

## **TITLE IX: GENERAL REGULATIONS**

Chapter

**90. STREETS AND SIDEWALKS**

**91. ANIMALS**

**92. RENTAL HOUSING**

**93. FIRE PREVENTION AND PROTECTION**

**94. PARKS AND RECREATION**

**95. HEALTH AND SAFETY; NUISANCES**

## **CHAPTER 90: STREETS AND SIDEWALKS**

### Section

- 90.01 Scope
- 90.02 Application
- 90.03 Traffic and parking control
- 90.04 Ice and snow on public sidewalks
- 90.05 Grass, weeds, and trees in streets
- 90.06 Construction and reconstruction of roadway surfacing, sidewalk, and curb and gutter
- 90.07 Street, avenue, alley, and other dedicated public ways excavations
- 90.08 Vacation of streets; procedure
- 90.09 Fires, signs, obstructions, and refuse in streets
- 90.10 Load limits
- 90.11 Private use of public streets and parking lots
- 90.12 Curb setback
- 90.13 Parades
- 90.14 Sidewalk painting or coloring
- 90.15 Street, sidewalk, and storm sewer improvement special assessment policy

### **§ 90.01 SCOPE.**

The provisions of Chapters 70, 71, and 90 relate exclusively to the streets, alleys, and private roads in the city, and the operation and parking of vehicles upon the streets, alleys, and private roads. (Prior Code, § 6.02)

### **§ 90.02 APPLICATION.**

(A) The provisions of Chapters 70, 71, and 90 applicable to the drivers of vehicles upon the streets shall apply to the drivers of all vehicles including, but not limited to, those owned or operated by the United States, this state, or any county, city, town, district, or any other political subdivision of the state, subject to the specific exemptions as set forth in Chapters 70, 71, and 90 with reference to authorized emergency vehicles.

(B) Every person riding a bicycle or an animal or driving any animal drawing a vehicle upon a roadway shall be subject to the provisions of Chapters 70, 71, and 90 applicable to the driver of a vehicle, except those provisions which by their nature can have no application. Provisions specifically referring to bicycles shall be in addition to other provisions of these chapters applying to vehicles. (Prior Code, § 6.03)

### **§ 90.03 TRAFFIC AND PARKING CONTROL.**

(A) *Authority.* No permanent device, sign, or signal shall be erected or maintained for traffic or parking control unless approved by City Council resolution. The Council may reverse or amend or otherwise change any action taken by the City Engineer and Chief of Police under this section.

(B) *Temporarily restricting or directing traffic and parking; curb painting.*

(1) When clearly marked or sign-posted, traffic and parking may be temporarily restricted for any public or private purpose. All the restrictions shall be in accordance with a uniform policy promulgated by the Chief of Police but who shall be ultimately responsible to the Council for proper enforcement thereof.

(2) Restricted or prohibited used of parking and traffic lanes may be designated by painting the same upon streets and curbs. The work shall be done under the direction of the Chief of Police and in compliance with the provisions of Chapters 70, 71, and 90.

(3) It is unlawful to use traffic or parking lanes contrary to signposting or marking authorized and described in this section.

(4) The Chief of Police's authority to temporarily restrict or direct traffic or parking shall not exceed a period of 90 days.

(Prior Code, § 6.04) Penalty, see § 10.99

### **§ 90.04 ICE AND SNOW ON PUBLIC SIDEWALKS.**

(A) *Ice and snow a nuisance.* All snow and ice remaining upon public sidewalks is hereby declared to constitute a public nuisance and shall be abated by the owner or tenant of the abutting private property within 48 hours after the snow or ice has ceased to be deposited.

(B) *City to remove snow and ice.* The city may cause to be removed from all public sidewalks beginning 48 hours after snow or ice has ceased to fall, all snow and ice which may be discovered thereon, and it shall keep a record of the cost of the removal and the private property adjacent to which the accumulations were found and removed.

(C) *Cost of removal to be assessed.* The City Clerk shall, upon direction of the Council, and on receipt of the information provided for in division (B) above, extend the cost of the removal of snow or ice as a special assessment against the lots or parcels of ground abutting on walks which were cleared, and the special assessments shall at the time of certifying taxes to the County Auditor be certified for collection as other special assessments are certified and collected.

(D) *Civil suit for cost of removal.* The City Clerk shall, in the alternative, upon direction of the Council, bring suit in a court of competent jurisdiction to recover from the persons owning land adjacent to which sidewalks were cleared, as provided in division (B) above, the cost of the clearing and the cost and disbursements of a civil action therefore.

