

CHAPTER 320

STREETS, SIDEWALKS, AND OTHER PUBLIC PLACES

Section

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Section 320.01 Private use of Public Streets and Other Public Property.

Subd. 1. Definitions. The definitions included in Minnesota Statute Section 237.162, Minnesota Rules 7810.0100, subps. 1 through 23, and Minnesota Rules 7560.0100 subps. 1 through 12, as they shall be amended from time to time, are hereby adopted by reference and are incorporated into this chapter as if set out in full.

“Person” means any person, firm, corporation, or any other entity.
“City” means the City of Waconia.

Subd. 2. Permit Required. No Person shall occupy or otherwise use any of the public right-of-way or public grounds in the City for any purpose, nor install or maintain any sign, gas main, utility main, wireless facility, or any equipment in any of said public right-of-way or public grounds, without first having obtained a permit pursuant to the provisions herein.

Subd. 3. Application for Permit. Any Person desiring to occupy or use said public right-of-way or public grounds for any purpose or to maintain any sign, gas main, utility main, wireless facility, or any equipment in any of said public right-of-way or public grounds, shall file a written application therefor stating all of the pertinent details with the City Clerk who shall present said application to the City Council for approval or disapproval. Said application shall be accompanied by a fee in the amount set forth in Section 1100 of this Code. If the amount of repair work exceeds the sum of \$500.00, a bond shall be posted with the City in an amount

established by the City Council after the application has been filed and before the permit is granted.

Subd. 4. Application Contents. Application for a permit shall contain, and will be considered complete only upon compliance with the requirements of the following provisions:

- (a) 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, and the following information:
 - (1) Each permittee's name, Gopher One-Call registration certificate number, address and email address, if applicable, and telephone and facsimile numbers.
 - (2) The name, address and email address, if applicable, and telephone and facsimile numbers of a local representative. Current information regarding how to contact the local representative in an emergency shall be provided at the time of application.
 - (3) A certificate of insurance or self-insurance:
 - i. Verifying that an insurance policy has been issued to the permittee by an insurance company licensed to do business in the state of Minnesota, or a form of self-insurance acceptable to the City.
 - ii. Verifying that the permittee is insured against claims for personal injury, including death, as well as claims for property damage arising out of the:
 - a) Use and occupancy of the public right-of-way or public grounds by the permittee, its officers, agents, employees, and permittees, and
 - b) Placement and use of facilities and equipment in the public right-of-way or public grounds by the permittee, 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;

- iii. 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;
- iv. Requiring that the City be notified 30 days in advance of cancelation of the policy or material modification of a coverage term;
- v. 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.

(4) A copy of the actual insurance policies.

(5) If the Person is a corporation, a copy of the certificate required to be filed under Minnesota Statute, Section 300.06, as recorded and certified to by the Secretary of State.

(6) A copy of the Person's order granting a certificate of authority from the Minnesota Public Utilities Commission or other applicable state or federal agency, where the Person is lawfully required to have such certificate from said commission or other state or federal agency.

(7) For small wireless facilities, applications must contain the information required in the Small Wireless Facility Design Guide, available from the City Clerk.

(8) A Person seeking a permit for a small wireless facility may file one application with the City for up to 15 small wireless facilities provided that all the small wireless facilities in the application:

- i. are located within a two-mile radius;
- ii. consist of substantially similar equipment; and
- iii. are to be placed on similar types of wireless support structures.

Subd. 5. Small Wireless Facilities. In addition to Subdivision 4, the erection or installation of a wireless support structure, or the collocation of a small wireless facility, shall be subject to the following conditions:

- (a) 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.
- (b) No new wireless support structure installed with the public right-of-way or on the public grounds shall exceed 50 feet in height without the City's written authorization, and further provided that an applicant 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.
- (c) No wireless facility may extend more than 10 feet above its wireless support structure.
- (d) 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.
- (e) 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.
- (f) The execution of a Small Wireless Facility Collocation Agreement between the applicant and the City that includes terms acceptable to the City.

