

**CITY OF SHOREWOOD  
COUNTY OF HENNEPIN  
STATE OF MINNESOTA**

**ORDINANCE 630**

**AMENDING SHOREWOOD CITY CODE TITLE 500 PUBLIC HEALTH, TITLE 800 RESERVED, TITLE  
900 PUBLIC RIGHT-OF-WAY AND PROPERTY AND TITLE 1300 MUNICIPAL FEES**

**Section 1.** City Code Title 800 is hereby repealed and replaced as shown on Exhibit A.

**Section 2.** City Code Title 900 is hereby repealed and replaced as shown on Exhibit B.

**Section 3.** City Code 501 is hereby amended as follows. Text proposed to be added is underlined; text proposed to be removed is ~~stricken~~.

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**501.08. COAL TAR BASED PRODUCTS.**

Subd. 1. Findings and purpose. The City Council finds that:

- a. The City of Shorewood Comprehensive Plan protects lakes, streams, wetlands and other bodies of water to enhance the environmental, recreational, cultural, and economic resources and contribute to the general health and welfare of the community.
- b. The use of sealers on asphalt driveways is a common practice.
- c. The use of undiluted coal tar based driveway sealers adversely affect the quality of stormwater runoff from driveways.
- d. The use of undiluted coal tar based sealer constitutes a public nuisance detrimental to public health.

Subd. 2. Definitions. For the purposes of this Section, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

**ASPHALT-BASED SEALER.** A petroleum-based sealer material that is commonly used on driveways, parking lots, and other surfaces and which does not contain coal tar.

**COAL TAR.** A byproduct of the process used to refine coal.

**MPCA.** The Minnesota Pollution Control Agency.

**PAHs.** Polycyclic aromatic hydrocarbons that define a group of organic chemicals formed during the incomplete burning of coal, oil, gas, or other organic substances. It is present in coal tar and is harmful to humans, fish, and other aquatic life.

**UNDILUTED COAL TAR BASED SEALER.** A sealer material containing coal tar that has not

been mixed with asphalt and which is commonly used on driveways, parking lots and other surfaces.

**Subd. 3. Prohibited Acts.**

- a. No person shall apply any undiluted coal tar based sealer to any driveway, parking lot, or other surface within the city.
- b. No person shall contract with any commercial sealer product applicator, residential or commercial developer, or any other person for the application of any undiluted coal tar based sealer to any driveway, parking lot, or other surface within the city.
- c. No commercial sealer product applicator, residential or commercial developer, or other individual or organization shall direct any employee, independent contractor, volunteer, or other person to apply any undiluted coal tar based sealer to any driveway, parking lot, or other surface within the city.
- d. No commercial firm, contractor or organization shall furnish or sell any driveway sealer that is an undiluted coal tar based sealer.

**Subd. 4. Exemptions.**

- a. Upon the express written approval from both the city and the MPCA, a person conducting bona fide research on the effects of undiluted coal tar based sealer products or PAHs on the environment shall be exempt from the prohibitions provided in § 908.03 above.
- b. The provisions of this Section shall only apply to use of undiluted coal tar based sealer in the city and shall not affect the use of asphalt-based sealer products within the city.

**~~501.08~~ 501.09 ABATEMENT.**

**Subd. 1. Notice to remove.** When there exists on private property a condition which is in violation of this chapter, a notice to remove the offensive matter shall be served by the City Council or its agent upon the owner, agent or occupant. The notice may be served personally or may be served by mail. In all cases where the owner is not in the city or can not be found therein, then notice shall be sent to the last known address. The notice shall describe the matter to be removed and require the removal thereof within 10 days, including Saturdays, Sundays and holidays.

**Subd. 2. Failure to remove.** If, at the end of the 10 days following service of a Notice to Remove, the nuisance has not been terminated or abated, the city may cause removal and disposition. The person in violation may, within the 10 days following service, file a written appeal disputing the violation or requesting additional time to comply with the Notice to Remove. Appeals will be placed on the next available agenda of the City Council for its consideration.

Subd. 3. Immediate abatement. Nothing in this section shall prevent the city, without notice or other process, from immediately abating any condition that poses an imminent and serious hazard to human life or safety.

Subd. 4. Recovery of costs. In instances where any nuisances are abated by city action pursuant to this chapter, M.S. § 412.221 et seq., or M.S. Chapter 466, the cost of enforcement, abatement, or other proceedings, including administrative charges together with interest thereon at the lawful rate permitted under M.S. Chapter 429, shall, if not paid, be assessed against the premises and certified to the County Auditor or certified by lien as provided in M.S. § 514.67.

~~501.09~~ **501.10** VIOLATION. Any person violating any of the provisions of this chapter shall be guilty of a misdemeanor.

**Section 4. References.** The City Clerk is authorized to correct any numeric references to the requirements of this ordinance located elsewhere in the City Code, or the City of Shorewood Master Fee Schedule, that may have been altered as a result of the amendments.

**Section 5. Effective Date.** This Ordinance shall take effect upon publication in the City's official newspaper.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF SHOREWOOD, MINNESOTA, this 24th day of November, 2025.



JENNIFER LABADIE, MAYOR

ATTEST:



SANDIE THONE, CITY CLERK

**EXHIBIT A**

**TITLE 800  
PUBLIC UTILITIES**

<b>Subject</b>	<b>Chapter</b>
Sewer Utility	801
Water Utility	802
Stormwater Utility	803
Fire Protection Utility District	804
Rates & Charges	805

**CHAPTER 801  
SEWER UTILITY**

Section	
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801.03	Use of Public Sewers Required
801.04	Sewer Service Connection
801.05	Private Sewage Disposal Systems
801.06	Sewer Permits
801.07	Building Sewers and Connections
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**801.01 ADMINISTRATION AND ENFORCEMENT.**

Subd. 1. *Generally.* The sanitary sewer systems as they are now constructed and located in the city or shall be hereafter enlarged or extended shall be operated and maintained under the provisions of this chapter. The Director of Public Works shall have charge of the management of the systems, subject to the delegation of their authority to other city employees as the Director shall provide.

**801.02 DEFINITIONS.**

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

**ACT.** The Federal Water Pollution Control Act also referred to as the Clean Water Act, as amended, 33 USC 1251 et seq.

**BOD (denoting BIOCHEMICAL OXYGEN DEMAND).** The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20°C, expressed in parts per million by weight.

**BUILDING DRAIN.** That part of the lowest horizontal piping of a drainage system which receives the discharge from soil through a sump pump, waste and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five feet outside the inner face of the building wall.

**BUILDING SEWER.** The extension from the building drain to the public sewer or other place of disposal between the building and the edge of the right-of-way.

**COMBINED SEWER.** A sewer receiving both surface runoff and sewage.

**GARBAGE.** Solid wastes from the preparation, cooking and dispensing of food and from the handling, storage and sale of produce.

**INDUSTRIAL WASTES.** The liquid wastes from industrial processes as distinct from sanitary sewage.

**INFILTRATION.** The water entering a sewer system, including sewer service connections, from the ground, through such means as, but not limited to, defective pipes, pipe joints, connections or manhole walls. The term infiltration does not include, and is distinguished from, inflow.

**INFLOW.** Water discharged into a sewer system, including service connections from such sources as, but not limited to, roof leaders, cellar, yard and area drains, foundation drains, sump pumps, cooling-water discharges, drains from springs and swampy areas, manhole covers, cross connections from storm sewers and combined sewers, catch basins, stormwaters, surface runoff, street wash waters, or drainage. The term "inflow" does not include, and is distinguished from, infiltration.

**NATURAL OUTLET.** Any outlet into a watercourse, pond, ditch, lake or other body of surface or ground water.

**NORMAL SEWAGE.** Water-carried waste products from residences, public buildings, businesses, schools or any other building or structure, including the excrementitious or other discharge from human beings or animals, together with the ground water infiltration as may be present.

**pH.** The logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

**PERSON.** Any individual, firm, company, association, society, corporation or group.

**POLLUTION.** The contamination of any waters so as to create a nuisance or render the waters unclean or noxious or impure so as to be actually or potentially harmful or detrimental or injurious to public health, safety or welfare to domestic, commercial, industrial or recreational use or to livestock, wild animals, birds, fish or other aquatic life.

**PROPERLY SHREDDED GARBAGE.** The wastes from the preparation, cooking and dispensing of food that has been shredded to a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half inch in any dimension.

**PUBLIC SEWER.** A sewer in which all owners of abutting properties have equal rights or which is

controlled by public authority, or both.

**RESERVE CAPACITY.** That portion of the sanitary sewer collection system which was designed and built in excess of the capacity required at the time of construction intended to accommodate future growth and development.

**SANITARY SEWER.** A sewer which carries sewage and to which storm, surface and ground waters are not intentionally admitted.

**SEWAGE** A combination of the water-carried wastes from residences, business buildings, institutions and industrial establishments, but not to include ground, surface and storm waters.

**SEWAGE TREATMENT PLANT.** Any arrangement of devices and structures used for treating sewage.

**SEWAGE WORKS.** All facilities for collecting, pumping, treating and disposing of sewage.

**SEWER.** A pipe or conduit for carrying sewage.

**SHALL, MAY.** **SHALL** is mandatory; **MAY** is permissive.

**STORM SEWER or STORM DRAIN.** A sewer which carries storm and surface waters and drainage, but excludes sewage and polluted industrial wastes.

**SUSPENDED SOLIDS.** Solids that either float on the surface of or are in suspension in water, sewage or other liquids and which are removable by laboratory filtering.

**WATERCOURSE.** A channel in which a flow of water occurs either continuously or intermittently.

### **801.03 USE OF PUBLIC SEWERS REQUIRED.**

Subd. 1. It shall be unlawful for any person to place, dispose or permit to be disposed in any unsanitary manner upon public or private property within the city any human excrement, sewage or industrial wastes, garbage or other polluted waters or other objectionable wastes.

Subd. 2. It shall be unlawful to discharge to any natural outlet within the jurisdiction of the city any sanitary sewage, industrial wastes, garbage or other polluted waters or wastes.

Subd. 3. Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of sewage.

Subd. 4. It shall be the responsibility of the property owner to maintain the service line from the property line to the structure being served. In case of failure on the part of any owner to repair any leak occurring in the service line within 24 hours after oral or written notice has been given,

the city may repair the leak and bill the property owner for the work and time incurred on the repair.

#### **801.04 SEWER SERVICE CONNECTIONS.**

Subd. 1. The owners of all homes, buildings or properties used for human occupancy, employment, recreation or other purposes, situated within the city and abutting on any street, alley, public sewer easement or right-of-way in which there is now located a public sanitary sewer are hereby required, at their expense, to install suitable toilet facilities therein and to connect the facilities directly with the proper public sewer in accordance with the provisions of this chapter within 90 days after date of written official notice given by the City do so; but in all events connection to the public sanitary sewer shall be mandatory and required for all houses, buildings or properties used for human occupancy, employment, recreation or other purposes and which abut upon the public sewer.

Subd. 2. Exception: city owned park shelter buildings may not be required to connect to the sanitary sewer system. Portable toilet facilities may be used in city parks provided they are screened from view of adjacent residential properties.

#### **801.05 PRIVATE SEWAGE DISPOSAL SYSTEMS.**

Subd. 1. *General.* Where a public sanitary sewer is not available under the provisions of § 801.03 of this chapter, the building sewer shall be connected to a private sewage disposal system complying with the provisions of this chapter.

