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ORDINANCE 41 STREETS AND SIDEWALKS

Section 41.01: SIDEWALKS AND STREETS.

Subd. 1: Snow and Ice.

- a) The owner and the occupant of any property adjacent to a public sidewalk shall use diligence to keep the sidewalk safe for pedestrians, which includes, but is not limited to, removal of snow plowed, blown or shoveled from public streets or adjoining properties onto the sidewalk and freezing water from the eaves, awnings, or down spouts of buildings or structures located on the adjacent property, and snow or ice falling from overhangs, awnings or eaves located on the adjacent property.
- b) It shall be unlawful for any person to dump, deposit, place or blow snow onto any public street, alley or sidewalk which has already been cleared or plowed following a snowfall. Pushing or blowing snow onto public roads may be punishable as a misdemeanor pursuant to Minnesota statutes.
- c) Because of safety concerns and higher pedestrian traffic, the City Council may determine that there is a need for immediate snow removal within a designated area within the City (the "Designated Area"). The Designated Area shall be established by the Council in Appendix A. For weather events resulting in accumulations of snow and/or ice of less than 1 ½", the owner and occupant of property within the Designated Area shall cause such accumulations to be removed from the sidewalk by no later than 10:00 a.m. Monday through Saturday and shall use diligence to keep the sidewalks clear during business hours. Snow amounts shall be verified by a weather reporting agency as established by the Council in Appendix A.
- d) In all cases where snow and/or ice are not removed from sidewalks within the Designated Area as provided in Subparagraph (d), it may be removed by authorized City personnel, and the necessary expenses thereof, at a rate established by the City Council from time to time in Appendix A, shall be billed to the property owner. Any unpaid expenses shall be assessed against the property as provided by law. For extraordinary weather events where the owner or occupant have taken reasonable steps to clear snow and/or ice as provided in Subparagraph (d), but such efforts have been unsuccessful due to weather conditions, the City Administrator shall have the discretion to waive assessment of the expenses incurred by the City to remove the accumulation.

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- e) On or before November 1st of each year the City shall serve one annual written notice upon the owner and occupant of any property in the Designated Area to comply with the provisions of this Ordinance. The notice shall be mailed to the property address and the mailing address provided to the County Auditor for receipt of property tax statements.
- f) The City may remove snow and ice accumulations of 1 ½” or greater from the public sidewalks located in the City’s Designated Area as City resources permit after completing snow removal and other winter maintenance of public streets and roads. The City Council may also designate certain public sidewalks located in residential areas for removal of snow and ice by City personnel under circumstances as may be established by the City Council. The owner and occupant will not be charged for snow and ice removal under these circumstances. Nothing contained herein shall relieve the owners and occupants of property adjacent to a public sidewalk from their obligation to remove snow and ice from the sidewalk in the absence of removal by the City.

Subd. 1 Amended 12/15

Subd. 2: Grass and Leaves. It shall be unlawful for any person to blow, dump or deposit leaves, grass clippings, animal waste or other lawn debris onto any public street or alley, or to intentionally cause leaves, grass clippings, animal waste or other lawn debris to enter the City storm sewer system.

Updated 11/30/01

Subd. 3. Repair.

a) The City has determined that sidewalks that do not allow for safe pedestrian travel constitute a public health and safety hazard. The City is authorized to abate health and safety hazards from private property pursuant to Minn. Stat. § 429.101, Subd. 1(a)(3). The City shall from time to time repair the public sidewalks as City resources permit. The cost of such repairs shall be paid 50% by the abutting property owner and 50% by the City. As soon as the work has been completed and the cost determined, the City Administrator shall prepare a bill for the cost and mail it to the owner. Thereupon the amount shall be immediately due and payable at the office of the City Administrator.

b) From time to time the City Administrator shall list the total unpaid charges against each separate lot or parcel to which they are attributable under this Subdivision. The Council may then spread the charges against property benefited as a special assessment under Minnesota Statutes, section 429.101 or certify unpaid charges to the county auditor for collection with the following year along with current taxes as otherwise provided for by state law. When unpaid charges are certified to the auditor for collection with taxes, the Council may use the notice, hearing and appeal provisions provided by Minnesota Statutes, chapter 429. In any appeal of unpaid charges certified to the auditor for collection with taxes, the sole issue to be determined by the court is the reasonableness of the charges. Any special assessment shall be payable in a single installment, or by up to ten equal annual installments as the council may determine.