(E) *Placing snow or ice in public street or on other city property.* It is unlawful for any person, not acting under a specific contract with the city, to remove snow from private property and place the same on a public street (which includes sidewalks) in the quantity, or in the manner, as to cause a hazard to travel, without adequate arrangements for the immediate removal thereof; and it is also unlawful for any person not acting under a contract with the city to dump snow on other city property. (Prior Code, § 6.05) Penalty, see § 10.99

## **§ 90.05 GRASS, WEEDS, AND TREES IN STREETS.**

(A) *City to control trees and grass plats.* The city shall have control and supervision over all shrubs and trees upon, or overhanging all streets or other public property, and all street right-of-way or other public property.

(B) *Duty of property owners to cut grass and weeds and maintain trees and shrubs.* Every owner of property abutting on any street shall cause the grass and weeds to be cut from the line of the property nearest to the street in the center of the street. If the grass or weeds in such a place attain a height in excess of 12 inches it shall be prima facie evidence of a failure to comply with this division (D). Every owner of property abutting on any street shall, subject to the provisions herein requiring a permit therefore, trim, cut, and otherwise maintain all trees and shrubs from the line of the property nearest to the street to the center of the street.

(C) *City may order work done.* The city shall, in cases of failure to comply with division (D) above, perform the work with employees of the city, keeping an accurate account of the cost thereof for each lot, piece, or parcel of land abutting upon the street.

(D) *Assessment.* If the maintenance work is performed by the city as set forth in division (E) above, the City Clerk shall forthwith upon completion thereof ascertain the cost attributable to each lot, piece or parcel of abutting land. The City Clerk shall, at the next regular meeting thereof, present the certificate to the Council and obtain its approval thereof. When the certificate has been approved it shall be extended as to the cost therein stated as a special assessment against the abutting land and the special assessment shall, at the time of certifying the taxes to the County Auditor, be certified and collection, or in the alternative, the city may institute civil suit to collect the cost of the service. (Prior Code, § 6.06) Penalty, see § 10.99

**§ 90.06 CONSTRUCTION AND RECONSTRUCTION OF ROADWAY SURFACING, SIDEWALK, AND CURB AND GUTTER.**

*(A) Methods of procedure.*

(1) Abutting or affected property owners may contract for construct or reconstruct roadway surfacing, sidewalk, or curb and gutter in accordance with this section if advance payment is made therefore or arrangements for payment considered adequate by the city are completed in advance.

(2) With or without petition by the methods set forth in the Local Improvement Code of Minnesota Statutes, presently beginning with M.S. § 429.011, as it may be amended from time to time.

*(B) Permit required.* It is unlawful to construct a sidewalk, curb and gutter, or roadway surfacing in any street or other public property in the city without a permit in writing from the Public Works Department. Application for the permit be made in 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 the 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 the work.

*(C) Specifications and standards.* All construction and reconstruction of roadway surfacing, sidewalk, and curb and gutter improvements shall be strictly in accordance with specifications and standards on file in the Engineering Department and open to inspection and copying there. The specifications and standards may be amended from time to time by the city, but shall be uniformly enforced.

*(D) Inspection.* The Public Works Department shall inspect the improvements as deemed necessary or advisable. 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 Public Works Department 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 the work. (Prior Code, § 6.07) Penalty, see § 10.99

## **§ 90.07 STREET, AVENUE, ALLEY, AND OTHER DEDICATED PUBLIC WAYS EXCAVATIONS.**

(A) *Utility excavation permit.* It is unlawful for any person to dig up, break, excavate, tunnel, drill, bore, undermine, or in any manner break up any public right of way or to make or cause to be made any excavation in or under the surface of any public right-of-way, or to place, deposit, or leave upon any public right-of-way any earth or excavated material obstructing or tending to interfere with the free use of the public right-of-way unless the person shall first have obtained a utility excavation permit from the Public Works Department.

(B) *Application.* No excavation permit shall be issued unless a written application shall state the name and address of the applicant, the nature, location, and purpose of the excavation, the date of commencement and date of completion of excavation, and other data as may be reasonably required by the Public Works Department. If required by the Public Works Department, the application shall be accompanied by plans showing the extent of the proposed excavation work, the dimensions and elevations of both the existing ground prior to the excavation, and of the proposed excavated surfaces, the location of the excavation work, and the other information as may be prescribed by the Public Works Department. The permit application shall also contain written acknowledgment of notice of proposed excavation by each utility company which may, in the judgment of the Public Works Department, be affected in any way by the excavation.