Subd. 2. *Discharge into public sewer prohibited.* No septic tank or cesspool shall be permitted to discharge into any public sewer or natural outlet.

Subd. 3. *Connection to public sewer, abandonment of systems.*

a. The owners of all houses, buildings or properties which abut upon or are served by a public sewer and where cesspools and septic tanks have been in existence prior to the construction of the sanitary sewer shall connect with the public sewer when public sewer becomes available to the property. Shoreland property shall be further governed by Minn. Rules § 6120.3400. Any septic tanks and cesspools and private sewage disposal facilities then existing shall be removed and disposed.

b. At the time as a public sewer becomes available to a property served by a private sewage disposal system, as provided in § 801.05 of this chapter, a direct connection shall be made to the public sewer in compliance with this chapter. Any septic tanks, cesspools and similar private sewage disposal facilities then existing shall be removed.

Subd. 4. *Disposal of contents of septic tanks and cesspools.* Contents of septic tanks and cesspools or other refuse shall not be pumped or emptied into the city's public sanitary sewer system.

## **801.06 SEWER PERMITS.**

### **Subd. 1. *Classes.***

a. There shall be two classes of building sewer and connection permits:

(1) For residential service; and

(2) For nonresidential service, including service to commercial establishments, churches, schools and establishments producing industrial wastes.

(3) In either case, application shall be made on a special form furnished by the city. The permit application shall be supplemented by any plans, specifications or other information which the city may reasonably require. At the time of applying for the permit, the applicant shall pay an inspection fee as prescribed by the City of Shorewood Master Fee Schedule. Inspection fees for residential connections and nonresidential connections shall be in the amounts as prescribed by the City of Shorewood Master Fee Schedule.

Subd. 2. *Permit required.* No unauthorized person shall uncover, make any connections with or openings into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Director of Public Works or their designee.

Subd. 3. *Permit to be displayed.* The city shall furnish a permit with permit number which shall be prominently displayed on property where a sewer connection is being made. The permit shall be displayed for the duration of the work.

## **801.07 BUILDING SEWERS AND CONNECTIONS.**

### **Subd. 1. *Plumbing requirements.***

a. *Supervision.* No plumbing shall be done except under direct supervision of a master plumber when connecting with a public sewer.

b. *Registration of master plumber.*

(1) *Registration required.* Permits for building sewers shall be taken out by a master plumber and before a permit is issued, the master plumber shall first register with the City Administrator/Clerk of his or her intent to carry on the occupation within the city and connect building sewers to the municipal sanitary sewer system.

(2) *Registration fee.* The registration fee shall be as provided in the City of Shorewood Master Fee Schedule.

(3) *Performance guarantee and insurance.* Conditions of the registration shall be:

(a) Procure and post with the City Administrator/Clerk a construction performance guarantee in the amount determined by the City Engineer, but not less than \$2,000, conditioned upon faithful performance of contracts;

(b) Maintain insurance against damages to public property or injury or death to persons resulting from the building sewer construction, which policies shall indemnify and save harmless the city and all of its officers and personnel against any claim, demand, damages, actions or cause of action arising out of or by reason of the doing of the work or activities related or incident thereto and from any costs, disbursements or expenses of defending the same. The property damage insurance coverage shall be in the amount of \$25,000 or more, and the public liability insurance for injury or death to persons shall be in the amount of \$100,000 and \$200,000. Proof of the insurance shall be filed with the City Administrator/Clerk, and the policy shall provide that the city shall be notified immediately of any termination or modification of the insurance. Should the insurance coverage hereinbefore provided be inadequate in amount, then the master plumber shall self-indemnify and save harmless the city and all of its officers and personnel in like manner.

(4) *Term and revocation of registration.* The licensing shall be renewable annually on or before December 31 and may be revoked by the City Council for cause.

c. *Inspections.* No permit shall be issued by the Director of Public Works for existing structures until plumbing has been inspected and found to be in the condition as to safely and adequately accept the use to the public sanitary sewers.

Subd. 2. *Separate building sewers.* A separate and independent building sewer shall be provided for every building, except where one building stands in the rear of another and sewer can be constructed to the rear building. In this case, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.

Subd. 3. *Joint building sewers.* Joint building sewers shall be prohibited.

Subd. 4. *Building sewer construction and excavation standards.* All construction activities and improvements shall be built in accordance with the City of Shorewood Standard Specifications and Detail Plates.

Subd. 5. *Inspections, connections to public sewers.* The applicant for the building sewer and connection permit shall notify the Director of Public Works or their designee when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the Director of Public Works or their designee and in the manner as is required by all applicable State and City codes, the City of Shorewood Standard Specifications and Detail Plates, and direction from the Public Works Director or their designee.

Subd. 6. *Liability of owner.* All costs and expenses incidental to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the city from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

#### **801.08 PROHIBITED DISCHARGES INTO THE SANITARY SEWER SYSTEM.**

Subd. 1. *Prohibited connections.* No person shall discharge or cause to be discharged, directly or indirectly, any storm water, surface water, ground water, roof runoff, subsurface drainage or cooling water to any sanitary sewer. Any person having a roof drain, sump pump, unauthorized swimming pool discharge, cistern overflow pipe or surface drain connected and/or discharging into the sanitary sewer shall disconnect and remove any piping or system conveying the water to the sanitary sewer system.

Subd. 2. *Authority to inspect.* Every person owning improved real estate that discharges into the city's sanitary sewer system shall either consent to inspection by authorized city employees or agents, or by a plumber licensed by the state of all properties or structures connected to the sanitary sewer system to confirm there is no sump pump or other prohibited discharge into the sanitary sewer system. In the absence of consent for city inspection or of an inspection by a licensed plumber selected by the property owner, the city shall have authority to secure an administrative search warrant for inspection. The authority to conduct further inspections on a property under this section shall lapse upon a determination that the property is in compliance with the requirements of this section.

Subd. 3. *Correction of violations.* Any owner of any property found to be in violation of this section shall make the necessary changes to comply, following notification from the city, within 14 calendar days or be subject to the surcharge as provided in Subdivision 5 below.

Subd. 4. *Discharge.* Existing buildings with sump pumps and all newly constructed buildings with sumps shall have a discharge pipe installed to the outside wall of the building. The pipe attachment must be a rigid permanent-type plumbing such as PVC, copper or galvanized pipe. The discharge shall extend outside of the foundation and may not be pumped within 10-feet of any public right-of-way unless approved by the Public Works Director or their designee. Any

disconnects or openings in the sanitary sewer shall be closed and repaired in compliance with applicable codes.

Subd. 5. *Temporary waiver.* The City Council, shall hear and decide requests for temporary waivers from the provisions of this chapter where strict enforcement would cause a threat to public safety because of circumstances unique to the individual property under consideration. Any request for a temporary waiver shall be submitted to the City Administrator/Clerk in writing. Upon approval of a temporary waiver from the provisions of this chapter, the property owner shall agree to pay an additional fee for sanitary sewer services based on the number of gallons discharged into the sanitary sewer system as estimated by the Director of Public Works.

Subd. 6. *Drainage.* Storm water and all other unpolluted drainage shall be discharged to the drainage facilities as are specifically designated by the Director of Public Works.

Subd. 7. *Remedies.*

a. Any costs caused by discharges to the sanitary sewer system in violation of this section, including, but not limited to, the cost of restoring wastewater treatment services, cleanup and restoration of the receiving water and environs, shall be borne by the dischargers of said wastes, at no expense to the city.

b. Violation of this section is a misdemeanor and each day that the violation continues is a separately prosecutable offense. The imposition of the surcharge shall not limit the city's authority to prosecute the criminal violations, seek an injunction in district court ordering the person to disconnect the nonconforming connection to the sanitary sewer, or for the city to correct the violation and certify the costs as an assessment against the property on which the connection was made.

c. Notwithstanding other remedies the city may have, any violation of this section may be grounds for termination of the city water service

#### **801.09 INTERCEPTORS REQUIRED.**

Subd. 1. *Interceptors provided.* Grease, oil and sand interceptors shall be provided when they are necessary for the proper handling of liquid wastes containing grease in excessive amounts or any inflammable wastes, sand and other harmful ingredients; except, that the interceptors shall not be required for private living quarters or dwelling units. All the interceptors shall be of a type and capacity approved by the Director of Public Works and shall be located as to be readily and easily accessible for cleaning and inspection.

Subd. 2. *Construction specifications.* Grease and oil interceptors shall be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperature. They shall be of substantial construction, watertight and equipped with easily removable cover which, when bolted in place, shall be gastight and watertight.

Subd. 3. *Maintenance*. Where installed, all grease, oil and sand interceptors shall be maintained by the owner, at his or her expense, in continuously efficient operation at all times.

#### **801.10 PROHIBITED SUBSTANCES.**

Except as hereinafter provided, no person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewer:

Subd. 1. Any liquid or vapor having a temperature of higher than 150°F;

Subd. 2. Any water or waste which may contain more than 100 parts per million by weight of fat, oil or grease;

Subd. 3. Any gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquid, solid or gas;

Subd. 4. Any garbage that has not been properly shredded;

Subd. 5. Any ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feather, tar, plastics, wood, manure or any other solid or viscous substance capable of causing obstruction to the flow in sewers or other interferences with the proper operation of the sewage works;

Subd. 6. Any waters or wastes having a pH lower than 5.5 or higher than 9.0 or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the sewage works;

Subd. 7. Any waters or wastes containing a toxic or poisonous substance in sufficient quantity to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals or create any hazard in the receiving waters of the sewage treatment plant;

Subd. 8. Any waters or wastes containing suspended solids of a character and quantity that unusual attention or expense is required to handle the materials at the sewage treatment plant;

Subd. 9. Any noxious or malodorous gas or substance capable of creating a public nuisance.

#### **801.11 MATERIALS UNDER SPECIAL REVIEW.**

The admission into public sewers of any waters or wastes having:

Subd. 1. A five day biochemical oxygen demand greater than 300 parts per million by weight;  
or

Subd. 2. Containing more than 350 parts per million by weight of suspended solids; or

Subd. 3. Containing any quantity of substances having the characteristics described in this Chapter; or

Subd. 4. Having an average daily flow greater than 2% of the average daily sewage flow of the city, shall be subject to the review and approval of the City Council.

#### **801.12 PRELIMINARY TREATMENT.**

Subd. 1. The owner shall provide, at his or her expense, the preliminary treatment as may be necessary to:

a. Reduce the biochemical oxygen demand to 300 parts per million and the suspended solids to 350 parts per million by weight; or

b. Reduce objectionable characteristics of constituents to within the maximum limits provided for in this Chapter; or

c. Control the quantities and rates of discharges of the waters or wastes.

Subd. 2. Plans, specifications and any other pertinent information relating to proposed preliminary treatment facilities shall be submitted to and approved by the Director of Public Works and MCES, and no construction of the facilities shall be commenced until the approvals are obtained in writing.

Subd. 3. Where preliminary treatment facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his or her expense.

#### **801.13 MEASUREMENTS; TESTS AND ANALYSES.**

Subd. 1. *Methods used.* All measurements, tests and analyses of the characteristics of water and wastes to which reference is made in §§ 904.12 and 904.13 shall be determined in accordance with methods employed by the Minnesota Department of Health.

Subd. 2. *Right of entry of city officials.* The Director of Public Works and other duly authorized employees of the city bearing proper credentials and identification shall be permitted to enter all properties for the purpose of inspection, observation, measurement, sampling and testing, in accordance with the provisions of this chapter.