Subd. 6. Small Wireless Facility Payment of Rent. For collocations of small wireless facilities attached to a wireless support structure owned by the City, the City can, either in its permit or in a collocation agreement, require annual rental payments and maintenance fees for the small wireless collocation as provided for in Minnesota Statute, Section 237.163, as it shall be amended from time to time. If a small cell facility does not purchase electricity directly from a utility, the City may charge a monthly fee for electricity used to operate a small wireless facility, as provided for in Minnesota Statute, Section 237.163, as it shall be amended from time to time.

Subd. 7. Permit Fee Not Required. Notwithstanding Subdivision 3, an additional permit fee is not required for routine maintenance of a small wireless facility; for replacement of a small wireless facility with a new small wireless facility that is substantially similar or smaller in size, weight, height, and wind or structural loading than the small wireless facility being replaced; or for installation, placement, maintenance, operation, or replacement of micro wireless facilities that are suspended on cables strung between existing utility poles in compliance

with national safety codes. Replacement of a small wireless facility, or the installation, placement, or replacement of micro wireless facilities requires an approved application, as set forth in Subdivision 4.

Subd. 8. Application Not Required. Maintenance of an existing installation in the public right-of-way or on the public grounds does not require a new permit application under this section. 48-hour notice written must be provided to the City Engineer, or the City Engineer's designee, if any maintenance activity will obstruct the public right-of-way or public grounds, unless an emergency condition exists, in which case notice must be provided to the City as soon as feasible. Maintenance involving any excavation of the public right-of-way or public grounds requires the Person to obtain a permit from the City under the provisions of Chapter 320, Section 320.03.

Subd. 9. Severability. The provisions of this Section shall be deemed to be severable. The invalidity or unenforceability of any provision shall not impact the validity or enforceability of any other provision of this Section.

320.02 Parades.

Subd. 1. Definition. The term "parade" shall mean 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 of the City of Waconia, if such movement is without a permit as provided hereunder. However, funeral processions shall not be within this definition.

Subd. 2. Permit Required. Any person or corporation desiring to sponsor or maintain a parade upon any street or other public property within the City of Waconia shall first make application to the City Clerk for a permit therefor. Such application shall be accompanied by a fee as set forth in Section 1100 of this Code, and shall be made at least fourteen (14) days in advance of the date on which such parade is to occur. Each such application shall state the sponsoring organization or individual, the route, the length, the estimated time of commencement and termination, and the general composition of such parade. Each such application shall be executed by the individuals applying therefor or the duly authorized agent or representative of the sponsoring organization.

It shall be unlawful for any person or corporation to sponsor or participate in a parade for which no permit has been obtained as provided herein. Further, it shall be unlawful for any person or corporation to obtain a parade permit and thereafter fail to conduct the parade authorized thereby in accordance with the terms of said permit.

Subd. 3. Procedure and Granting of Permit. It shall be the duty of the City Clerk to refer all applications for parade permits to the Chief Law Enforcement officer of the City of Waconia for his consideration. If any state trunk highways are within the route designated in such application, said Chief Law Enforcement Officer shall make all necessary arrangements with the Minnesota Department of Highways for alternate routes or shall take whatever action may be required. If the said Chief Law Enforcement Officer finds that such parade will not cause a hazard to persons or property and will cause no great inconvenience to the public, and if he is able to make arrangements for the necessary direction and control of traffic, he shall endorse his acceptance upon said application and return the application to the City Clerk within seven (7) days of his receipt thereof and the City Clerk shall then issue the permit pursuant to said application. If the said Chief Law Enforcement Officer finds that the parade described in such application is a potential hazard, a substantial inconvenience, or if he is unable to make adequate arrangements for direction or control of traffic, he shall return the same to the City Clerk with his reasons for denial, within said seven (7) day period, and the permit shall not be granted unless all conditions and objections noted by said Chief Law Enforcement Officer are met or removed by the applicant.