(C) *Excavation placard.* The Public Works Department shall provide each permittee, at the time the permit is issued with a suitable placard which shall state the permittee's name, the permit number, and the date of expiration. It shall be the duty of any permittee hereunder to keep the placard posted in a conspicuous place at the site of the excavation work. It is unlawful for any person to exhibit the placard at or about any excavation not covered by the permit or to misrepresent the permit number or the date of expiration.

(D) *Non-completion or abandonment.* Work shall progress in an expeditious manner until completion in order to avoid unnecessary inconvenience to the general public. In the event that the work shall not be performed in accordance with the regulations of the Public Works Department's directions or in accordance with the provisions of this section, or shall cease or be abandoned without due cause, the city may, after 6-hours' notice in writing to the holder of the permit of intent to do so, correct the work or fill the excavation, and repair the public right-of-way, and in any such event, the entire cost to the city of the work shall be a liability of and shall be paid by the person to whom the permit was issued.

(E) *Insurance.* A permittee, prior to the commencement of excavation work hereunder, shall furnish to the city's satisfactory evidence in writing that the permittee has in force and will maintain in force during the performance of the excavation work and the duration of the permit of the excavation permit public liability insurance of not less than \$100,000 for any 1 person and \$300,000 for any 1 accident and property damage insurance or not less than \$50,000 duly issued by an insurance company authorized to do business in the State of Minnesota and on which policy the city is named as co-

insured.

(F) *Indemnification.* The permittee shall indemnify, keep, and hold the city free and harmless from liability on account of injury or damage to persons or property arising or growing out of the permittee's negligence in making any street excavation in the event that suit shall be brought against the city, either independently or jointly with the permittee on account thereof, the permittee, upon notice to him or her by the city, shall defend the city in any suit at the cost of the permittee, and in the event of a final judgment being obtained against the city either independently or jointly with the permittee, the permittee shall pay the judgment with all costs and hold the city harmless therefrom. (Prior Code, § 6.08) Penalty, see § 10.99

## **§ 90.08 VACATION OF STREETS; PROCEDURE.**

(A) No public grounds or streets (as defined in Chapter 155) shall be vacated except upon the Council's own motion or upon the petition directed to the Council of a majority of the owners of property on the line of the public grounds or streets, and completion of the procedure hereinafter specified. The petition shall set forth the reasons for the desired vacation, accompanied by a plat of the public grounds or streets proposed to be vacated, and the petition shall be verified by the oath of a majority of the petitioners.

(B) If, in the discretion of the Council, it is expedient that the matter be proceeded with, it may order the petition filed for record with the City Clerk, order a hearing on the petition and fix the time and place of the hearing.

(C) The City Clerk shall give notice of the hearing by publication once at least 10 days in advance of the hearing, and by mail to the last known address of all of the owners of property on the line of the public grounds or streets proposed to be vacated at least ten days in advance of the hearing, the last known addresses to be obtained from the office of the County Auditor. The notice shall in brief state and object of the hearing, the time, place and purpose thereof, and the fact that the Council, Board, Commission, or person designated by them shall hear the testimony and examine the evidence of the parties interested.

(D) The Council, after hearing the same, or upon the report of the Board, Commission, or person designated to hold the hearing, may by resolution passed by majority vote of all members, declare the public grounds or streets vacated, or deny the petition. The resolution, if granting the position, shall be certified by the City Clerk and shall be filed for record and duly recorded in the office of the Register of Deeds for the county in which the property is located. (Prior Code, § 6.09)

## **§ 90.09 FIRES, SIGNS, OBSTRUCTIONS, AND REFUSE IN STREETS.**

(A) *Obstructions.* It is unlawful for any person to place or deposit any fence or other obstruction upon any street without first having obtained a written permit to do so from the City Administrator, and then only in compliance in all respects with the terms and conditions of the permit, and taking precautionary measures for the protection of the public.

(B) *Fires.* It is unlawful for any person to build or maintain a fire upon a roadway.

(C) *Dumping in streets.*

(1) For purposes of this section, the term ***REFUSE*** means and includes putrescible animal and vegetable waste resulting from handling, preparation, cooking and consumption of food; putrescible and non-putrescible solid wastes (except body wastes), ashes, street cleanings, dead animals, industrial wastes; combustible and non-combustible wastes such as paper, wrappings, cigarettes, cardboard, tin cans, yard clippings, leaves, wood, glass, bedding, crockery, dirt, metal scraps; and liquids such as water containing salt, injurious chemicals, or petroleum products.