#### **801.14 SPECIAL AGREEMENTS.**

No statement contained in this chapter shall be construed as preventing any special agreement or arrangement between the city and any industrial or commercial concern whereby an industrial or commercial waste may be accepted by the city for treatment.

#### **801.15 PROPERTY DAMAGE.**

No unauthorized person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of

the municipal sanitary sewer system. Any person violating this provision shall be guilty of a misdemeanor.

**801.16 VIOLATION.**

Subd. 1. Any person violating any provision of this chapter shall be guilty of a misdemeanor.

Subd. 2. Any person violating any of the provisions of this chapter shall become liable to the city for any expense, loss or damage occasioned the city by reason of the violation.

## CHAPTER 802 WATER UTILITY

Section	
802.01	Purpose and Intent
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802.04	Private Wells
802.05	Mandatory Hook-Up Requirements
802.06	Installation and Construction Requirements
802.07	Service Pipes
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802.10	Authorized Water Shut Offs
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802.14	Right of Entry Powers
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802.16	Water Improvement Process
802.17	Violation

### **802.01 PURPOSE AND INTENT.**

The City municipal water system (hereinafter called the water system) shall be operated as a public utility and convenience from which revenue will be derived, subject to the provisions of this title.

### **802.02 DEFINITIONS.**

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

**Municipal Water System.** The public water infrastructure owned, operated, or maintained by the City of Shorewood or its authorized agents, including water mains, hydrants, valves, and service laterals. Municipal water service shall also include the same public water infrastructure as described above that is located within the City of Shorewood, but is served by adjacent municipalities.

**New Residential Construction.** The construction of any new residential dwelling unit(s), whether through the development of vacant land or the demolition and replacement of existing structures.

**Immediately Available Water Service.** The municipal water service is deemed to serve a property if a municipal water main exists in a public right-of-way, private street, or utility easement that is adjacent to or abutting any portion of the property line.

### **802.03 COMPLIANCE WITH PROVISIONS.**

No person shall make, construct or install any water service installation, or make use of any water service connected to the water system except in the manner provided in this chapter, nor shall any person make, construct, install or make use of any installation connected to the water system contrary to the regulatory provisions of this chapter.

### **802.04 PRIVATE WELLS.**

Pursuant to the current State Well Code and the Minnesota Plumbing Code, private wells may be constructed or maintained and continued in use whether or not connection is made to the water system. In no event shall there be a means of cross-connection between the private well and the municipal water system at any time. Hose bibbs that will enable the cross-connection of the two systems are prohibited on internal piping of the well-supply system. The threads of the boiler drain of the well volume tank shall be removed or the boiler drain hose bibb replaced with a sink faucet.

### **802.05 MANDATORY HOOK-UP REQUIREMENTS.**

*Subd. 1. Purpose and Intent.*

- a. The City of Shorewood finds that the municipal water system is a critical public utility that supports public health, safety and welfare by providing reliable access to clean and safe drinking water.
- b. The City further finds that requiring connection to the municipal water system for properties that are served by such infrastructure ensures greater resilience during drought, reduces risk to groundwater resources, enhances fire protection and public safety, and supports consistent and equitable service delivery.

*Subd. 2. Existing Commercial and Multi-Family Users.* The owner of an existing property used for commercial purposes or for multiple-family residential purposes, involving four or more units, situated within the city and abutting on any street, alley or right-of-way in which there is located a municipal water trunk or lateral facility, is hereby required at its expense to connect to the facility in accordance with the provisions of this chapter within 90 days after the date of official written notice by the City Council to so connect.

*Subd. 3. New Subdivisions Required to Connect.* All subdivision applications received after the effective date of this ordinance shall be required to connect to the municipal water system, at the applicant's expense, pursuant to the requirements of City Code 1202.47 Utilities. If municipal water is not available to a proposed subdivision, it shall be deemed premature for development and the proposed subdivision shall be denied by the City Council pursuant to the requirements of City Code 1202.20 Premature Subdivision Prohibited.

*Subd. 4. New Residential Construction Required to Connect.*

- a. *Mandatory Connection.* When a building permit application is submitted seeking new

residential construction; or, demolition of an existing residential dwelling that is to be replaced with a new residential dwelling on the same property, the new residential dwelling shall be connected to the municipal water system if water service is immediately available as defined in this Section.

b. *Timing of Connection.* The required connection shall occur prior to the issuance of a certificate of occupancy.

c. *Permit Requirements.* The connection to the municipal water system shall pass all plumbing permit inspection required by the Minnesota State Building Code and Minnesota State Plumbing Code. The connection shall be made pursuant to City specifications.

d. *Discontinuation of Private Wells.*

(1) *New Construction on Vacant Land.* Installation of a private drinking water supply or irrigation well shall be prohibited for all new residential construction that takes place on vacant land. Any existing private drinking water supply or irrigation wells not connected to a dwelling shall be properly sealed in accordance with Minnesota State Statute.

(2) *Redevelopment of Existing Dwellings.* In situations where an existing home is demolished and replaced with a new residential dwelling, an existing private drinking water supply well may continue to be used by the property owner for irrigation purposes. However, in no situation may the private well be reconnected to the dwelling.

#### **802.06 INSTALLATION AND CONSTRUCTION REQUIREMENTS.**

Subd. 1. *Supervision.* All work performed within the limits of the city shall comply with all requirements of the Minnesota Plumbing Code as amended and the *Shorewood Standard Specifications and Details Manual* and shall be under the direct supervision of the Director of Public Works.

Subd. 2. *Authority to do work.* Only persons authorized by this chapter shall tap any distributing main or pipe of the water system, or insert stopcocks or ferrule therein.

Subd. 3. *Excavations.* If the installation is to be in a surfaced street, the location of the water main shall be ascertained from the Director of Public Works or their designee and, upon completion, the installation shall be inspected by the Public Works Department. Prior to construction within the street, notice shall be given to the City Water Inspector, School District, United States Post Office, garbage haulers, Police and Fire Departments, and City Public Works Director. The notice must be given at least three days prior to the excavation for laying of the service pipe, and the connection must be made before 3:00 p.m. After approval by the Public Works Department, the street shall be restored to its previously existing condition as directed

and approved by the Public Works Department. The expense of the construction and restoration shall be borne by the applicant.

Subd. 4. *Separate connections and meters.* No more than one housing unit or building shall be supplied from one service connection except by permission of the Director of Public Works. Whenever two or more parties are supplied from one pipe, connecting with the distribution main, each building or part of the building must have a separate stop box and a separate meter.

Subd. 5. *Property service lines.* All installations of property service lines shall comply with the City of Shorewood Standard Specifications and Detail Plates and the following:

- a. No water pipe shall be connected with any pump, well, tank or piping that is connected with any other water supply other than the municipal water system.
- b. Not more than one building shall be supplied from one service connection unless by permission from the Director of Public Works.
- c. When two or more buildings are supplied from one pipe, each building must have a separate stop box and separate meter.
- d. Prior to connection with the municipal water system, all means of cross-connection to a retained private water supply shall be eliminated.

#### **802.07 SERVICE PIPES.**

Subd. 1. *Maintenance and repair.* It shall be the responsibility of the property owner to maintain the service pipe from the curb box into the structure. In the case of failure upon the part of the property owner to repair any leak occurring in his pipe within 24 hours after verbal or written notice thereof, the water will be shut off and will not be turned on until the service charge, as established by ordinance of the Council, has been paid and the leak repaired. When the waste of water is great, or when damage is likely to result from the leak, water may be turned off immediately pending repairs.

Subd. 2. *Abandoned service installations.* All service installations that have not been used for one year, or for any reason have become useless for further service, shall be shut off at the curb stop. Any expense of the city shall be charged to the property and, if not paid within 30 days, shall be treated as a delinquent account pursuant to this chapter.

#### **802.08 METERS.**

Subd. 1. *Meter use required.* Except for extinguishing of fire, no person except authorized city employees shall use water from the water supply system or permit water to be drawn therefrom unless the same be metered by passing through a meter supplied by the city.

Subd. 2. *Installation of new meters.* All water meters shall be installed by a licensed plumber in accordance with the following rules:

- a. The service pipe from the water main to the meter shall be brought through the floor in a vertical position. The stop and waste valve shall be installed approximately 12 inches above the floor.
- b. The meter shall be located so that the bottom is from twelve to 24 inches above the finished floor line. The meter shall be set not more than 12 inches, measured horizontally from the inside line of the basement wall, unless an alternate method is approved by the City Water Inspector.
- c. All meter installations shall have a stop and waste valve on the street side of the meter. In no case shall there be more than 12 inches of pipe exposed between the point of entrance through the basement floor and the stop and waste valve. A stop and waste valve shall also be installed on the house side of the meter. Meter setting devices shall be of copper pipe or tubing from the terminus of the service pipe up to and including the house side stop and waste valve.
- d. A remote reader shall be installed on the outside of the building in which the meter is contained at a height of three feet to five feet above grade.

Subd. 3. Maintenance, repair and replacement.

- a. *Replacement of meter.* All water meters shall be and remain the property of the city and may be removed or replaced or changed as to size and type by the city whenever deemed necessary.
- b. *Maintenance and repair.* The city shall maintain and repair all meters when rendered unserviceable through ordinary wear and tear and shall replace them if necessary. However, where any replacement or repair or adjustment of any meter is necessary because of damage from hot water backup, damage from freezing water, or damage from any act, carelessness or negligence of the owner or occupants of any premises, any expense incurred by the city to repair the damage shall be charged against and collected from the property owner, and water service may be discontinued until the cause is corrected and the amount charged collected.

Subd. 4. *Meter tests.* When a consumer makes a complaint that the bill for any past services has been excessive, the city shall, upon written request, have the meter re-read. If the user remains dissatisfied and desires that the meter be tested, the user shall then make a deposit in an amount established by the City of Shorewood Master Fee Schedule, and the city shall test the meter. The user shall, if he or she so desires, be present when the test is made. In case a test should show an error of over 5% of the water consumed in favor of the city, the deposit will be refunded to the user and a correctly registering meter will be installed and the date of written request and the minimum charge shall not be affected. In case the test shows an accurate measurement of water or an error in favor of the user, the amount deposited shall be

retained by the city to cover the expenses of making the test.

Subd. 5. *Unauthorized tampering with meter.* All water meters shall be inspected and sealed by the City Water Inspector. No person not authorized by the city shall connect, disconnect, take apart, remove the seal, or in any manner change or cause to be changed or interfere with any meter or the action thereof.

#### **802.09 WATER CONNECTIONS SERVED BY ADJACENT MUNICIPALITIES.**

The City Council has, and will in the future, enter into contracts with adjacent municipalities to provide water service to properties located within the city. Where an adjacent city provides municipal water to parcels located in Shorewood, the cities shall enter into an agreement prior to installation or use. All permits to be issued under this chapter shall comply with the terms of the agreements. In instances where the cost of the water hook-up from the supplying city is included in full or in part as a quarterly charge, then shall be added to the billing for the minimum quarterly water charge to be paid by the recipient.

#### **802.10 AUTHORIZED WATER SHUT OFFS.**

In case of fire or alarm of fire, water may be shut off to insure a supply for the firefighting; or in making repairs, demolition or construction of new works, protecting the public health and safety from hazardous building conditions or public nuisances, or to ensure compliance with all other requirements of this Chapter, water may be shut off at any time and kept shut off as long as necessary.