Updated 7/6/16

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Subd. 4. Removal. The City may in its discretion remove public sidewalks. The cost of such removal shall be paid by the City.”

Subd. 3 and 4 added May, 2004

Subd. 5. Obstructions.

- a) No person shall obstruct any street, alley, sidewalk, or other public way within the City by erecting thereon any fence or building, or by placing thereon any personal property, refuse or other encumbrance of any kind.
- b) When any obstruction or encumbrance of any kind shall be put, placed, or left on any street, sidewalk, alley, or other public way within the City contrary to the provisions of this ordinance, the City 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 authorized personnel, upon the order of the City Administrator. The necessary expenses of removal, at a rate established by the City Council from time to time in Appendix A, shall be billed to the property owner. Any unpaid expenses shall be assessed against the property as provided by law.

Subd. 5 Amended 12/15

Section 41.02: STREET BUILDING NUMBERING.

Subd. 1: Map.

- a) A map showing all streets, avenues and public ways as designated and named is at the City Hall.
- b) If any part of this section conflicts with the map and raises a question of interpretation, or if any omission or apparent error is found, the facts must be presented to the City Council for its review and decision.
- c) Streets, avenues, or public ways, laid out and, or opened to public travel must be named in accordance with the system established by this section.

Subd. 2: Assignment of Numbers.

- a) Properties or parcels of land within the City’s corporate limits must be identified by reference to the uniform numbering system described in this section.
- b) Numbers must be assigned to houses and buildings in a uniform manner.
- c) Each principal building must bear the number assigned to the frontage on which the front entrance is located. In case a principal building is occupied by more than

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one business or family dwelling unit, each separate front entrance of such principal building must bear a separate number.

- d) The City Clerk/Administrator will issue any property owner, upon request, a number for each building or separate front entrance to the building. The numbers described do not mean physical numbers for attachment to a building. The property owner is responsible for obtaining suitable numbers for property identification.

Subd. 3: Numbers-Placement and Specifications. On or before July 1, 2000, the owner, lessor or occupant of every industrial, commercial, residential or other building in the City shall have a proper building number on the building either by affixing to the building the numbers in metal, glass, plastic or any other durable material. The numbers shall not be less than four (4") inches in height in a contrasting color to the base. The numbers shall be so placed to be easily seen from the street.

Subd. 4: Maintenance. The occupant of the primary structure shall be responsible for keeping the address numbers in good repair and clear of snow, dirt, debris and other obstructions.

Subd. 5: Duty of City Clerk/Administrator. The City Clerk/Administrator shall be responsible for maintaining the numbering system, recording all numbers assigned on the street map and if necessary, make changes in the existing numbering system to provide for a uniform method of numbering. Changes in existing numbers must be reported to the Council at its regular Council meeting. The Council will consider such report, and accept or reject the same with such revisions and amendments as it deems necessary.

Subd. 6: Enforcement. The City may withhold all city licenses, applications, and permits from owners or occupants of primary structures if the address is not placed or maintained in conformance with this Ordinance.

Section 41.03: PROTECTION OF STREETS

Subd. 1: Tractors. Tractors or other vehicles with lugs, or any other type of machinery that is not equipped with rubber tires are prohibited from using bituminous treated streets in the City and whoever drives such vehicle upon the streets and damages the streets is guilty of a misdemeanor.

Subd. 2: Street Openings; Permit. It is unlawful to make an opening in any street or to disturb in any way the surface or subsurface of any street, or to disturb, in any way, any portion of a street, without first receiving a permit from the City, except that where an emergency situation arises, such as a leak in a gas main, or water pipe, or a matter of similar seriousness, and where the public safety requires immediate action, then work may be commenced immediately, but a permit must be obtained as soon after the accident as possible.