(2) It is unlawful for any person to throw or deposit any refuse in a public street.  
(Prior Code, § 6.10) Penalty, see § 10.99

## **§ 90.10 LOAD LIMITS.**

The Public Works Department may from time to time impose upon vehicular traffic on any part or all of the streets such load limits as may be necessary or desirable. The limits, and the specific extent or weight to which loads are limited, shall be clearly and legibly sign-posted thereon. It is unlawful for any person to operate a vehicle on any street in violation of the limitation so posted. (Prior Code, § 6.15) Penalty, see § 10.99



## **§ 90.11 PRIVATE USE OF PUBLIC STREETS AND PARKING LOTS.**

(A) The Council may, in its discretion, grant special permission whereby on-street parking or the use of city-owned parking lots or ramps on 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, sidewalk cafes or display of merchandise on sidewalks) at the places, on the terms and for the compensation as the Council may deem just and equitable. In establishing the amount of the compensation to be paid to the city, the Council shall consider the amount of space, location, thereof, 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 the complaint, call a hearing thereon to be held after 10-days' notice in writing to applicant and complainant and published notice at least 10 days prior to the hearing. After the hearing, the Council may by resolution decide whether to terminate, continue, or redefine the terms of the permission and the 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.

(B) Free and reserved on-street parking shall be limited to city-owned and operated vehicles.

(C) It is unlawful for any person to park or otherwise infringe upon a grant of right under this section, when clearly and distinctly marked or sign-posted. It is unlawful for any person not granted the right to assert the same, or for any grantee of the right to exceed the same under claim thereto. (Prior Code, § 6.16) Penalty, see § 10.99

## **§ 90.12 CURB SETBACK.**

(A) *Permit required.* It is unlawful 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 written application to the Council and obtaining a permit therefore.

(B) *Agreement required.* No 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 the setback area in at least as good condition as the abutting roadway, and further agreement to demolish and remove the setback and reconstruct the areas 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. The agreement shall be recorded in the office of the Register of Deeds, and shall run with the adjoining land.

(C) *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 the setback areas now in use or hereafter constructed. It is unlawful for any person to park other than at an angle in the setback areas, as the angle parking is herein described and allowed.

(D) *Public rights reserved.* The setback 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 the areas. (Prior Code, § 6.17) Penalty, see § 10.99

### **§ 90.13 PARADES.**

(A) *Definition.* For the purpose of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning.

**PARADE.** Any movement of vehicles, persons, or animals, or any combination thereof, which either moves together and as a body so as to in some way impede or affect the free and unobstructed flow of traffic, or which moves so that some part thereof is in violation of one or more traffic laws or regulations, is such movement is without a permit hereunder.

(B) *Permit required.* It is unlawful to sponsor or participate in a parade for which no permit has been obtained from the city, and it is also unlawful to obtain a parade permit and not conduct the same in accordance with a permit granted by the city. Application for the permit shall be made to the City Clerk at least 14 days in advance of the date on which it is to occur and shall state the sponsoring organization or individuals, the route, the length, the estimated time of commencement and termination, the general composition, and the application shall be executed by the individuals applying therefore or the duly authorized agent or representative of the sponsoring organization.

(C) *Procedure and granting.* The City Clerk shall forthwith refer all applications for parades to the Chief of Police for his or her consideration which shall take no longer than 7 days. If any state trunk highways are in the route the Chief of Police shall make all necessary arrangements with the Minnesota Highway Department for alternate routes or whatever may be necessary. If the Chief of Police finds that such a parade will not cause a hazard to persons or property, and will cause no great inconvenience to the public, and if he or she is able to make arrangements for necessary direction and control of traffic, he or she shall endorse his or her acceptance and return the application to the City Clerk who shall then issue the permit. If the Chief of Police finds the parade described in the application to be a hazard, a substantial inconvenience, or if he or she is unable to make adequate arrangements for direction or control of traffic, he or she shall return the same to the City Clerk with his or her reasons for denial, and the permit shall not be granted unless all conditions and objections of the Chief of Police are met or removed by the applicant. (Prior Code, § 6.18) Penalty, see § 10.99

### **§ 90.14 SIDEWALK PAINTING OR COLORING.**

It is unlawful for any person to paint, letter, or color any sidewalk for advertising purposes or to paint any letters, words, figures, or characters up on any sidewalk for any purpose. (Prior Code, § 6.19) Penalty, see § 10.99

**§ 90.15 STREET, SIDEWALK, AND STORM SEWER IMPROVEMENT SPECIAL ASSESSMENT POLICY.**

(A) *Generally.* Street, sidewalk, and storm sewer improvements shall be assessed as 1 combined project cost based on estimated benefit of the improvements to the property assessed. Benefit shall be defined as the increase in property value attributable to the public improvements.

(B) *Determination of benefit.* The estimated benefit of the public improvements shall be determined by the Public Works Director, subject to approval by the City Council, and based on an opinion of special benefit for atypical property prepared by a certified general real estate appraiser.

