applicant, and abutting landowner if other than applicant, shall enter into a written agreement with the City agreeing to pay all costs of constructing and maintaining such set-back area in at least as good condition as the abutting roadway, and further agreeing to demolish and remove such set-back and reconstruct the area as was at the expense of the landowner, his or her heirs or assigns if the area ever, in the Council's opinion becomes a public hazard. Such agreement shall be recorded in the office of the Register of Deeds, and shall run with the adjoining land.

Subd. 3. Sign-Posting. ANGLE PARKING ONLY signs shall be purchased from the City and erected and maintained at the expense of the adjoining landowner in all such setback areas now in use or hereafter constructed. It is unlawful for any person to park other than at an angle in such set-back areas, as such angle parking is herein described and allowed.

Subd. 4. Public Rights Preserved. Such set-back parking areas shall be kept open for public parking and the abutting landowner shall at no time acquire any special interest or control of or in such areas.

Section 810 - Street and Sidewalk Regulations

810.01. Sidewalk Maintenance and Repair.

Subd. 1. Primary Responsibility. It is the primary responsibility of the owner of property upon which there is abutting any sidewalk to keep and maintain such sidewalk in safe and serviceable condition.

Subd. 2. Construction, Reconstruction and Repair Specifications. All construction, reconstruction or repair of sidewalks shall be done in strict accordance with specifications on file in the office of the Clerk-Administrator.

Subd. 3. Notice - No Emergency. Where, in the opinion of the Clerk-Administrator, no emergency exists, notice of the required repair or reconstruction shall be given to the owner of the abutting property. Such notice shall require completion of the work within ninety (90) days, and shall be mailed to the owner or owners shown to be such on the records of the County Officer who mails tax statements.

Subd. 4. Notice - Emergency. Where, in the opinion of the Clerk-Administrator, an emergency exists, notice of the required repair or reconstruction shall be given to the owner of the abutting property. Such notice shall require completion of the work within ten (10) days, and shall be mailed to the owner or owners shown to be such on the records of the County Officer who mails tax statements.

Subd. 5. Failure of Owner to Reconstruct or Make Repairs. If the owner of the abutting property fails to make repairs or accomplish reconstruction as herein required, the Clerk-Administrator shall report such failure to the Council and the Council may order such work to be done under its direction and the cost thereof assessed to the abutting property owner as any other special assessment.

Subd. 6. Duty to Inspect. In order to accomplish the purpose of this Subsection, it shall be the duty of the Clerk-Administrator to inspect sidewalks within the City, or cause the same to be inspected under his or her direction.

810.02. Obstructions, Fire, Dumping, Signs and Other Structures.

Subd. 1. Obstructions. It is a misdemeanor for any person to place, deposit, display or offer for sale, any fence, goods or other obstructions upon any street or other public property without first having obtained a written permit from the Council, and then only in compliance in all respects with the terms and conditions of such permit, and taking precautionary measures for the protection of the public.

Subd. 2. Fires. It is a misdemeanor for any person to build or maintain a fire upon a roadway.

Subd. 3. Dumping in Streets. It is a misdemeanor for any person to throw or deposit in any street or any other public place any nails, dirt, glass, tin cans, metal scraps, garbage, leaves, grass or tree limbs, shreds or rubbish, or to empty any water containing salt or other injurious chemical thereon. It is a violation of this Subsection to haul any soil or material, not adequately enclosed or covered, thereby permitting the same to fall upon the streets.

Subd. 4. Signs and Other Structures. It is a misdemeanor for any person to place or maintain a sign or other structure in the traveled or untraveled portion of any street or other public property without first having obtained a written permit from the Council. In a district zoned for commercial or industrial enterprises special permission allowing an applicant to erect and maintain signs overhanging the street may be granted upon such terms and conditions as may be set forth in the zoning or building provisions of the City Code.

Subd. 5. Continuing Violation. Each day that any person continues in violation of this subsection shall be a separate offense, and punishable as such.