#### **802.11 CONSERVATION MEASURES.**

Subd. 1. Whenever the City Council shall determine that a shortage of water supply threatens the city, it may, by resolution, limit the time and hours during which water may be used from the water system for lawn and garden sprinkling, irrigation, car washing and other uses specified therein. Appropriate notice of the limitation shall be given prior to the enforcement thereof.

Subd. 2. To conserve water resources, prevent the wasteful and harmful effects of sprinkling during mid-day hours, and allow the city's water system adequate opportunity to replenish the water supply in the city's water storage tanks, certain limitations must be placed on the use of the city's water supply. During the period of May 1 through September 30 of any year, a person may only sprinkle or irrigate lawns, sod, seeded areas, gardens, shrubs, or other vegetation with city water in the city before 11:00 a.m. and after 4:30 p.m. Watering activities such as play toys, car washing and hand watering of flower beds are exempt, as long as the activity is continuously human attended.

#### **802.12 RESTRICTED AND PROHIBITED ACTS.**

Subd. 1. *Unauthorized turn on or shut off.* No person, except an authorized city employee or agent, shall turn on or off any water supply at the curb stop. A turn-on or shut-off fee in an amount equivalent to twice the prescribed fee shall be charged for the unauthorized turn-on or shut off of any connection to the municipal water system.

Subd. 2. *Unauthorized use of hydrants, interference with system.* No person, other than employees or agents of the city, shall operate fire hydrants or interfere in any way with the water system.

Subd. 3. *Supplying water to others.* No person shall permit water from the water system to be used for any purpose except upon his own premises unless written consent is first obtained from the city.

#### **802.13 DISCONTINUANCE OF SERVICE.**

Water service may be shut off at any curb stop connection whenever:

Subd. 1. The owner or occupant of the premises served, or any person working on any pipes or equipment thereon which are connected with the water system, has violated, threatens to violate or causes to be violated, any of the provisions of this chapter.

Subd. 2. Any charge for water, service, meter or other financial obligation imposed on the present or former owner or occupant of the premises served is unpaid.

Subd. 3. Fraud or misrepresentation by the owner or occupant of the premises served in connection with an application for service.

#### **802.14 RIGHT OF ENTRY POWERS.**

Authorized city employees shall have free access at reasonable hours of the day to all parts of every building and premises connected to the water system necessary for reading of meters and inspection. City employees shall be properly identified and shall display the identification upon seeking admittance to the building.

#### **802.15 DISCLAIMER OF LIABILITY.**

The city shall not be liable for any deficiency or failure in the supply of water to property owners or users, whether occasioned by shutting the water off for the purpose of making repairs or connections, or from any other cause whatever.

#### **802.16 WATER IMPROVEMENT PROCESS.**

The City Council may by separate policy establish and maintain procedures governing the planning, financing, and implementation of municipal water system improvements, including extensions, replacements and upgrades of existing facilities. Said policy shall define the process for initiating improvements, allocating costs and assessments, and coordinating with other public infrastructure projects. All water system improvements shall be undertaken in accordance with this policy as adopted and amended by the City Council.

#### **802.17 VIOLATION**

Any person who shall violate any of the provisions of this Chapter shall be guilty of a misdemeanor unless otherwise specified.



**CHAPTER 803  
STORMWATER UTILITY**

Section	
803.01	Establishment of Stormwater Utility
803.02	Purpose
803.03	Definitions
803.04	Determining REFs for Land Uses
803.05	Other Land Uses
803.06	Storm Water Drainage Rates and Charges
803.07	Adjustments of Charges
803.08	Exceptions
803.09	Supplying Information
803.10	Estimate Charges
803.11	Illicit Discharge

**803.01 ESTABLISHMENT OF STORMWATER UTILITY.**

The municipal storm sewer system shall be conducted as a public utility pursuant to M.S. Section § 444.075 from which revenues will be derived subject to the provisions of this Ordinance and said Minnesota statutes. The storm water drainage utility shall be a part of the Public Works Department. Just and reasonable charges for use, access, connection, and availability of storm sewer drainage facilities shall be calculated and determined based on expected and typical storm water runoff as may be calculated within reasonable and practical limits and with dues and equitable charges.

**803.02 PURPOSE.**

The purpose of all funds derived from the storm water drainage utility is to pay for all or part of the construction, reconstruction, repair, enlargement, improvement, acquisition, maintenance, operation, administration, and use of the storm water utility as established by the City of Shorewood. All revenues derived from the fee shall be credited to the appropriate storm water fund.

**803.03 DEFINITIONS.**

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

**Authorized Enforcement Agency.** The City of Shorewood.

**Best Management Practices (BMP).** Pollution prevention practices, maintenance procedures, and other management practices to reduce the discharge of pollutants to storm water, receiving waters, or storm water conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, disposal, or drainage from raw materials storage.

**Facility or Operation.** Any person, business, or institution discharging into the city's stormwater system, including but not limited to commercial or residential buildings, and industrial or factory buildings.

**Hazardous Materials.** Those materials which because of their quantity, concentration, or physical, chemical, or infectious characteristics are a hazard to human health, safety and property when improperly disposed of.

**Illegal Discharge.** Any direct non-stormwater discharge to the storm drain system of pollutants or hazardous materials.

**Illicit Connections.** Any drain or conveyance causing an illegal discharge to enter the storm drain system or connected to the storm drain system which has not been approved by an authorized enforcement agency.

**Non-Stormwater Discharge.** A discharge into the storm drain system that is not normal stormwater.

**Person.** An individual or corporate bodies, political bodies, partnerships, and unincorporated associations.

**Pollutant.** Paints, varnishes, and solvents; oil and other automotive fluids; hazardous substances, concrete washout, and wastes.

**Residential Equivalency Factor (REF).** One (1) REF is defined as the ratio of the average volume of surface water runoff generated from land use to the average volume of storm water runoff generated by a typical single family residential land use, during a standard one (1) year rainfall event.

**Storm Drainage System.** Publicly-owned facilities by which stormwater is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, culverts, drain tiles, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.

**Stormwater.** Any surface flow, runoff, and drainage consisting of natural precipitation and resulting from such precipitation.

**Stormwater Pollution Prevention Plan.** A document which describes the best management practices and activities to be implemented by government to reduce pollutant discharges to stormwater, stormwater conveyance systems, and/or receiving waters.

#### **803.04 DETERMINING REFS FOR LAND USES.**

The REF values for various land uses are as follows:

Classification	Land Use	REF
1	Cemeteries	0.70
2a	Single family and duplex residential (0 sqft to 30,000 sqft lot)	0.70
2b	Single family and duplex residential (30,001 to 50,000 sqft lot)	1.00
2c	Single family and duplex residential (50,000 sqft for more lot)	1.30
3	Public and private schools and institutional uses	1.30
4	Multiple-family residential and religious institutions	1.70
5	Commercial	2.30

**803.05 OTHER LAND USES.**

Other uses not listed in the foregoing table shall be classified by the City Administrator or their designee by assigning them to the most similar class from the standpoint of probable hydrologic response. An appeal from the City Administrator’s or their designee’s determination of the property classification may be made to the City Council.

**803.06 STORM WATER DRAINAGE RATES AND CHARGES.**

Fees for the use and availability of the storm sewer system shall be determined through the use of the REF. In determining charges, the City Council shall, from time to time, by resolution establish a basic system rate to be charged against each parcel of land having a REF of one.

**803.07 ADJUSTMENTS OF CHARGES.**

The City Council may by resolution, from time to time, adopt policies providing for the adjustment of storm water drainage charges from parcels or groups of parcels, based upon hydrologic data supplied by affected property owners, demonstrating an actual hydrologic response substantially different from the REF being used for the parcel or parcels. Such adjustment shall be made only after receiving the recommendation of the City Administrator or their designee, and shall not be made effective retroactively. Adjustment of fees shall not be retroactive. If the adjustment would have the same effect of changing the REF for all or substantially all of the uses in a particular classification, such adjustment shall be accomplished by amending the foregoing REF table.

**803.08 EXCEPTIONS.**

The following land uses are exempt from storm water utility fees: public rights-of-way,

properties entirely encompassed by wetlands and public waters as defined by state law, vacant property subject to the approval of the City Administrator or their designee, and municipal owned property.

#### **803.09 SUPPLYING INFORMATION.**

The owner, occupant or person in charge of any premises shall supply the City with such information as the City may reasonably request related to the use, development and area of the premises. Willful failure to provide such information or to falsify it is a violation of this subsection.

**803.10 ESTIMATE CHARGES.** If the owner, occupant or person in charge of any premises fails or refuses to provide the information requested the charge for such premises shall be estimated and billed in accordance with such estimate, based upon information then available to the City.

#### **803.11 ILLICIT DISCHARGE.**

Subd. 1. *Purpose and Intent.* The purpose of this chapter is to reduce non-storm water discharges to the Municipal Separate Storm Sewer System (MS4) in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process. The objectives of this chapter are: (1) To minimize pollutants into the MS4, (2) To prohibit illicit connections and discharges to the MS4, (3) To establish legal authority to carry out compliance with this chapter.

Subd. 2. *Applicability.* This section shall apply to all runoff entering the storm drain system.

Subd. 3. *Responsibility for Administration.* The city shall administer, implement, and enforce the provisions of this chapter. Any powers granted or duties imposed upon the city may be delegated in writing by the City Council to persons or entities including the Minnehaha Creek Watershed District and Riley, Purgatory, Bluff Creek Watershed District.

Subd. 4. *Prohibited Discharges and Dumping.* No person shall discharge or cause to be discharged into the municipal storm drain system or watercourses any pollutants or hazardous materials that cause or contribute to a violation of applicable water quality standards. Further prohibitions and requirements for allowable discharges are provided herein.

a. No person shall throw, deposit, place, leave, maintain, or keep any substance upon any street, alleyway, sidewalk, storm drain, inlet, catch basin conduit or drainage structure, business place, or upon any public or private plot of land, so that the same might be or become a pollutant, except in containers, recycling bags, or other lawfully established waste disposal facility.

b. No person shall intentionally dispose of grass, leaves, dirt or landscape material into a water resource, buffer, street, road, alley, catch basin, culvert, curb, gutter, inlet, ditch, natural watercourse, flood control channel, canal, storm drain or any natural conveyance.

c. All pet owners and keepers are required to immediately and properly dispose of their pet's solid waste deposited on any property, public or private, not owned or possessed by that person.

d. Salt must be covered or stored indoor and located on an impervious surface, and practices to reduce exposure must be implemented during transfer of material.

e. No person shall cause any illicit discharge to enter the storm sewer system or any surface water unless such discharge:

i. Consists of non-stormwater that is authorized by an NPDES permit obtained from the MPCA or a federal agency;

ii. Is associated with firefighting activities or other activities necessary to protect public health and safety; or

iii. Is one of the following exempt discharges: water line flushing or other potable water sources, landscaping irrigation or lawn watering, diverted stream flows, rising ground water, ground water infiltration to storm drains, uncontaminated pumped ground water, foundation or footing drains (not including active groundwater dewatering systems), crawl space pumps, air conditioning condensation, springs, non-commercial washing of vehicles, natural riparian habitat or wetland flows, dechlorinated swimming pools and any other water source not containing pollutants.

f. Dye testing is an allowable discharge but requires a verbal notification to the City Administrator or their designee at least two business days prior to the time of the test.

g. No person shall use any illicit connection to intentionally convey non-stormwater to the city's storm sewer system.

h. The construction, use, maintenance or continued existence of illicit connections to the storm sewer system is prohibited. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

i. A person is considered to be in violation of this section if the person connects a line conveying sewage to the storm sewer system, or allows such a connection to continue.