(C) *Street, sidewalk, and storm sewer improvements.* All street, sidewalk, and storm sewer improvements shall be classified into 2 categories; New Construction and Reconstruction or Rehabilitation, which shall be defined as follows:

(1) *New construction.* All public improvement construction where there is no existing platted right of way and improved, city maintained roadway prior to the commencement of construction; and

(2) *Reconstruction or rehabilitation.* All public improvements other than new construction.

(D) *New construction street, storm sewer, and sidewalk improvements.*

(1) A presumption will be made for new construction street, storm sewer, and sidewalk improvements that the project cost of the ordered improvements divided among the improved properties will be less than or equal to the special benefit of the improvements to the properties being assessed. However, the Public Works Director may order an opinion of special benefit if the Public Works Director questions whether the project cost may exceed special benefit, or if the property owner(s) to be assessed request(s) an opinion of special benefit and the City Council orders the opinion of special benefit to be prepared. Requests for an opinion of special benefit to be prepared should be made on or before the improvement hearing date.

(2) A per lot assessment basis shall be used for street, storm sewer, and sidewalk assessments for new construction improvements, except where inconsistencies in lot size, frontage, and/or development densities exist, in which case assessments based on abutting frontage may be used. In general, there should be no city participation for street, storm sewer, and sidewalk assessments for new construction improvements.

(E) *Reconstruction or rehabilitation.* All street, storm sewer, and sidewalk reconstruction improvements shall be classified into 2 categories; collector and municipal state aid streets, and non-collector and non-municipal state aid streets, which shall be defined as follows:

(1) *Collector and municipal state aid streets.* Collector streets are those streets which have an average daily traffic count of 2,000 or more vehicles per day. Municipal state aid streets are those

streets within the city on the Minnesota Department of Transportation Municipal State Aid System; and

(2) *Non-collector and non-municipal state aid streets.* All streets other than collector or municipal state aid streets.

(F) *Collector and municipal state aid streets.* All street storm sewer and sidewalk reconstruction improvements on collector or municipal state aid streets shall be constructed to Minnesota Department of Transportation State Aid standards. For reconstruction or rehabilitation of collector streets or state aid streets, a presumption will be made that 25% of the estimated project cost of the ordered street, storm sewer, and sidewalk improvements divided among the improved properties will be less than or equal to the special benefit of the improvements to the properties being assessed. The estimated project cost will be prepared by the Public Works Director and based on the low bids received for the improvement construction. However, the Public Works Director may order an opinion of special benefit if the Public Works Director questions whether 25% of the estimated project cost of the ordered street, storm sewer, and sidewalk improvements may exceed special benefit, or if the property owner(s) to be assessed request(s) an opinion of special benefit and the City Council orders the opinion of special benefit to be performed. The division of 25% of the estimated project costs shall be based on abutting frontage except as follows.

(1) *Corner lot assessments.*

(a) For corner lots with improvements along more than 1 side of abutting frontage, the assessed frontage shall be considered the entire length of the short side and 25% of the long side of the lot. The city shall pay the remaining 75% of the assessment on the long side of the corner lot.

(b) For corner lots with improvements along the abutting frontage of the long side, the assessment shall be 25% of the abutting frontage with the city paying the assessment on the remaining 75% of the abutting frontage.

(c) For corner lots with improvements along the abutting frontage of the short side, the assessment shall be 100% of the abutting frontage.

(d) For corner lots with 2 or more sides of equal length the short side frontage shall be defined as the side on which the house fronts or will front.

(2) *Irregular shaped lots.* For lots whose shapes are irregular, as in the case of curvilinear streets or cul-de-sacs, a per lot assessment basis may be used in lieu of the formulas in this section. The funds for the city's participation as described above for municipal state aid streets shall come from state aid funds, if available. Funding for the city's participation for collector streets shall come from the assumption of that portion of the improvement bond.

(G) *Non-collector and non-municipal state aid streets.* All street, storm sewer, and sidewalk reconstruction or rehabilitation improvements of non-collector streets or non-municipal state aid streets shall be assessed on a front foot basis at a rate determined by the Public Works Director. The front foot assessment rate shall be based on 90% of the estimated special benefit to the assessed properties accruing from the constructed improvements. Properties benefitting from the street, storm sewer, and

sidewalk improvements shall be assessed based on abutting frontage except as follows.

(H) *Sidewalk improvements.* All sidewalks shall be constructed a minimum of 5 feet in width. In general, where sidewalks are to be constructed in new developments, the sidewalks should be constructed one foot off the property line. Where sidewalks are to be constructed within existing developments, the walks should be constructed at least 15 feet from existing homes. However, except in commercial or industrial areas, all sidewalks shall be constructed with a minimum 5-foot boulevard.