320.03 Regulation of Street Openings or Excavations.

Subd. 1. Permit Required. No person, firm or corporation, except a city employee acting within the course and the scope of his employment or a contractor acting within the course and scope of a contract with the City of Waconia, shall dig, make, or cause to be made any excavation of any kind for any purpose in, nor carry away any stone or earth from any street, alley, or public property in this municipality without first having secured a permit therefor pursuant to the provisions hereof.

Subd. 2. Definition. The term "excavation" shall mean any digging, trenching, cutting through, or like work whereby the existing surface of the street, alley or public property is interfered with or disturbed.

Subd. 3. Application for Permit. Any person desiring to make any kind of excavation in any street, alley, or public property of this municipality shall make a written application for such purpose at the office of the City Clerk, said application to be accompanied by the required permit fee and deposit as set forth in Section 1100 of this Code.

Subd. 4. Procedure and Granting. Upon filing of such application and after payment of the aforesaid fee, the application shall be referred to the City Engineer for determination as to the need for such excavation. In the event the City Engineer shall determine that such excavation is necessary and expedient, he shall instruct the City Clerk to issue a permit therefor in writing. However, the City Clerk shall not issue any permit pursuant to this Ordinance until the applicant has furnished the City Clerk with a duplicate written and signed statement from all affected utility companies showing whether or not any underground installations of such utilities will be crossed or in any manner

affected by the proposed excavation, and if affected, said statement shall certify that the utility or utilities have advised and warned applicant of any danger, actual or potential, from its or their installation at any place or places where excavation is proposed to be made.

In the event any dangerous condition may be encountered by such excavation in connection with any utility or utilities, the applicant shall agree in writing that he will not undertake excavation work at such dangerous point or points without having a representative of the utility or utilities involved present at the time such work is actually performed.

Subd. 5. Expiration. Any permit issued under this ordinance shall expire at the end of thirty (30) days from the date of issuance thereof unless the excavation work involved has been commenced.

Subd. 6. Refund of Deposit. The deposit required for street openings or excavations will be refunded to the original applicant upon approval by the Public Works Director that restoration of the public property was completed satisfactorily. If such restoration is performed by the City, the cost of the restoration will be withheld from the deposit. If the costs exceed the amount of the deposit, the remaining amount will be billed by the City to the applicant and/or abutting property owner, and payable within 30 days of the date of the billing. If such billing is not paid, the amount outstanding, plus finance charges will be reported to the City Council to obtain its approval thereof. When such certificate has been approved, it shall be extended as a special assessment against such abutting land and such special assessment, shall, at the time of certifying taxes to the County Auditor, be certified for collection in the same manner as other special assessments are certified and collected pursuant to the provisions of Minnesota Statutes, Section 429.101.

320.04 Prevention of Obstruction and Encumbrance of Streets and Other Public Places.

Subd. 1. Obstructions Prohibited. No person, except under a proper building permit issued by the Building Inspector and/or Zoning Administrator, shall erect, build, set-up, keep or maintain any house, store, shop, or other structure in or upon any sidewalk, street, avenue, alley or other public thoroughfare in this municipality. Further, it shall be unlawful for any person to leave, deposit, or place any boxes, merchandise, timber, planks, boards, shingles, barrels, bricks, stones, trucks, wagons, automobiles, boats, or vehicles of any sort, in or upon any street, alley, sidewalk, or other public place within the City of Waconia. It shall also be unlawful for any person to place, throw, or cause to be placed or thrown upon any of said places any broken glass, tacks, nails, or other sharp or dangerous substances, the presence of which would be likely to cause injury to pedestrians or vehicles, or for any person to sweep, place, or throw from any building into any street, avenue, or alley of the City of Waconia any dust, sweepings, shavings, ashes, or any refuse of any kind whatsoever, or to place in any sewer, drain,

catch basin, manhole, or gutter in any such places any obstruction to the flow of water in such sewer, drain or catch basin.