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Section 41.04: DRIVEWAYS

Subd. 1: Permit. It is unlawful for a property owner to develop or construct an access or driveway from property to any City street or roadway, without first securing a permit from the City. The permit fee shall be established in Appendix A. It is unlawful to break or open any curbing for driveway purposes, or use any part of a sidewalk for driveway purposes, without first securing a permit from the City.

Subd. 2: Application. Application for a permit is filed with the City Clerk/Administrator and must give the size and location of the proposed access or driveway, and describe the manner of restoration that will be made to any street, curb, or sidewalk, as a result of the proposed use or construction. The Council may approve or reject the applications and may give its approval with considerations attached also as to method of repair which must be followed, the size and location of the access. The Council may require payment for any damage which may be anticipated, prior to the issuance of a permit.

Section 41.05: METAL TIRES. It is unlawful to move any vehicle on any bituminous surfaced street or roadway in the City, having any metal tire in contact with such street or roadway, except in the case of an emergency.

Section 41.06: PULLING VEHICLES OR OTHER OBJECTS. It is unlawful to pull, drag, operate, or cause to be pulled, dragged on and over any bituminous surfaced street, within the City, any machine, sharp or narrow tired vehicle, trees, stumps, skids or any object which does or is likely to cause damage to the surface of said street or roadway, or damage the same in any manner.

Section 41.07: JOINT LIABILITY. Any Person violating any of the terms, requirements and conditions of this Section is liable for all damages which the street or roadway may sustain as a result of such violation; and in the event the driver and operator of such vehicle is not the owner, but is operating, driving or moving the same with the express or implied permission of the owner, the owner and driver will be jointly and severally liable for any such damage.

Section 41.08: PENALTY. Any Person violating this Ordinance shall be guilty of a petty misdemeanor. For any violation resulting in damage to City streets, sidewalks or other City property in excess of Three Hundred (\$300) dollars shall be guilty of a misdemeanor. Fines for violations are as established by the City Council in Appendix A.

Section 41.08 amended on 1/4/06

Section 41.09: REGULATION OF SHRUBS AND TREES.

Subd. 1. Tree, Shrubs and other Plantings Prohibited. No trees, shrubs or other plantings shall be allowed within any boulevard or right of way, within any utility easements, or within five (5) feet of a sidewalk.

Subd. 2. Prohibited Plantings. The City Administrator has the authority to require owners of contiguous property to remove any prohibited tree, shrub or other plantings. Notice in writing of the required removal will be served by regular mail upon the owners of the contiguous

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property. If the plantings are not removed within ten (10) days after mailing the notice, the plantings will be removed by the City and the cost of removal will be billed to the owners of the contiguous property. If the cost remains unpaid for more than thirty (30) days, it will be levied against the contiguous property as a special assessment and collected as in the case of other special assessments.

Section 41.09 amended on 2/27/19

Section 41.10: MAILBOXES IN THE PUBLIC RIGHT OF WAY. Every owner of property that abuts a public right of way shall comply with the following regulations:

Subd. 1: Mailbox Support Standards. The following standards shall apply to the support of mailboxes within the C-1 Zone on Railroad Avenue between First Street and Ninth Street.

- a) In the interest of public safety, and to provide for the free flow of traffic on Railroad Avenue (Albany's heavily travelled main street), no property owner and/or occupant of property adjacent to a public sidewalk shall erect a post, pole, monument or any other support for purposes of the installation of a mailbox within the public right of way.
- b) Mailboxes and the support shall be subject to design review and approval by the City. No support or mailbox shall obstruct the free flow of pedestrian and vehicular traffic.
- c) If a pre-existing nonconforming support is removed from the right of way following the adoption of this Ordinance, it shall not be reinstalled, except in conformity herewith.

Subd. 2: Owner's Responsibility. The owner of property is responsible for ensuring the mailbox, designated to their property on a street or highway, is installed and supported in conformity with the regulations adopted by Minnesota Rule 8818.

Section 41.10 added 3/7/12

Section 41.11: SMALL CELL WIRELESS FACILITIES.

Subd. 1: Authority. Pursuant to the authority granted to the City under state and federal statutory, administrative and common law, the City hereby elects, pursuant Minn. Stat. §237.163 subd. 2(b), to manage public rights of way within its jurisdiction.