(I) *Sidewalk assessments.*

(1) Where sidewalk improvements are constructed as part of a street and/or utility improvement project, assessments for sidewalks shall be included with street and/or utility assessments as 1 combined project cost. Assessment credit shall be given for properties whose existing sidewalk is in good condition and does not need to be replaced as determined by the Public Works Director. The sidewalk assessment credit shall be determined by the Public Works Director and based on the project sidewalk construction costs.

(2) Assessments for sidewalks constructed as a stand alone project shall be assessed on a front foot basis at a rate determined by the Public Works Director. The front foot assessment rate shall be based on 90% of the estimated special benefit to the assessed properties accruing from the constructed sidewalk. Corner lots and irregular shaped lots shall be assessed as described previously in division (G) above.

(J) *Trunk storm sewer improvements.* The assessment policy for trunk storm sewers shall be based on benefitted area. All lots contributing storm water runoff to the trunk storm sewer shall be assessed in the same proportion each lot has to the total area contributing storm water runoff to the trunk storm sewer.

(K) *Lateral storm sewer improvements.* Where lateral storm sewer improvements are constructed as part of a street and/or utility improvement project, assessments for storm sewer shall be included with street and/or utility assessments as 1 combined project cost. Assessments for storm sewer constructed as a stand alone project shall be assessed on a front foot basis at a rate determined by the Public Works Director. The front foot assessment rate shall be based on 90% of the estimated special benefit to the assessed properties accruing from the constructed storm sewer. Corner lots and irregular shaped lots shall be assessed as described previously in division (G) above.

(L) *Unusual conditions.* This assessment policy is intended to set guidelines for assessing improvements and yet to be general and flexible enough so that the most logical method may be chosen to fit individual circumstances. To meet extreme or unusual conditions, the city reserves the right to levy an assessment for an improvement in a manner not outlined in this policy without affecting or negating any portion of this policy for use in normal conditions. (Prior Code, § 6.20)

***Cross-reference:***

*Assessment policy for sanitary sewer, water main and utility service improvements, see § 51.06*

## § 90.16 SIDEWALK CAFES.

(A) *Definition.* For the purpose of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning.

**SIDEWALK CAFÉ.** A grouping of tables, chairs and related items located wholly or partially within a public sidewalk or right-of-way for the purposes of service and consumption of food and beverages by patrons, when located immediately adjacent to a food and beverage service establishment having a common operator.

(B) *Sidewalk cafés authorized.* Sidewalk cafés with or without service of alcohol may be located on public sidewalks subject to a license issued by the City Council pursuant to this section.

(C) *Requirements.* Installation and operation of all sidewalk cafés are subject to the following requirements and sidewalk cafés serving intoxicating liquor, beer or wine are subject to the applicable requirements of Chapter 111.

(1) Sidewalk cafés may only be installed and operated from April 1<sup>st</sup> to November 1<sup>st</sup> and during the hours of operation of the food service establishment provided that no sidewalk café may be operated between the hours of 11:00 p.m. and 11:00 a.m. No tables, chairs, furnishings, planters, fences or other obstructions shall be placed on public sidewalks between November 1<sup>st</sup> and April 1<sup>st</sup>. The City Council may further restrict the hours of operation of a sidewalk café based upon the proximity to residential dwelling units, and upon considerations relating to the safety, repose and welfare of residents, businesses and other uses near the establishment. Furniture and fixtures may be stored overnight within the sidewalk café area provided the licensee shall ensure all items are stored and secured in a neat and orderly manner.

(2) All sidewalk cafés must abut and be operated as part of the food service establishment operated by the applicant and shall have delineated limits separating the sidewalk café from the travelled portion of the sidewalk. Sidewalk cafés serving intoxicating liquor, beer or wine must have a visually appealing and continuous barrier made of fencing or planters surrounding the entire sidewalk café area which must be compact and contiguous with the enclosed portion of the licensed premises. No licensee shall expand a sidewalk café without first obtaining an amended sidewalk café license covering the additional space.

(3) Only food or beverages for immediate consumption may be offered for sale and no alcoholic beverages may be dispensed from within the sidewalk café. The licensee shall provide food service in all sidewalk café areas during all hours of operation. Food service may consist of less than a full menu, but shall at all times offer a substantial choice of main courses, other food items, and non-alcoholic beverages. Glassware may be used in the service of food and beverages but only to the extent such use does not create a safety hazard for patrons or the public in adjacent areas and the licensee is responsible to immediately remove any broken glass from the premises.