*Subd. 5. Monitoring of Discharges.*

a. The city may perform monitoring at the right-of-way or connection point to city

facilities if a continuous issue is deemed to produce illicit discharge.

b. The city has the right to require the discharger or property owner to install monitoring equipment as necessary.

c. If the city has been refused access to any part of the premises from which stormwater is discharged, and is able to demonstrate probable cause to believe that there may be a violation of this section, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this section or any order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the city may seek issuance of a search warrant from any court of competent jurisdiction.

**Subd. 6. *Best Management Practices.*** The city may adopt requirements identifying best management practices for any activity, operation, or facility which may cause or contribute to pollution or contamination of stormwater, the storm drain system, or waters within its borders.

**Subd. 7. *Notification of Spills.*** Any person responsible for a facility or operation, or responsible for emergency response for a facility or operation, that is made aware of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into the storm sewer, or water of the state from said facility or operation, shall take all necessary steps to ensure the discover, containment, and cleanup of such release. In the event of such a release of hazardous materials, said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall notify the city no later than the next business day.

**Subd. 8. *Enforcement.*** Upon finding that a person has violated a prohibition of this chapter, the city may order compliance by written notice of violation to the responsible person as provided herein.

a. ***Public Health and Safety Hazard.*** The failure to comply with the provisions of this section constitutes a hazard to the public health and safety.

b. ***Notice of violation.*** Whenever the city finds that a person has violated a prohibition or failed to meet a requirement of this section, the city may order compliance by written notice of violation to the responsible person. Such notice may require without limitation the following actions:

i. The performance of monitoring, analyses and reporting;

ii. The elimination of illicit connections, discharges, or pet waste;

iii. The installation of proper salt storage facilities and implementation of proper

salt handling procedures.

iv. That violating discharges, practices, or operations shall cease and desist;

v. The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property;

vi. Payment of a fine to cover administrative and remediation costs; and

vii. The implementation of source control or treatment BMPs.

viii. Suspension of discharge access in emergency situations or upon repeated or continuous detection of illicit discharges.

c. If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator.

d. If the bill received for abatement and/or restoration is not paid within 30 days, the city may draw the amount of the bill from any financial guarantees the city may hold or may assess the property from which the offense originated. After notice and hearing as provided pursuant to M.S. § 429.061, the City Council may then spread the charges against the property benefitted as a special assessment under M.S. § 429.101 for certification to the County Auditor and collection along with the current taxes the following year or in annual installation not exceeding ten years as the Council may determine in each case.

e. Nothing in this section shall be construed to limit the authority of the city to enter private property in urgent emergency situations where there is an imminent danger to protect the public health, safety and welfare.

*Subd. 9. Appeal of Notice of Violation.* Any person receiving a notice of violation may appeal the determination of the city. The notice of appeal must be received within ten days from the date of the notice of violation. Hearing on the appeal before the City Council shall, as practicable, take place within 30 days from the date of receipt of the notice of appeal. The applicants request for an appeal shall be on the city's official application form and be accompanied by the fee noted in the master fee schedule. If a hearing is requested, the Clerk shall set a time for such hearing, at which time the Council shall hear all testimony offered by the appellant and shall inform the appellant of all information upon which the alleged violation of law by the appellant has been determined. On completion of such hearing, the Council may make a final order regarding the alleged violation in question.

Subd. 10. *Cost of Abatement.* The property owner shall incur all costs to cease violating the provisions of this chapter.

Subd. 11. *Remedies.* A person who violates the provisions of this chapter may be charged with a misdemeanor. Each day that a violation continues shall be deemed a separate offense. The City Administrator or their designee may post appropriate signs or notices on property prohibiting its use until any illicit discharge is resolved. In order to ensure compliance with this chapter, the City Administrator or their designee may pursue any remedy at law or equity, including, but not limited to, securing injunctive relief to prohibit an individual from discharging material in violation of this chapter or from using the property when it would create a danger to the public health, safety or welfare, or, otherwise, be in violation of this chapter. The remedies listed in this chapter are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the city to seek cumulative remedies.

**CHAPTER 804  
FIRE PROTECTION UTILITY**

Section	
804.01	Establishment of Utility District
804.02	Improvements

**804.01 ESTABLISHMENT OF UTILITY DISTRICT.**

The City does establish a dry hydrant fire protection utility district to provide improved water availability for purposes of fire protection of persons and property of all developed and buildable lots in that area of the City commonly referred to as Enchanted Island and Shady Island.

**804.02 IMPROVEMENTS.**

The City may cause to order the construction and installation of a dry hydrant fire protection system. The construction shall be conducted under the direction of the City Administrator or their designee in accordance with City standards and procedures for awarding construction contracts. The City shall own and maintain the dry hydrant system.

**CHAPTER 805  
RATES & CHARGES**

Section	
805.01	In General
805.02	Sewer Utility Rates & Charges
805.03	Water Utility Rates & Charges
805.04	Stormwater Utility Rates & Charges
805.05	Fire Protection Utility District Rates & Charges

**805.01 IN GENERAL.**

Subd. 1. *Utility Billing Policy.* All utility rates and charges shall be levied and collected in the manner prescribed by the City Code, the Master Fee Schedule, and the Utility Billing Policy.

Subd. 2. *Cold Weather Rule.* Pursuant to M.S. § 216B.097, as it may be amended from time to time, no service of a residential customer shall be disconnected if the disconnection affects the primary heat source for the residential unit when the disconnection would occur during the period between October 1 and April 30, the customer has declared inability to pay on forms provided by the city, the household income of the customer is at or below 50% of the state median household income as documented by the customer to the city, and the customer's account is current for the billing period immediately prior to October 1 or the customer has entered into a payment schedule and is reasonably current with payments under the schedule. The City Clerk shall, between August 15 and October 1, of each year, notify all residential customers of these provisions.

**805.02 SEWER UTILITY RATES & CHARGES.**

Subd. 1. *Sewer Connection Permits.* Pursuant to City Code 801.06, Subd. 1. a fee as set forth in the City of Shorewood Master Fee Schedule shall be charged for sewer connection permits and inspections.

Subd. 2. *Sewer Service Rates and Charges.*

a. *Rates established.* The following rates and charges for use and services of the sanitary sewer system are established; the charges and rates to be made against each lot, parcel or land, unit or premises which may have a connection directly or indirectly into the city sanitary sewer system and which discharges only normal sewage into the system.

(1) *Minimum charges.* The minimum quarterly charge, whether the use of water is metered or not metered, shall be that quarterly or monthly charge established by ordinance of the City Council.

(2) *Metered charges.* Metered flow charges shall be as established by ordinance of the City Council.

b. *Determination of amount of water entering sewage system for Commercial*

*Properties* . If the commercial lot, parcel of land or premises discharges normal sewage or industrial waste into the sanitary sewerage system, either directly or indirectly, and it can be shown to the satisfaction of the City Council that a portion of the water measured by the water meter does not and cannot enter the sanitary sewerage system, then, and in that event, the City Council may permit or require the installation of other or additional meters in a manner that the quantity of water which actually could enter the sewer system may be determined. In this case, the charges or rates shall be based upon the amount of water which can enter the sanitary sewerage system.

c. *Estimated charges*. If the owner, occupant or person in charge of any premises shall fail or refuse to provide information as provided in this Title or shall fail or refuse to comply with any requirement of this chapter, the proper charge for the premises shall be estimated and billed in accordance with the estimate.

d. *Revenues*. All revenues derived from these rates and charges shall be credited to the Sewer Operating Fund. The revenue shall be used only for the purpose of paying the cost of operating and maintaining the sewage system, paying charges made by the MWCC, providing an adequate depreciation fund, paying costs of meter reading, billing, collection and other similar or related sewer operating expenses. If the rates and charges prescribed herein do not produce a net revenue sufficient to permit payment of the purposes for which established, the rates and charges provided herein shall be adjusted from time to time to permit the accumulation of net revenues equal to the charges and expenses of operating the sanitary sewer system.

Subd. 2. *Meter use for nonresidential premises*.

a. *Use of meter*. A meter recording the use of water may be installed on any nonresidential lot, parcel, premises or unit enumerated in subdivision 1 of this section and thereafter the rate shall be based upon the use of water. The City Council may, by resolution, require and order the installation of the meter on any lot, parcel, premises or unit, or class thereof, where it shall determine that the aforementioned flat charges are impractical to apply, or result in inequitable charges because insufficient or excessive; and thereafter, the rate shall be based upon the use of water.

b. *Installation and maintenance*. Any water meter installed for use or used as a basis for the computation of sewer rates shall be installed and maintained in good operating condition at all times, the installation and maintenance to be without expense to the city. Any meter shall be of a type approved by the Director of Public Works and shall accurately measure all water received on the premises. Installation and maintenance of the meter shall be made in accordance with the plumbing regulations of this city.

c. *Revenues*. All revenues derived from these rates and charges shall be credited to the Sewer Operating Fund. The revenue shall be used only for the purpose of paying the cost of operating and maintaining the sewage system, paying charges made by the Metropolitan Council Environmental Services (MCES), providing an adequate

depreciation fund, paying costs of meter reading, billing, collection and other similar or related sewer operating expenses. If the rates and charges prescribed herein do not produce a net revenue sufficient to permit payment of the purposes for which established, the rates and charges provided herein shall be adjusted from time to time to permit the accumulation of net revenues equal to the charges and expenses of operating the sanitary sewer system.

Subd. 3. *Sanitary Sewer Surcharge.* A surcharge set by an ordinance passed by the City Council is hereby imposed and shall be added to every utility billing to properties not in compliance with this chapter. The surcharge shall be added to every quarterly utility billing until the property is in compliance.

Subd. 4. *Local Sewer Availability Charge.*

a. *Purpose.* The purpose of this section is to provide for a method to finance the reserved capacity portion of the sanitary sewer system. Revenues will reimburse the sewer utility fund through debt financed capital improvements, including current capacity and excess or reserved capacity.

b. *Application of provision.* This section shall apply to all lots created by subdivision after the adoption of this chapter.

c. *Local service availability charge established.* A sanitary sewer service availability charge (LSAC) is established for the right of connecting to the municipal sewer system. This charge shall be in addition to any sewer availability charge imposed by MCES. The amount of the LSAC shall be established, and shall be amended, from time to time, by the City of Shorewood Master Fee Schedule. Sewer availability charges shall be as follows:

- (1) Residential buildings of over four housing units: .8 LSAC each unit;
- (2) Residential buildings with four or fewer housing units: one LSAC each unit;
- (3) Nonresidential parcel: one LSAC for each 20,000 sq. ft. of land area or portion thereof.

d. *Payment of charge.* The LSAC shall be paid in full by the developer to the city sewer utility prior to release of the City Council resolution approving the subdivision.

e. *Credit for past assessments.* In those cases where the city records reflect prior assessment and payment of multiple sewer units on a parcel of land, and in the event the parcel is subdivided, credit for prior paid assessments for the sewer units may be applied to the LSAC unit charges generated by the subdivision on a unit-for-unit basis.