Subd. 2: Purpose. This Section establishes a policy for use of City owned infrastructure and rights of way to enable the City to permit fair, reasonable and non-discriminatory access to the available capacity on City owned infrastructure located within the right of way, and manage the public right of way to protect the public health, safety and welfare.

Subd. 3: Definitions.

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Applicant means a person who applies to use City owned infrastructure or right of way to provide wireless service or transporting telecommunications or other voice or data information, except for cable communications systems regulated under Minnesota Statutes Chapter 238.

Attachment includes any antenna, transceiver, amplifier, repeater or other device or equipment of a user supported by, affixed to, contained in, or placed on or in a unit of City owned infrastructure or on or in a wireless support structure.

Micro Wireless Facility means a small wireless facility that is no larger than 24 inches long, 15 inches wide, and 12 inches high, and whose exterior antenna, if any, is no longer than 11 inches.

Small Wireless Facility means a wireless facility that meets the following qualifications: (1) each antenna is located inside an enclosure of no more than six cubic feet in volume, or the case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an enclosure of no more than 6 cubic feet; and (2) all other wireless equipment associated with the small wireless facility, excluding electric meters, concealment elements, telecommunication demarcation boxes, battery backup power systems, grounding equipment, power transfer switches, cutoff switches, cable, conduit, vertical cable runs for the connection of power and other services, and any equipment concealed from public view, is in aggregate no more than 28 cubic feet.

User means a person who has been granted the right to install an Attachment or to use public right of way pursuant to this Section.

Wireless Support Structure means a new or existing structure in a public right of way designed to support or capable of supporting small wireless facilities.

Subd. 4: Ownership and Control. City owned infrastructure is the property of the City and payment of fees or other charges to locate thereon does not create a right, title or interest in City owned infrastructure. This Section does not require the City to replace, upgrade, or alter existing City owned infrastructure or public rights of way to create additional capacity for the attachment or other installation of facilities. The City has priority of use of City owned infrastructure.

Subd. 5: Unauthorized Use Prohibited. An Applicant or User does not have the right to place an Attachment on City owned infrastructure or to place any Small Wireless Facility within public right of way except as authorized by the City. If an unauthorized Attachment is discovered, the Public Works Department may remove the unauthorized Attachment from the City owned infrastructure without incurring liability to the owner, and at the owner's sole expense, if the owner does not:

- a) Remove the unauthorized Attachment within three (3) business days; or
- b) Apply for permission to have the Attachment within three (3) business days, including payment of applicable fees, charges and penalties.

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An Attachment in the public right of way can be removed immediately if necessary to protect public safety or prevent imminent damage to City owned infrastructure.

Subd. 6: Permit Required. Any person using, occupying or seeking to place a new Wireless Support Structure or collocate a Small Wireless Facility within the public right of way shall first obtain a small wireless facility permit, as well as any necessary excavation permits under Section 41.03, Subd. 2. The Applicant shall provide the City with the following information:

- a) Applicant's name, gopher state one-call registration number, address, telephone and facsimile number;
- b) Proof of adequate insurance;
- c) Name, address, telephone number and email address of applicant's local representative;
- d) Proposed location and permit term;
- e) Proof of consent if the application involves use of a Wireless Support Structure not owned by the City;
- f) Specifications for the Small Wireless Facility;
- g) A structural engineering analysis by a Minnesota registered professional engineer certifying that the structure proposed can reasonably support the proposed attachment considering the conditions of the right of way and the traffic, weather and other conditions reasonably anticipated in the proposed location; and
- h) Application for a conditional use permit if the Small Wireless Facility is to be located within a district zoned for single family residential use or an historic district.

Applications will be considered on a first come, first served basis, subject to availability. Permits will be issued or denied within ninety (90) days of receipt of a completed application. Permits shall terminate when the Small Wireless Facility is no longer in use unless earlier terminated as provided in this Section.

Subd. 7: Consolidated Permit Application. An Applicant may file a consolidated permit application to collocate up to fifteen (15) Small Wireless Facilities provided that all of the facilities are located within a two (2) mile radius and consist of substantially similar equipment to be placed on substantially similar Wireless Support Structures. The City may approve a consolidated permit in whole or in part.