(4) No licensee shall allow entertainment within a sidewalk café, including non-live entertainment such as radio, taped music and television unless the same is expressly approved in writing by the City Council and in no event shall noise be generated that would unreasonably annoy or interfere with neighboring property owners or occupants or the public.

(5) No sidewalk café may: (i) unduly restrict the safe usage of any roadway or the sidewalk by the public after taking into consideration the locations of obstructions, vehicular traffic and other impediments to the passage of vehicles and pedestrians; (ii) be located within ten (10) feet of any traffic signal, crosswalk or

pedestrian curb cut; or (iii) adjoin any premises other than the applicant's food service establishment. All signs, including sandwich boards, must comply with Chapter 155 and no signs may be placed in a manner that would obstruct a pedestrian sidewalk the licensee is otherwise required to keep clear and unobstructed.

(6) Fencing and planters shall be visually appealing and constructed of high-quality, durable materials maintained in good condition and shall not be permanently attached to the sidewalk or right-of-way. Fences and planters shall not exceed three (3) feet in height provided live plants may extend to a height of not more than six (6) feet, all as measured from the surface of the sidewalk or right-of-way. Planters must include live plants and must be well maintained at all times.

(7) Sidewalk cafés shall be handicap accessible and shall be installed in a manner complying with all ADA requirements and shall provide for a minimum of four (4) feet of clear, unobstructed pedestrian walkway between all obstructions and the edge of the sidewalk café. No employee or server may obstruct pedestrian walkways at any time.

(8) Operation of a sidewalk café must comply with all provisions of the Minnesota Clean Indoor Air Act.

(9) No sidewalk café shall be installed or operated, and no license shall be issued, for any location where the same is prohibited by state or local law and the ownership, operation and maintenance of all sidewalk cafés shall be subject to all applicable laws, ordinances and regulations.

(10) The licensee shall maintain the sidewalk café in a clean and sanitary condition and shall be responsible to remove all trash and litter generated by the operation of the sidewalk café within a reasonable distance from the area. The licensee shall be responsible for all costs of repairing any damage to the sidewalk or other public property caused by the use of the sidewalk or public property as a sidewalk café. If the City Council approves any improvements to the sidewalk or right-of-way necessary for the licensee to operate a sidewalk café, the costs of such improvements plus any administrative costs shall be paid for in advance by the licensee.

(11) All sidewalk café licensees must at all times maintain commercial liability insurance covering the licensed premises and the sidewalk café area with minimum policy limits for bodily injury or death of not less than \$1,000,000 per occurrence and \$1,000,000 annual aggregate and for property damage of not less than \$50,000. Proof of the required liability insurance shall be in the form of a certificate of insurance or some other form acceptable to the City Attorney and City Clerk. All liability insurance policies required herein shall name the city as any additional insured and shall provide that there shall be no cancellation of the policy for any cause, by the insured or by the insurance company, without first giving 10-days' written notice to the city, addressed to the City Clerk. Operation of a sidewalk café or liquor sales by a licensee without required liability insurance coverage shall be grounds for immediate suspension or revocation of the license. In addition, the licensee shall indemnify and hold harmless the city, the city's public officials, employees and agents from any loss, costs, damages and expenses arising out of the use, design, operation or maintenance of the sidewalk café. These insurance and indemnification requirements shall be memorialized in a license agreement signed by the licensee prior to the initial issuance of the sidewalk café license and upon any renewal thereof, but failure of the city and the licensee to execute such a license agreement shall not alleviate the licensee of its insurance and indemnification obligations hereunder.

(12) The city shall retain the right to remove or cause to be removed any tables, chairs, furnishings, planters, fences or other obstructions from the sidewalk or public right-of-way as necessary to access public utilities and facilities, during community civic festivals, celebrations and other events, or if the city reasonably determines any such item or items create an unreasonable risk to public health or safety. The city shall endeavor to give reasonable advance notice to the licensee that items need to be removed or relocated.