Subd. 5. *Metropolitan Council Environmental Services (MCES) Sewer Availability Charge.*

a. A sanitary sewer connection charge shall be imposed against each lot or tract of land, or portion thereof, served by the sewer system. The fees to be paid the city for each unit of sanitary sewer connection charge shall be as provided in the city master fee schedule in effect at the time the obligation to pay the sanitary sewer connection charge is incurred.

b. Properties, buildings, and or structures shall be assigned one sanitary sewer connection charge for each unit of sewer availability charge (SAC) as determined by utilizing the Metropolitan Council Environmental Services' Sewer Availability Charge Procedures Manual, as may be amended from time to time. Notwithstanding the foregoing, when the Metropolitan Council's SAC unit determination for a non-residential connection is based on total square footage, only the square footage attributable to indoor space shall be used for purposes of calculating the city's sanitary sewer connection charge.

c. The number of units of sanitary sewer connection charges to be levied against the premises may thereafter be revised conditioned upon the metropolitan council environmental services revising the number of sewer availability charges accordingly.

d. All sanitary sewer connection charges shall be payable in full prior to the issuance of a building permit for new construction on the property.

### **805.03 WATER UTILITY RATES & CHARGES.**

#### **Subd. 1. *Water Connection Permits.***

*a. Existing service stubs.* Service stubs have been installed to serve some homes and businesses presently located in the city. For those homes and businesses, the connections are ready for use by the existing structures in the city.

i. Permit to connect, fee. A permit must be obtained to connect to the water system. The fee for each permit shall be as set by Council ordinance. The fee shall include inspection and turn-on services performed by the city.

ii. Conditions of permit. The permit fee shall be paid at the time of making application for water service. In addition thereto, before any permit shall be issued, the following conditions shall be complied with:

(1) No permit shall be issued to tap or connect with any water main or water system of the city either directly or indirectly from any lot or tract of land unless it shall be determined that:

(a) The lot or tract of land to be served by the connection or tap has been assessed for the cost of construction of the water main and water plan system with which the connection is made; or

(b) The proceedings for levying the assessments have been or will be commenced in due course; or

(c) A connection charge has been paid.

iii. A water meter, meter horn, and remote reader shall be purchased from the city at the time permit is applied for.

iv. If the lot is served by Shorewood's Southeast Area or Boulder Bridge water systems and is below an elevation of 975 feet, or if the lot is served by Chanhassen's High Pressure Zone water system and is below an elevation of 1016 feet, a pressure reducing valve (PRV) shall be purchased from the city at the time the permit is applied for if a new connection or upon notice by the city if an existing connection.

v. Inspections: All property service lines shall be inspected by the City Water Inspector before the lines are covered to insure proper construction of the line and connection to the service stub. The owner or contractor shall give at least 24 hours advance notice to the City Water Inspector when the service pipe is ready for inspection.

vi. Turn on and shut offs: Only an authorized city employee shall turn on or shut off any water supply at the curb stop.

b. New service stubs; application for water service connection. In the event additional connections or stubs to existing water trunk or lateral facilities are required or desired, applications shall be made at the City Hall on forms furnished by the city.

i. Applications. All applications for service stubs shall be made by the owner of the property to be served, or his duly authorized agent, and shall state the size and location of the service connection required, and the applicant shall, at the time of making application, pay to the city the amount of fees required for the installation of the service connection as hereinafter provided. The application shall also contain the name of the owner, a description of the property, lot, block and addition, name of road upon which the property fronts and the signature of the applicant, or his agent, agreeing to conform to the rules and regulations that may be established by the city as conditions for the use of water.

ii. Performance guarantee. For the purpose of assuring and guaranteeing to the city that the installation of the service connection shall fully comply with all of the other terms and provisions of this chapter, the applicant agrees to furnish to the city a construction performance guarantee in the amount determined by the City Engineer, but not less than \$4,000, and naming the city as Obligee thereunder.

iii. Inspections. All property service stubs shall be inspected by the City Water Inspector before the stubs are covered to insure proper construction of the stubs and connection to the water main.

iv. Additional requirements. All requirements set forth in subdivision 1 of this section shall be applicable to this subdivision.

Subd. 2. *Water Restriction Violations.* Pursuant to City Code 802.11, a charge shall be established by the City of Shorewood Master Fee Schedule for violations of water restrictions.

Subd. 3. *Water Meter.* Pursuant to City Code 802.08, a charge shall be established by the City of Shorewood Master Fee Schedule for water meters all related components.

Subd. 4. *Meter Test.* Pursuant to City Code 802.08, a charge shall be established by the City of Shorewood Master Fee Schedule for water meter tests.

Subd. 5. *Water Service Rates & Charges.*

a. *Water Service Rates.* The water rate due and payable to the city by each water user for water taken from the municipal water system shall be at a quarterly rate established by an ordinance of the City Council. Where service is for less than a quarterly period, the quarterly charge will be prorated on a monthly basis.

b. *Estimated and Adjusted Rates.* In the event the water meter servicing any property is found to be operating in a faulty manner or to have become inoperative, the amount of water will be estimated in accordance with the amount previously used in comparable periods of the year. The City Administrator or their designee shall be authorized to make adjustments in water charges when the amount billed is erroneous due to a meter deficiency or other mistake.

c. *Low Income Water Service Rates.* The rate for low income water service shall be set by the City of Shorewood Master Fee Schedule.

d. *Rates Outside City Limits.* Rates due and payable by each water user located beyond the territorial boundaries of the city shall be determined by special contract.

e. *Base Fee.* Beginning January 1, 2026, the City of Shorewood shall charge a base fee, where water is available, as set by the City of Shorewood Master Fee Schedule. Said fee shall be charged to every property where municipal water service is immediately available, regardless of if it is connected to the municipal water system.

f. *Water Infrastructure Fee.* Beginning January 1, 2027, the City of Shorewood shall charge a water infrastructure fee as set by the City of Shorewood Master Fee Schedule,

to all properties which are not contributing to the base fee.

Subd. 6. *Water Turn-on and Shut-off Fees.* A fee as established by the City of Shorewood Master Fee Schedule to be charged for turning on or shutting off water except in instances where a connection permit has been obtained by the property owner.

Subd. 7. *Water Connection Fee.* A connection charge shall be paid by the owners of the lot or tract of land to be served by the municipal water system. The amount of the connection charge shall be set forth in the City of Shorewood Master Fee Schedule and as follows:

a. Connection charges for various land uses shall be made in accordance with the following formula:

Land Use	Formula
Single-Family Residential	C
Multiple-Family Residential	$C \times S + 0.25C \times U$
Commercial	$C \times \text{REU}$
Schools, Religious Institutions, Government and Other Non-Residential	1.5C
Where: C = Connection charge set by the City of Shorewood Master Fee Schedule U = Number of dwelling units S = Number of structures REU = Number of residential equivalent units (there shall be one REU per 20,000 square feet of land area).	

b. For properties previously assessed for municipal water service the connection charge shall be the amount specified in Chapter 1301 of this code, less the amount previously assessed.

c. In addition to the above, developers of new projects or subdivisions will be required to install trunk and lateral mains, services and appurtenant items at the time of development or platting. Pipe sizes shall be as set forth in the city's municipal water plan, as may be amended.

d. For properties not presently served by municipal water service, developers or property owners who wish to extend water service to their property line, shall pay for the cost of the improvement or the water connection charge, whichever is greater.

e. A property owner may petition and the Council, at its discretion, allow the connection charge to be assessed against the property, provided that the assessment will not adversely affect the City's Water Fund.

#### **805.04 STORMWATER UTILITY RATES & CHARGES.**

Subd. 1. *Basic System Rates.* Rates and charges for the stormwater utility shall be determined through the use of the Residential Equivalency Factor (REF) pursuant to City Code 803.04. In determining charges the City Council shall by resolution establish a basic system rate to be charged against one acre of land having an REF of one. The charge to be made against each parcel of land shall then be determined by multiplying the REF for the parcel's zoning district classification times the parcel's acreage times the basic system rate. For land uses identified as single-family and duplex residential, the charge to be made shall be determined by multiplying the REF times the basic system rate. Basic system rates and fees shall be documented in the City of Shorewood Master Fee Schedule.

Subd. 2. *MS4 Illicit Discharge Appeal.* The City Council authorizes collection of a fee to be determined by the City of Shorewood Master Fee Schedule for appeals made regarding MS4 illicit discharges, pursuant to City Code 803.11, Subd. 9.

#### **805.05 FIRE PROTECTION UTILITY DISTRICT RATES & CHARGES.**

Subd. 1. *Fees.* The City Council may, upon notice and publication to duly affected property owners, by resolution, establish a utility fee to pay for the cost of the construction and installation of a dry hydrant fire protection utility system.

**EXHIBIT B**

**TITLE 900  
PUBLIC RIGHT-OF-WAY AND PROPERTY**

<b>Subject</b>	<b>Chapter</b>
Streets & Public Right-of-Way	901
Boulevard Use & Management	902
Public Parks & Recreation Areas	903

**CHAPTER 901  
STREETS & PUBLIC RIGHT-OF-WAY**

Section	
901.01	Findings, Purpose & Intent
901.02	Election to Manage the Public Right-of-Way
901.03	Definitions
901.04	Administration
901.05	House Numbering
901.06	Registration and Right-of-Way Occupancy
901.07	Registration Information
901.08	Reporting Obligations
901.09	Permit Requirement
901.10	Permit Applications
901.11	Issuance of Permit; Conditions
901.12	Action on Small Wireless Facility Permit Application
901.13	Permit Fees
901.14	Right-of-Way Patching and Restoration
901.15	Supplementary Applications
901.16	Obligations
901.17	Denial of Permit
901.18	Installation Requirements
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901.24	Location and Relocation of Facilities
901.25	Undergrounding of Facilities
901.26	Pre-Excavation Facilities Location
901.27	Damage to Other Facilities
901.28	Right-of-Way Vacation
901.29	Indemnification and Liability
901.30	Abandoned and Unusable Facilities
901.31	Appeal
901.32	Reservation of Regulatory and Police Powers
901.33	Severability
901.34	Violation

**901.01 FINDINGS, PURPOSE & INTENT.**

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

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

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

#### **901.02 ELECTION TO MANAGE THE PUBLIC RIGHT-OF-WAY.**

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

#### **901.03 DEFINITIONS.**

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

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

**Applicant.** Any person requesting permission to excavate, obstruct, or otherwise place facilities in a right-of-way.

**City.** The city of Shorewood, Minnesota.

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

**Commission.** The State of Minnesota Public Utilities Commission.

**Construction Performance Bond.** Any of the following forms of security provided at

permittee's option:

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

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

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

**Degradation Fee.** The estimated fee established at the time of permitting by the city to recover costs associated with the decrease in the useful life of the right-of-way caused by the excavation, and which equals the degradation cost.

**Department.** The department of public works of the city.

**Director.** The director of the department of public works of the city, or her or his designee.

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

**Easement.** A legal right that allows someone who is not the property owner to use a portion of the property for a specific limited purpose.

**Emergency.** A condition that (1) poses a danger to life or health, or of a significant loss of property; or (2) requires immediate repair or replacement of facilities in order to restore service to a customer.

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

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

**Excavation permit.** The permit which, pursuant to this chapter, must be obtained before a

person may excavate in a right-of-way. An Excavation permit allows the holder to excavate that part of the right-of-way described in such permit.