810.03. Private Use of Public Streets and Parking Lots.

Subd. 1. Authority, Permission and Procedure. Upon an application duly made to the Clerk-Administrator and reviewed and recommended by the City Engineer, the Council may in its discretion, grant special permission whereby on-street parking or the use of City-owned parking lots or public sidewalks may be temporarily or permanently prohibited or restricted for private reasons and purposes (including, but not limited to, establishment of private or “leased” parking, “loading zones”, or display of merchandise on sidewalks) at such places, on such terms and for such compensation as the Council may deem just and equitable. In establishing the amount of such compensation to be paid to the City, the Council shall consider the amount of space, location thereof, loss of parking meter revenues, if any, public inconvenience, and hazards to persons or property. Upon complaint of any aggrieved person at any time and by reason of any specific special permission so granted, the Council shall at its next regular meeting after receipt of such complaint, call a hearing thereon to be held after ten (10) days notice in writing to applicant and complainant and published notice at least ten (10) days prior to such hearing. After such hearing the Council shall by resolution decide whether to terminate, continue or re-define the terms of such permission and such decision shall be final and binding on all persons directly or indirectly interested therein, except that the Council may, on its own motion, reconsider the same.

Subd. 2. Public Vehicles. Free and reserved on-street parking shall be limited to City-owned and operated vehicles, unless otherwise permitted by the City Code.

Subd. 3. Forbidden Practices. It is unlawful for any person to park or otherwise infringe upon a grant of right under this Subsection, when clearly and distinctly marked or sign-posted. It is unlawful for any person not granted such right to assert the same, or for any grantee of such right to exceed the same under claim thereto.

810.04. Curb and Gutter, Street and Sidewalk Painting or Coloring. It is unlawful for any person to paint, letter or color any street, sidewalk or curb and gutter for advertising purposes, or to paint or color any street, sidewalk or curb and gutter for any purpose, except as the same may be done by City employees acting within the course or scope of their employment. Provided, however, that this provision shall not apply to uniformly coloring concrete or other surfacing, or uniformly painted house numbers, as such coloring may be approved by the Clerk-Administrator.

Section 820 - Boulevard Regulation

820.01. Boulevard Planting. New trees, herbaceous plants or shrubs shall be planted at least five feet behind what is designated as the curb, plantings shall be reviewed by both the City Engineer and Public Works Director, and they shall be planted in a manner consistent with the terms of this Ordinance. Boulevard is defined as that part of the public right-of-way which exists between the edge of the street and the beginning of a private landowner's property line. Planting shall be permitted by permit only.

A. The owner of a lot fronting on or adjacent to any portion of a street shall maintain any trees, shrubs, hedges or other landscaping along said street or within the street right-of-way adjacent to his or her property in such nondangerous condition that the trees, shrubs, hedges or other landscaping will not interfere with the public convenience or safety in the use of the streets and sidewalks. Owners shall maintain such street trees so that there is a minimum nine-foot (9) vertical pedestrian clearance from the top of the sidewalk and a minimum sixteen-foot (16) vertical vehicular clearance from the top of the curb, to any part of a street tree. All plantings shall be reviewed to address future utility improvement conflict avoidance.

B. For purposes of this part, maintenance of trees, shrubs, hedges and other landscaping includes but is not limited to deep root watering, root pruning, installing root barriers, clearance and structural trimming, fertilizing, pest control, and removal of branches, leaves and other debris. In the case of removal due to utility/street construction impacts, the City Engineer shall dictate and transmit a final removal plan to the City Council.

C. Property owners required by this section to maintain trees, shrubs, hedges and other landscaping shall owe a duty to members of the public using public streets and sidewalks to maintain such trees, shrubs, hedges or other landscaping in compliance with provisions under this title and city-adopted pruning guidelines, in a safe and nondangerous condition for users of the public streets and sidewalks.