Subd. 2. Removal of Obstructions or Encumbrances. When any obstruction or encumbrance of any kind shall be put, placed, or left on any street, sidewalk, alley, or public thoroughfare in this municipality contrary to the provisions of this Ordinance, the Building Inspector and/or Zoning Administrator or any police officer shall notify the person who put, placed or left such obstruction or encumbrance on such street; sidewalk or other public thoroughfare and the owner of the abutting property, if they are not the same person, to immediately remove the same. If such person fails or refuses to remove such obstruction or encumbrance within a reasonable time, such obstruction or encumbrance may be removed by municipal employees, which employees shall make an itemized account of the expenses, if any, incurred by reason of such removal and shall verify such account and file it with the City Clerk. Such expense shall be paid out of the general fund of this municipality and may be recovered from the owner of such materials by sending an invoice to said person, and upon counsel order by a civil suit.

Subd. 3. Animals. It shall be unlawful for any person to ride, drive, or leave any horse, mule, cow, or any similar domesticated animal along or across any sidewalk, curb, or gutter in the City of Waconia, unless otherwise provided under Section 320.02 of this Code.

- Subd. 4. Water Spouts. It shall be unlawful for any person to maintain a water spout on any building owned or occupied by him in such a manner that the water passing from such water spout shall fall upon or shall necessarily have to be carried across adjacent property. It shall also be unlawful for any person owning property within the City of Waconia to construct water spouts so that the water passing through such water spouts shall be let across the sidewalks of the City of Waconia except where there are provided proper outlets leading from such premises to the street gutters.
- Subd. 5. House or Building Moving. It shall be unlawful for any person, firm, or corporation except a licensed house mover, properly licensed pursuant to Chapter 540 of this Code, to move any building upon any public highway within the City Limits of the City of Waconia.
- Subd. 6. Signs and Awnings. It shall be unlawful for any person within the City of Waconia to erect, build, set up, place or keep any sign or wooden awning over any street or sidewalk in the City of Waconia at a height less than eight feet from and above such street and sidewalk. Further, it shall be unlawful for any person within the City of Waconia to erect, build, place, or keep any cloth awnings over any street or sidewalk in said City at a height less than six and one-half feet above such street or sidewalk.
- Subd. 7. Outdoor Display. It shall be unlawful for any person within the City of Waconia to place or permit to be placed upon or over any sidewalk in the City of Waconia or suspend over any streets or sidewalks in said City, any goods, wares, or merchandise for sale, show, or otherwise, beyond the front line of said lot, unless a permit has been obtained in accordance with the provisions of Section 320.01 of this Code.

320.05 Construction, Reconstruction and Repair of Roadway Surfaces, Sidewalks, Curbs and Gutters.

- Subd. 1. Duty of Property Owners. It is the duty of all owners of land abutting on any street or avenue in the City of Waconia to construct, reconstruct, and maintain in good repair sidewalks, curbs, and gutters along any such street or avenue in accordance with the regulations hereinafter set forth. Abutting or affected property owners may contract for, construct, or reconstruct, roadway surfacing, sidewalks, curbs, or gutters in accordance with the regulations hereinafter set forth.
- Subd. 2. Permit Required; Procedure and Granting Thereof. It shall be unlawful for any person to construct, reconstruct, or repair any roadway surface, sidewalk, curb, or gutter, in any street or other public property within the City of Waconia without first obtaining a permit in writing therefor from the City Engineer and/or Zoning Administrator. Application for such permit shall be made on forms approved and provided by the City Clerk and shall sufficiently describe the contemplated improvements, the contemplated beginning date of such work, and the length of time required to complete the same, provided, however, that no permit shall be required for any such

improvement ordered by the City Council. All applications shall be referred by the building inspector to the city engineers and no permit shall be issued until approval has been received from such department. All such applications shall contain an agreement by the applicant to be bound by this Ordinance and plans and specifications consistent with the provisions of this Ordinance and the recommendations of the City Engineers shall also accompany the application. A permit from the City shall not relieve the holder from liability for damages to the person or property of another caused by such work.

Subd. 3. Specifications. All construction, reconstruction, and repair of roadway surfaces, sidewalks, curbs, or gutters shall be performed strictly in accordance with the specifications and standards provided by the city engineers.