**Excavation Permit Fee.** Money paid to the city by an applicant to cover the costs as provided in this Chapter.

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

**Five-Year Project Plan.** Shows projects adopted by the city for construction within the next five years.

**Local Representative.** A local person or persons, or designee of such person or persons, authorized by a registrant to accept service and to make decisions for that registrant regarding all matters within the scope of this chapter.

**Management Costs.** The actual costs the city incurs in managing its rights-of-way, including such costs, if incurred, as those associated with registering applicants; issuing, processing, and verifying right-of-way or small wireless facility permit applications; inspecting job sites and restoration projects; maintaining, supporting, protecting, or moving user facilities during right-of-way work; determining the adequacy of right-of-way restoration; restoring work inadequately performed after providing notice and the opportunity to correct the work; and revoking right-of-way or small wireless facility permits. Management costs do not include payment by a telecommunications right-of-way user for the use of the right-of-way, unreasonable fees of a third-party contractor used by the city including fees tied to or based on customer counts, access lines, or revenues generated by the right-of-way or for the city, the fees and cost of litigation relating to the interpretation Minn. Stat. §§ 237.162 or 237.163; or any ordinance enacted under those sections, or the city fees and costs related to appeals taken pursuant this Chapter.

**Obstruct.** To place any tangible object in a right-of-way so as to hinder free and open passage over that or any part of the right-of-way, or so as to hinder maintenance of any city asset.

**Obstruction Permit.** The permit which, pursuant to this chapter, must be obtained before a person may obstruct a right-of-way, allowing the holder to hinder free and open passage over the specified portion of that right-of-way, for the duration specified therein.

**Obstruction Permit Fee.** Money paid to the city by a permittee to cover the costs as provided in this Chapter.

**Patch or Patching.** A method of pavement replacement that is temporary in nature. A patch consists of (1) the compaction of the subbase and aggregate base, and (2) the replacement, in kind, of the existing pavement for a minimum of two feet beyond the edges of the

excavation in all directions. A patch is considered full restoration only when the pavement is included in the city's five-year project plan.

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

**Permit.** Has the meaning given "right-of-way permit" in this ordinance.

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

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

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

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

**Registrant.** Any person who (1) has or seeks to have its equipment or facilities located in any right-of-way, or (2) in any way occupies or uses, or seeks to occupy or use, the right-of-way or place its facilities or equipment in the right-of-way.

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

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

**Public Right-of-Way or Right-of-Way.** The area on, below, or above a public roadway, highway, street, cartway, bicycle lane, or public sidewalk in which the city has an interest, including other dedicated rights-of-way for travel purposes and utility easements of the city. A right-of-way does not include the airwaves above a right-of-way with regard to cellular or other non-wire telecommunications or broadcast service.

**Right-of-Way Permit.** Either the excavation permit, the obstruction permit, the small cell permit or any combination thereof depending on the context, required by this chapter.

**Right-of-Way User.** (1) A telecommunications right-of-way user as defined by Minn. Stat., § 237.162, subd. 4; or (2) a person owning or controlling a facility in the right-of-way that is used or intended to be used for providing utility service, and who has a right under law,

franchise, or ordinance to use the public right-of-way.

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

**Service Lateral.** An underground facility that is used to transmit, distribute or furnish 'gas, electricity, communications, or water from a common source to an end-use customer. A service lateral is also an underground facility that is used in the removal of wastewater or storm water from a customer's premises.

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

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

**Supplementary Application.** An application made to excavate or obstruct more of the right-of-way than allowed in, or to extend, a permit that had already been issued.

**Temporary Surface.** The compaction of subbase and aggregate base and replacement, in kind, of the existing pavement only to the edges of the excavation. It is temporary in nature except when the replacement is of pavement included in the city's two-year plan, in which case it is considered full restoration.

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

**Telecommunications Right-of-way User.** A person owning or controlling a facility in the right-of-way, or seeking to own or control a facility in the right-of-way that is used or is intended to be used for providing wireless service, or transporting telecommunication or other voice or data information. For purposes of this chapter, a cable communication system defined and regulated under Minn. Stat. ch. 238, and telecommunication activities related to providing natural gas or electric energy services, a public utility as defined in Minn. Stat. § 216B.02, a

municipality, a municipal gas or power agency organized under Minn. Stat. ch. 453 and 453A, or a cooperative electric association organized under Minn. Stat. ch. 308A, are not telecommunications right-of-way users for purposes of this chapter except to the extent such entity is offering wireless service.

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

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

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

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

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

#### **901.04 ADMINISTRATION.**

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

#### **901.05 HOUSE NUMBERING.**

Subd. 1. *Numbering system.* To assist in providing immediate access to all lots, buildings, and structures in the city, the same shall be numbered in accordance with the following plan:

- a. North-south numbers shall commence at the east border of the city and north-south streets shall begin at the number 4600 and run to 6200;
- b. East-west numbers shall commence at the east border of the city and east-west streets shall begin at the number 19200 and run to 28400;
- c. Odd numbers shall be on the south and east sides of the streets; even numbers shall be on the north and west sides of the streets. There shall be 100 numbers to each block, as assigned on a grid of 330 feet for east-west numbers; and 100 numbers to each block as

assigned on a grid of 600 feet for north-south numbers; and

- d. On Enchanted and Shady Islands, numbers shall be assigned on a west to east basis only. Commencing at the west border of Enchanted Island and running to the tip of Shady Island, numbers shall begin at the number 4200 and run to 5400. There shall be 100 numbers to each block assigned on a grid of 330 feet for each block west to east.

Subd. 2. *House numbers assigned; chart kept.* The city shall assign a street number to each house and/or structure in the city, and shall maintain records showing the proper street number of every lot, parcel, and building in the city which shall be open to inspection by any interested person.

Subd. 3. *Placement and size of numbers.* It shall be the duty of the owners and occupants of every house and structure in the city to display in a place visible from the street, figures at least six inches high showing the number of the house or other residential structure. The size of figures on all other occupancies shall be governed by the Fire Code Regulations and shall conform to M.S. § 299F.011.

#### **901.06 REGISTRATION AND RIGHT-OF-WAY OCCUPANCY.**

Subd. 1. *Registration.* Each person authorized to occupy or use, or seeks to occupy or use, the right-of-way or place any equipment or facilities in or on the right-of-way, including persons with installation and maintenance responsibilities by lease, sublease, or assignment, must register with the city. Registration will consist of providing information as required by this Chapter.

Subd. 2. *Registration Prior to Work.* No person may construct, install, repair, remove, relocate, or perform any other work on, or use any facilities or any part thereof, in any right-of-way without first being registered with the city.

Subd. 3. *Exceptions.* Nothing herein shall be construed to repeal or amend the provisions of a city ordinance permitting persons to plant or maintain boulevard plantings or gardens in the area of the right-of-way between their property and the street curb. Persons planting or maintaining boulevard plantings or gardens shall not be deemed to use or occupy the right-of-way, and shall not be required to obtain any permits or satisfy any other requirements for planting or maintaining such boulevard plantings or gardens under this chapter. However, nothing herein relieves a person from complying with the provisions of the Minn. Stat. ch. 216D, One Call Law.

#### **901.07 REGISTRATION INFORMATION.**

Subd. 1. *Information Required.* Registration shall be requested on an application form produced by the City. The information provided to the city at the time of registration shall include, but not be limited to:

- a. Each registrant's name, Gopher One-Call registration certificate number, address,

email address, and telephone number.

b. The name, address, email address, and telephone number of a local representative. The local representative or designee shall be available at all times. Current information regarding how to contact the local representative in an emergency shall be provided at the time of registration.

c. A certificate of insurance or self-insurance:

- i. Verifying that an insurance policy has been issued to the registrant by an insurance company licensed to do business in the state of Minnesota, or a form of self-insurance acceptable to the city;
- ii. Verifying that the registrant is insured against claims for personal injury, including death, as well as claims for property damage arising out of the (i) use and occupancy of the right-of-way by the registrant, its officers, agents, employees, and permittees, and (ii) placement and use of facilities and equipment in the right-of-way by the registrant, its officers, agents, employees, and permittees, including, but not limited to, protection against liability arising from completed operations, damage of underground facilities, and collapse of property;
- 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 thirty (30) days in advance of cancellation of the policy or material modification of a coverage term; and
- 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. The minimum coverage amount shall be \$1,000,000.00.
- vi. The city may require a copy of the actual insurance policies.
- vii. If the person is a corporation, a copy of the certificate is required to be filed under state law as recorded and certified to by the secretary of state.
- viii. A copy of the person's order granting a certificate of authority from the Minnesota Public Utilities Commission or other authorization or approval from the applicable state or federal agency to lawfully operate, where the person is lawfully required to have such authorization or approval from said commission or other state or federal agency.

d. Payment of annual registration pursuant to the City of Shorewood Master Fee Schedule.

e. Any other information deemed necessary by the Director of Public Works to adequately protect the health, safety, and welfare of the city.

Subd. 2. *Notice of Changes.* The registrant shall keep all of the information listed above current at all times by providing to the city information as to changes within fifteen (15) days following the date on which the registrant has knowledge of any change.

#### **901.08 REPORTING OBLIGATIONS.**

Each registrant may file a construction and major maintenance plan for underground facilities with the city at the time of registration. Such plan shall be submitted using a format designated by the city and shall contain the information determined by the city to be necessary to facilitate the coordination and reduction in the frequency of excavations and obstructions of rights-of-way. Notwithstanding the foregoing, the city will not deny an application for a right-of-way permit for failure to include a project in a plan submitted to the city if the registrant has used commercially reasonable efforts to anticipate and plan for the project.

#### **901.09 PERMIT REQUIREMENT.**

Subd. 1. *Permit Required.* Except as otherwise provided in this code, no person may obstruct or excavate any right-of-way, or install or place facilities in the right-of-way, without first having obtained a right-of-way permit from the City to do so.

a. *Excavation.* A permit is required by a registrant to excavate that part of the right-of-way described in such permit and to hinder free and open passage over the specified portion of the right-of-way by placing facilities described therein, to the extent and for the duration specified therein.

b. *Obstruction.* A permit is required by a registrant to hinder free and open passage over the specified portion of right-of-way by placing equipment described therein on the right-of-way, to the extent and for the duration specified therein. An obstruction permit is not required if a person already possesses a valid excavation permit for the same project.

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

Subd. 2. *Permit Extensions.* No person may excavate or obstruct the right-of-way beyond the date or dates specified in the permit unless (i) such person makes a supplementary application for another right-of-way permit before the expiration of the initial permit, and (ii) a new permit or permit extension is granted.

Subd. 3. *Delay Penalty.* In accordance with Minn. Rule 7819.1000 subp. 3 and notwithstanding subd. 2 of this Section, the city shall establish and impose a delay penalty for unreasonable delays in right-of-way excavation, obstruction, patching, or restoration. The delay penalty shall be established by the City of Shorewood Master Fee Schedule.

Subd. 4. *Permit Display*. Permits issued under this chapter shall be conspicuously displayed or otherwise available at all times at the indicated work site and shall be available for inspection by the city.