Subd. 8: Exempt Activities. The following activities shall not require a Small Wireless Facility Permit:

- a) Routine maintenance of a Small Wireless Facility;
- b) Replacement of an existing Small Wireless Facility with a new facility that is substantially similar or small in size, weight, height and wind or structural loading than the facility being replaced; or

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- c) 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.

Subd. 9: Fees. Permit fees, rent and maintenance charges for use of City owned infrastructure shall be established by the Council from time to time in accordance with the limits established under Minn. Stat. §237.163, Subd. 6, as amended, and shall be set forth in Appendix A.

Subd. 10: Additional Costs. The Applicant is responsible for all costs as determined by the City to replace, enlarge or upgrade City owned infrastructure to accommodate the Applicant's proposed Attachment. Examples may include, but are not limited to, a new pole to support new wireless device, wire and conduit connections, service cabinet changes, etc. Any engineering work shall be provided by the Applicant.

Subd. 11: Operational and Maintenance Requirements.

- a) A User shall install, operate and maintain an approved Attachment in a manner that prevents interference with the City's facilities, the City's use of City owned infrastructure, and the facilities or operations of other Users.
- b) A User shall enter into a Collocation Agreement with the City in accordance with Minn. Stat. §237.163, Subd. 3a, as amended from time to time.
- c) A User is solely responsible for the risk and expense of installation, operation and maintenance of the User's Attachments. The City does not warrant or represent that the City owned infrastructure is suitable for placement of a User's Attachments.
- d) A User must accept the City owned infrastructure "as is" and "where is" and assumes all risks related to the use. The City is not liable for any damage to Attachments due to an event of damage to the City owned infrastructure.
- e) A User must notify the City in writing of any transfer, assignment, conveyance or sublet of an Attachment that changes the permit and/or billing entity or ownership responsibilities within 14 days of said change.

Subd. 12: Placement Standards.

- a) The City cannot require placement on any specific Wireless Support Structure other than the structure identified in the permit application.
- b) No Wireless Support Structure installed in the public right of way shall exceed fifty (50) feet above ground level.
- c) No Wireless Support Structure shall be installed within five hundred (500) feet of an existing Wireless Support Structure.
- d) Wireless Facilities constructed in the public right of way may not extend more than ten (10) feet above a Wireless Support Structure in existence as of May 31, 2017.

Subd. 13: Permit Conditions. The City may condition permit approve upon compliance with the following:

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- a) Any generally applicable health, safety and welfare regulations consistent with the City's right of way management;
- b) Reasonable accommodation of the decorative standards for Wireless Support Structures or signs; and
- c) Reasonable restocking, replacement or relocation requirements when a new Wireless Support Structure is placed in a public right of way.

Subd. 14: Permit Denial. The City may deny a permit application for the following reasons:

- a) Denial is necessary to protect the health, safety and welfare;
- b) Approval would impair the City's ability to operate or maintain City owned infrastructure in a reasonable manner;
- c) There is insufficient capacity or placement of the Attachment would violate the National Electric Safety Code or the City's standard design criteria, and the City infrastructure cannot reasonably be modified or enlarged at the cost of the Applicant;
or
- d) Denial is necessary to protect the public right of way and its current use.

Within three (3) business days, the City will notify the Applicant in writing of the decision to deny a permit, and provide written documentation of the basis for the denial.

Subd. 15: Permit Suspension and Revocation. The City may immediately suspend the permit of a User and deny new or additional permit applications if the User substantially breaches a material term and condition of Minnesota Statutes, this ordinance or any material term and condition of the permit or collocation agreement. Within three (3) business days, the City will notify the User in writing of the decision to suspend a permit, and provide written documentation of the basis for the suspension. If the User fails to cure the breach on or before the sixtieth (60th) day after receipt of written notice, the City may revoke the User's permit without refunding any fees. A User shall immediately begin removal of its Attachments after revocation of a permit. Unless the City grants an extension, a User must remove all Attachments no later than the sixtieth (60th) day after the effective date of termination.

Section 41.11 added 8/2/17