Subd. 4. Duty of Building Inspector. The Building Inspector shall inspect such 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 performed hereunder may be stopped by the Building Inspector if found to be unsatisfactory or not in accordance with the specifications and standards provided. However, this Section shall not impose upon the City of Waconia a continuing responsibility to inspect or supervise such work.

Subd. 5. Action by City Council. Whenever the City Council shall deem it necessary or advisable that any sidewalks, curbs, or gutters shall be constructed, reconstructed, or repaired, it may, by Resolution, order the owner of such premises to cause such construction, reconstruction, or repair to be made forthwith in accordance with this Ordinance. A duly certified copy of such Resolution shall be served upon the owner of such premises and shall describe with specificity the construction, reconstruction, or repair to be made. If the owner of such premises shall fail to make such construction, reconstruction, or repair within four (4) weeks from the time of service of such Resolution upon him, the City Council may proceed to cause such construction, reconstruction, or repair to be made and to assess the cost thereof against the premises, such assessment to be collected in the same manner as provided for the collection of special assessments, pursuant to the provisions of Minnesota Statutes, Section 429.101.

320.06 Removal of Ice, Snow, Dirt, and Rubbish from Public Sidewalks.

Subd. 1. Public Nuisance. All snow, ice, dirt, or rubbish remaining upon public sidewalks within the City of Waconia more than twelve hours after its deposit thereon is hereby declared to constitute a public nuisance and shall be removed by the owner or tenant of the abutting private property within twelve hours after such snow, ice, dirt, or rubbish has been deposited thereon.

Subd. 2. Removal. The City of Waconia, upon notice thereof, may cause to be removed from all public sidewalks, beginning 24 hours after snow, ice, dirt, or rubbish has been deposited thereon, all such matter which may be discovered thereon, and the Clerk shall keep a record of the cost of such removal and the private property adjacent to which such accumulations were found and removed and shall report same to the Council for action at its next regular meeting.

Subd. 3. Assessment of Costs. The City Clerk shall, upon direction from the City Council, and on receipt of the information provided for in the preceding Section, extend the cost of such removal of snow, ice, dirt or rubbish as a special assessment against the lots or parcels of property abutting on the sidewalks which were cleared pursuant to this Ordinance and pursuant to the provisions of Minnesota Statutes, Section 429.101. Such special assessment shall, at the time of certifying taxes to the County Auditor, be certified for collection as other special assessments are so certified and collected. Alternatively, the City Clerk shall, upon direction from the City Council, bring suit in a Court of competent jurisdiction to recover the cost of such clearing and the costs and disbursements of said suit.

Subd. 4. Snow. It shall be unlawful for any person, not acting under specific direction from the City, to remove snow from private property or alleys and to place the same upon a public street or other public property in such quantity, or in such manner, as to cause a hazard to travel, without adequate arrangement for the immediate removal thereof. Any person violating this Subdivision shall be subject to an assessment equal to actual costs incurred while on site plus administrative fee for snow removal according to the adopted fee schedule in Chapter 1100 in order to reimburse the City for the cost of removing such snow from the public street or other public property. Such assessment shall be payable within 30 days of the date of billing by the City and, in default of payment, shall be extended as a special assessment against the property from which such snow was removed. Such special assessment shall, at the time of certifying taxes to the County Auditor, be certified for collection as other special assessments are so certified and collected. Alternatively, the City Clerk shall, upon direction from the City Council, bring suit in a Court of competent jurisdiction to recover such assessment and the costs and disbursements of said suit.

320.07 Regulation of Grass, Weeds, and Trees in Streets and Other Public Property.

Subd. 1. Control of Trees and Grass Plants. The City of Waconia shall have control and supervision over all trees, shrubs, and other similar plants located upon, or overhanging all streets, or other public property.

Subd. 2. Permit Required. It shall be unlawful for any person to remove any tree which is located upon public property, including rights-of-way, without first obtaining a permit therefor in writing from the City Council. Each application shall be accompanied by a fee in the amount set forth in Section 1100 of this Code.