(D) *License Applications.*

(1) An applicant for a sidewalk café license shall file an application on forms provided by the City Clerk which shall include, in addition to any other information required by the City, the following:

- (a) The business name, address, phone number and contact person.
- (b) A site plan of the proposed sidewalk café drawn to scale covering the entire area between the curb and building showing locations of the property lines, curbs, all streets in front of and adjacent to the property, all sidewalk dimensions measured from the building face to the back of the curb, all existing facilities and obstructions within the right-of-way, the proposed location of all sidewalk café fixtures, including but not limited to tables, chairs, umbrellas, planters, fences, barricades, lighting, and heaters, and the proposed limits of the sidewalk café.
- (c) Photographs and manufacturer specifications for all proposed sidewalk café furniture and fixtures.
- (d) Description and locations of any sound, television or video systems proposed for the sidewalk café.
- (e) Description of all food and beverages that will be served within the sidewalk café and the proposed hours of operation.
- (f) Description of all points of access between the building and the sidewalk café and exterior areas.
- (g) Description of ingress and egress arrangements including those necessary to provide handicap accessibility and control of persons entering and leaving the premises to prevent consumption of alcohol by minors and to ensure safety of moveable seating arrangements.
- (h) Description of all physical improvements to be constructed to accommodate the sidewalk café.
- (i) An insurance commitment or binder securing all insurance coverage required under this chapter and Chapter 111, if applicable, on the sidewalk café areas and meeting all requirements for naming the city as an additional insured.
- (j) Any other information known to the applicant that may reasonably impact the issuance of the license including but not limited to objections to the proposed sidewalk café raised by neighboring property owners or the public, obstructions or other factors that may interfere with pedestrian travel on the affected sidewalk area, or conditions that may impact public health or safety if the sidewalk café license is issued.

(2) Upon submission of a complete application the City Clerk shall place the application upon the agenda of the next available City Council meeting for which proper notice as required by this section can be given. A public hearing on the application shall be required for all initial sidewalk café applications, all subsequent applications proposing modifications to a sidewalk café site plan, and whenever the City determines a public hearing is necessary to determine whether the criteria for granting a sidewalk café license are satisfied. When applicable, the City Clerk shall cause notice of the public hearing to be given in the same manner as prescribed for special use permits.

(E) *Granting of license.* Following the required public hearing, if any, the City Council may grant or deny the license or refer the matter to any commission or committee for further study.



(F) *Criteria for issuance and renewal.* No sidewalk café license may be issued or renewed if the results of the investigation or other evidence given to the City Council through any means, shows to the satisfaction of the Council, that the issuance or renewal would not be in the public's interest. The Council shall make written findings, certifying the sidewalk café will comply with the following criteria.

(1) The design and operation satisfy the applicable requirements of this chapter and will be in harmony with the purpose and intent of Chapter 155 and all rules applicable in any Heritage Preservation District within which the sidewalk café is located.

(2) The design and operation will not unreasonably interfere with or annoy users of neighboring residential, commercial or public property.

(3) The design and operation will not unreasonably interfere with pedestrian or vehicular traffic or access to any public street, utility or other facilities.

(4) Where liquor, wine or beer will be served, the licensed premises is compact and contiguous with the premises licensed under Chapter 111 and the design and operation will safeguard against consumption of alcohol by minors.

(G) *Conditions of license.* Every license issued pursuant to this chapter shall be subject to the conditions of this section and all other sections of this chapter and any other applicable ordinance of the city, state law, or federal law, and shall include the following conditions.

(1) *Posting.* The license shall be posted in a conspicuous place in the licensed establishment at all times.

(2) *Additional conditions.* The Council may, upon a finding of necessity, place the conditions and restrictions upon the license as it, at its discretion, may deem reasonable and justified to protect the public interest.

(3) *Licenses limited to certain areas.* All fixtures shall be placed, and all operations conducted, within the space described on the license.

(4) *Inspection by peace officers or health officers.* All sidewalk cafés shall be subject to compliance inspections and no licensee or employee of a licensee shall hinder or prevent a peace officer, health officer, building official, fire official, or any other employee so designated by the City Council or City Administrator from entering upon and inspecting the licensed premises during business hours, without a search warrant.

(5) *Responsibility of licensee.* Every licensee, whether actually present on the licensed premises or not, shall be responsible for the conduct of the licensed premises and shall maintain conditions of sobriety and order on the licensed premises.

(6) *Payment of WAC and SAC.* Licensees shall pay all additional WAC and SAC imposed as a result of additional seating offered within a sidewalk café.

(H) *Transfer of license.* No license issued pursuant to this chapter shall be transferrable to another person or entity nor may any such license be transferred to a different location.

(I) *Expiration of license.* Every license issued under this chapter shall expire on November 1<sup>st</sup> of each year, regardless of when the license was issued.

(J) *Suspension or revocation of license.* The City Council may suspend, revoke or deny renewal of any sidewalk café license upon the violation of any license condition or of any provision or condition of this chapter, any other city ordinance, or of any state or federal law. Before the Council shall suspend or revoke any license issued under this chapter, the licensee shall be given at least 10-days' notice stating the time and place of the hearing and the charges against the licensee.  
(Ord. 2015-07, 3<sup>rd</sup> Series, passed 6-1-15)