D. If any fronting or adjacent property owner fails to maintain any adjacent trees, shrubs, hedges or other landscaping in a nondangerous condition as required by this section, and any person suffers damage or injury to person or property, the fronting or adjacent property owner shall be liable for all damages or injuries caused by the failure of the owner to maintain these areas.

820.02. Permits.

Subd. 1. No person shall plant or remove trees, herbaceous plants or shrubs in a public boulevard without first obtaining a permit from the City to do so.

Subd. 2. The following provisions apply to the issuance of permits for planting trees or herbaceous plants or shrubs on a public boulevard.

A. The Application: An application for a permit shall state the number of trees, herbaceous plants or shrubs to be planted or removed, the location, size and specific species of each

tree, herbaceous plant or shrub. The application shall be filed with the City Clerk/Administrator with the correct permit fee as set by resolution of the City Council.

B. Standards for Issuance: Permits shall be issued after the application has been determined to be in compliance with the City Land Use and Subdivision Chapters of the Blue Earth City Code as determined by the City Clerk/Administrator.

C. Replacement: As a condition to granting a tree removal permit, the City may require the applicant to relocate or replace trees in a manner consistent with the City's Land Use and Subdivision Chapters of the City Code.

D. Permit Denial: If a tree planting or permit is denied, the reasons for denial shall be set forth in writing given to the applicant. The permit fee collected at the time of application shall be refunded to the applicant.

E. Denial Appeal: Any applicant adversely affected by the decision may appeal to the City Council.

820.03. Areas Not Applicable.

Subd. 1. The removal of trees on public easements/rights-of-way, conducted by or on behalf of Federal, State, County, or Municipal or other Governmental agency in pursuance of its lawful activities or functions in construction or improvements;

Subd. 2. The removal of any tree by a public utility when such tree has the reasonable potential of endangering the facilities operation by the utility.

820.04. Prohibitive Obstructions.

Subd. 1. Obstructing View. No tree or herbaceous plant or shrub shall be planted or allowed to grow so as to obstruct the view of any vehicular traffic on streets or pathways or pedestrians on pathways.

Subd. 2. Utilities. No tree may be planted under or within 10 lateral feet of any overhead utility wire or over or within 10 lateral feet of any underground water line, sewer line, phone cable, electrical wire, or television cable.

820.05. Trimming of Trees. Private property trees must be trimmed so as not to cause a hazard to persons or property on abutting property. All trees shall be pruned to sufficient height to allow free passage to pedestrians and vehicular traffic 9 feet over sidewalks and 16 feet over streets.

820.06. Tree Ordinance Fees. Fees for all permits and other applicable required city services under this Ordinance shall be as set forth in the City Fee Schedule as periodically set by the City Council.

820.07. Emergencies. In the case of emergencies involving but not limited to tornados, wind storms, floods, freezes or other natural disasters, the requirements of this Chapter may be waived by the Mayor, or in the absence of the Mayor, the acting Mayor.

Section 830 - Violations

830.01. Violations. Every person violates a Section, Subsection, subdivision, subpart or provision of this Chapter when he or she performs an act thereby prohibited or declared unlawful, or fails to act when such failure is thereby prohibited or declared unlawful, and upon conviction thereof, shall be punished as specified in subsections 820.02 and 820.03.

830.02. Misdemeanors. Where the specific subsection, subdivision, paragraph or provision specifically makes violation a misdemeanor, he or she shall be punished as for a misdemeanor; where a violation is committed in a manner or under circumstances so as to endanger or be likely to endanger any person or property, he or she shall be punished as for a misdemeanor; where he or she stands convicted of violation of any provision of this Chapter, exclusive of violations relating to the standing or parking of an unattended vehicle, within the immediate preceding twelve (12) month period for the third or subsequent time, he or she shall be punished as for a misdemeanor.

830.03. Petty Misdemeanors. As to any violation not constituting a misdemeanor under the provisions of Subsection 820.02 hereof, he or she shall be punished as for a petty misdemeanor.