- Subd. 3. Duty of Property Owners to Cut Grass and Weeds and Maintain Shrubs and Trees. Every owner of property abutting upon any street shall cut any grass or weeds growing thereon from the line of such property nearest to said street to the center of such street. If such grass or weeds shall attain a height in excess of four inches it shall be prima facie evidence of a failure to comply with this Subdivision. Every owner of property abutting on any street shall, subject to the provisions herein requiring a permit therefor, trim, cut and otherwise maintain all trees and shrubs from the line of such property nearest to such street to the center of such street.
- Subd. 4. Grade and Obstruction in Areas Reserved for Sidewalks. It shall be unlawful for any person to plant any tree, shrub, or any similar plant, or to place any structure or obstruction whatsoever in any area reserved for a sidewalk within the City of Waconia.
- Subd. 5. City May Order Work Done. The City of Waconia may, in cases of failure to comply with the provisions of this Section, cause such work to be performed by employees of the City, and shall keep an accurate account of the cost thereof for each lot, piece, or parcel of land abutting upon such street.
- Subd. 6. Assessment. If such maintenance work is performed by the City as set forth in the foregoing Subdivision, the City Clerk shall compute the cost attributable to each lot, piece, or parcel of abutting land and shall, at the next regular meeting of the City Council, report such cost to the Council and obtain its approval thereof. When such certificate has been approved, it shall be extended as a special assessment against such abutting land and such special assessment, shall, at the time of certifying taxes to the County Auditor, be certified for collection in the same manner as other special assessments are certified and collected pursuant to the provisions of Minnesota Statutes, Section 429.101.

320.08 Vacation of Streets and Public Ways.

- Subd. 1. Procedure for Vacation. The City Council may, by Resolution, vacate any street, alley, public grounds, public way, publicly owned utility easement or boulevard reserve, or any part thereof, on its own motion or on petition of a majority of the owners of land abutting on the street, alley, public grounds, publicly owned utility easement, boulevard reserve, or part thereof, to be vacated pursuant to the provisions of Minnesota Statutes Section 412.851.
- Subd. 2. Petition for Vacation and Fees. A petition for vacation of any street, alley, public grounds, public way, publicly owned utility easement or boulevard reserve, or any part thereof, shall be filed with the City Clerk and shall be accompanied by payment of a filing fee in the amount set forth in Section 1100 of this Code. In addition to the filing fee, the petitioner or petitioners shall be responsible for all expenses incurred by

the City in connection with the vacation proceeding including, but not limited to, legal fees, engineering fees, filing fees and publication fees. A deposit in the amount of \$250.00 shall be paid by the petitioner or petitioners to the City Clerk at the time of filing of the petition to apply toward such costs. If the costs as finally determined exceed the amount of such deposit, a billing statement detailing the disbursements for such costs shall be mailed to the petitioner or petitioners, which statement shall be due and payable within 30 days of receipt. Filing of the Order of Vacation, if granted, shall be withheld pending receipt of final payment. If the costs as finally determined are less than the amount of the deposit, the difference shall be promptly refunded to the petitioner or petitioners together with a detailed statement of disbursements.

The City of Waconia shall be exempt from the fee requirements of this Section.

Subd. 3. Re-Submission of Petition. No petition for vacation of any street, alley, public grounds, public way, a publicly owned utility easement or boulevard reserve, or any part thereof, which has been denied, wholly or in part, shall be re-submitted earlier than six months from the date of action taken by the City Council on such petition, except within the discretion of the Council upon grounds of new evidence or proof of substantial change of conditions.

320.09 Private Use of Public Parking Lots.

It shall be unlawful for any person to use or occupy any municipally-owned parking lot within the City of Waconia for any purpose other than the parking of passenger motor vehicles within the time limits prescribed by this Code. Congregation of individuals and loitering beyond the time necessary to park or remove such vehicles is expressly prohibited. In addition, it shall be unlawful to perform any repairs upon vehicles while otherwise lawfully parked in a municipal parking lot with the exception of emergency repairs which will not unduly impede vehicular traffic within the parking lot.