**901.10 PERMIT APPLICATIONS.**

Application for a permit is made to the city on forms approved by the Director or their designee. Right-of-way permit applications shall contain, and will be considered complete only upon compliance with, the requirements of the following provisions:

- a. Registration with the city pursuant to this chapter.
- b. Submission of a completed permit application form, including all required attachments, and scaled drawings showing the location and area of the proposed project and the location of all known existing and proposed facilities and all other information deemed relevant by the Director.
- c. Payment of money due the city for:
  - i. Permit fees, estimated restoration costs, and other management costs;
  - ii. Prior obstructions or excavations;
  - iii. Any undisputed loss, damage, or expense suffered by the city because of applicant's prior excavations or obstructions of the rights-of-way or any emergency actions taken by the city;
  - iv. Franchise fees or other charges, if applicable.
- d. Payment of disputed amounts due the city by posting security or depositing in an escrow account an amount equal to at least 110 percent of the amount owing.
- e. Posting an additional or larger construction performance bond for additional facilities when applicant requests an excavation permit to install additional facilities and the city deems the existing construction performance bond inadequate under applicable standards.

**901.11 ISSUANCE OF PERMIT; CONDITIONS.**

Subd. 1. *Permit Issuance*. If the applicant has satisfied the requirements of this chapter, the city shall issue a permit.

Subd. 2. *Conditions*. The city may impose reasonable conditions upon the issuance of the permit and the performance of the applicant thereunder to protect the health, safety, and welfare or when necessary to protect the right-of-way and its current use. In addition, a permittee shall

comply with all requirements of local, state, and federal laws, including but not limited to Minn. Stat. §§ 216D.01 - .09 (Gopher One Call Excavation Notice System) and Minn. R., ch. 7560.

**Subd. 3. *Small Wireless Facility Conditions.*** In addition to subdivision 2, the erection or installation of a wireless support structure, the collocation of a small wireless facility, or other installation of a small wireless facility in the right-of-way, shall be subject to the following conditions:

- a. 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 within the right-of-way shall exceed 50 feet in height without the city's written authorization, provided that the city may impose a lower height limit in the applicable permit to protect the public health, safety and welfare or to protect the right-of-way and its current use, and further provided that a registrant may replace an existing wireless support structure exceeding 50 feet in height with a structure of the same height subject to such conditions or requirements as may be imposed in the applicable permit.
- c. No wireless facility may extend more than 10 feet above its wireless support structure.
- d. Where an applicant proposes to install a new wireless support structure in the right-of-way, the city may impose separation requirements between such structure and any existing wireless support structure or other facilities in and around the right-of-way.
- e. Where an applicant proposes collocation on a decorative wireless support structure, sign or other structure not intended to support small wireless facilities, such equipment shall be consistent with the City's aesthetic standards regarding wireless equipment as adopted by the Director. Such standards shall ensure that wireless equipment is installed with a stealth design and that equipment does not detract from the character of the area in which it is installed. In addition, the Director shall adopt standards that ensure city assets can continue to effectively perform their intended function. Standards shall be made available with the application required for a small cell permit.
- f. 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.
- g. A permit will be deemed void if the approved equipment is not installed within one year of issuance of the permit.

**Subd. 4. *Small Wireless Facility Agreement.*** A small wireless facility shall only be collocated on a

small wireless support structure owned or controlled by the city, or any other city asset in the right-of-way, after the applicant has executed a standard small wireless facility collocation agreement with the city. The standard collocation agreement may require payment of the following:

- a. Up to \$150 per year for rent to collocate on the city structure.
- b. \$25 per year for maintenance associated with the collocation;
- c. A monthly fee for electrical service as follows:
  - i. \$73 per radio node less than or equal to 100 maximum watts;
  - ii. \$182 per radio node over 100 maximum watts; or
  - iii. The actual costs of electricity, if the actual cost exceed the foregoing.

**901.12 ACTION ON SMALL WIRELESS FACILITY PERMIT APPLICATION.**

*Subd. 1. Deadline for Action.* The city shall approve or deny a right-of-way permit application involving a small wireless facility within 90 days after filing of such application or within any more restrictive timeline established by state or federal law. The right-of-way permit, and any associated building permit application, shall be deemed approved if the city fails to approve or deny the application within the review periods established in this section.

*Subd. 2. Consolidated Applications.* An applicant may file a consolidated right-of-way permit application addressing the proposed collocation of up to 15 small wireless facilities, or a greater number if agreed to by a local government unit, provided that all small wireless facilities in the application:

- a. Are located within a two-mile radius;
- b. Consist of substantially similar equipment; and
- c. Are to be placed on similar types of wireless support structures.

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

*Subd. 3. Tolling of Deadline.* The 90-day deadline for action on a right-of-way permit application involving a small wireless facility may be tolled if:

- a. The city receives applications from one or more applicants seeking approval of permits for more than 30 small wireless facilities within a seven-day period. In such

case, the city may extend the deadline for all such applications by 30 days by informing the affected applicants in writing of such extension.

b. The applicant fails to submit all required documents or information and the city provides written notice of incompleteness to the applicant within 30 days of receipt the application. Upon submission of additional documents or information, the city shall have ten days to notify the applicant in writing of any still-missing information.

c. The city and a small wireless facility applicant agree in writing to toll the review period.

#### **901.13 RIGHT-OF-WAY PERMIT FEES.**

Subd. 1. *Excavation.* The city shall impose a permit fee for excavations in an amount sufficient to recover the following costs:

a. The city management costs;

b. Degradation costs, if applicable.

Subd. 2. *Obstructions.* The city shall impose a permit fee for obstructions in an amount sufficient to recover the city management costs.

Subd 3. *Small Wireless Facilities.* The city shall impose a permit fee for small wireless facilities in an amount sufficient to recover:

a. Management costs, and;

b. City engineering, make-ready, and construction costs associated with collocation of small wireless facilities.

Subd. 4. *Payment of Permit Fees.* No right-of-way permits shall be issued without payment of all required fees.

Subd. 5. *Non Refundable.* Permit fees that were paid for a permit that the city has revoked for a breach as stated in this Chapter are not refundable.

Subd. 6. *Application to Franchises.* Unless otherwise agreed to in a franchise, management costs may be charged separately from and in addition to the franchise fees imposed on a right-of-way user in the franchise.

#### **901.14 RIGHT OF WAY PATCHING AND RESTORATION.**

Subd. 1. *Timing.* The work to be done under the right-of-way permit, and the patching and restoration of the right-of-way as required herein, must be completed within the dates specified in the permit, increased by as many days as work could not be done because of

circumstances beyond the control of the permittee or when work was prohibited as unseasonal or unreasonable under this Chapter.

Subd. 2. *Patch and Restoration.* Permittee shall patch its own work. The city may choose either to have the permittee restore the right-of-way or to restore the right-of-way itself.

a. *City Restoration.* If the city restores the right-of-way, permittee shall pay the costs thereof within thirty (30) days of billing. If, following such restoration, the pavement settles due to permittee's improper backfilling, the permittee shall pay to the city, within thirty (30) days of billing, all costs associated with correcting the defective work.

b. *Permittee Restoration.* If the permittee restores the right-of-way itself, it shall at the time of application for a right-of-way permit and post a construction performance bond in accordance with the provisions of Minn. Rule 7819.3000. The performance bond shall be for 125% of the estimated restoration costs.

c. *Degradation Fee in Lieu of Restoration.* In lieu of right-of-way restoration, a right-of-way user may elect to pay a degradation fee. However, the right-of-way user shall remain responsible for patching and the degradation fee shall not include the cost to accomplish these responsibilities.

Subd. 3. *Standards.* The permittee shall perform excavation, backfilling, patching, and restoration according to the standards and with the materials specified by the city and shall comply with Minn. Rule 7819.1100.

Subd. 4. *Duty to Correct Defects.* The permittee shall correct defects in patching or restoration performed by permittee or its agents. The permittee upon notification from the city, shall correct all restoration work to the extent necessary, using the method required by the city. Said work shall be completed within five (5) calendar days of the receipt of the notice from the city, not including days during which work cannot be done because of circumstances constituting force majeure or days when work is prohibited as unseasonable or unreasonable under this Chapter.

Subd. 5. *Failure to Restore.* If the permittee fails to restore the right-of-way in the manner and to the condition required by the city, or fails to satisfactorily and timely complete all restoration required by the city, the city at its option may do such work. In that event the permittee shall pay to the city, within thirty (30) days of billing, the cost of restoring the right-of-way. If permittee fails to pay as required, the city may exercise its rights under the construction performance bond.

#### **901.15 SUPPLEMENTARY APPLICATIONS.**

Subd. 1. *Limitation on Area.* A right-of-way permit is valid only for the area of the right-of-way specified in the permit. No permittee may do any work outside the area specified in the permit,

except as provided herein. Any permittee which determines that an area greater than that specified in the permit must be obstructed or excavated must before working in that greater area (i) make application for a permit extension and pay any additional fees required thereby, and (ii) be granted a new permit or permit extension.

Subd. 2. *Limitation on Dates.* A right-of-way permit is valid only for the dates specified in the permit. No permittee may begin its work before the permit start date or, except as provided herein, continue working after the end date. If a permittee does not finish the work by the permit end date, it must apply for a new permit for the additional time it needs, and receive the new permit or an extension of the old permit before working after the end date of the previous permit. This supplementary application must be submitted before the permit end date.

#### **901.16 OTHER OBLIGATIONS.**

Subd. 1. *Compliance with Other Laws.* Obtaining a right-of-way permit does not relieve permittee of its duty to obtain all other necessary permits, licenses, and authority and to pay all fees required by the city or other applicable rule, law or regulation. A permittee shall comply with all requirements of local, state and federal laws, including but not limited to Minn. Stat. §§ 216D.01-.09 (Gopher One Call Excavation Notice System) and Minn. R., ch. 7560. A permittee shall perform all work in conformance with all applicable codes and established rules and regulations, and is responsible for all work done in the right-of-way pursuant to its permit, regardless of who does the work.

Subd. 2. *Prohibited Work.* No right-of-way obstruction or excavation may be done when seasonally prohibited between October 15<sup>th</sup> and April 15<sup>th</sup> or when conditions are unreasonable for such work. Exceptions may be approved by the Director for emergencies or other situations.

Subd. 3. *Interference with Right-of-way.* A permittee shall not so obstruct a right-of-way that the natural free and clear passage of water through the gutters or other waterways shall be interfered with. Private vehicles of those doing work in the right-of-way may not be parked within or next to a permit area, unless parked in conformance with city parking regulations. The loading or unloading of trucks must be done solely within the defined permit area unless specifically authorized by the permit.

Subd. 4. *Trenchless excavation.* As a condition of all applicable permits, permittees employing trenchless excavation methods, including but not limited to Horizontal Directional Drilling, shall follow all requirements set forth in Minn. Stat. ch. 216D and Minn. R., ch. 7560 and shall require potholing or open cutting over existing underground utilities before excavating, as determined by the director.

#### **901.17 DENIAL OF PERMIT.**

Subd. 1. *Reasons for Denial.* The city may deny a permit for failure to meet the requirements and conditions of this chapter or if the city determines that the denial is necessary to protect the health, safety, and welfare of the public or when necessary to protect the right-of-way and its current use and any city asset or facility.

Subd. 2. *Procedural Requirements.* The denial or revocation of a permit must be made in writing and must document the basis for the denial. If an application is denied, the right-of-way user may address the reasons for denial identified by the city and resubmit its application. If the application is resubmitted within 30 days of receipt of the notice of denial, no additional application fee shall be imposed.

#### **901.18 INSTALLATION REQUIREMENTS.**

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

#### **901.19 INSPECTION.**

Subd. 1. *Notice of Completion.* When the work under any permit hereunder is completed, the permittee shall furnish a completion certificate in accordance Minn. Rule 7819.1300 or other as built documentation as deemed necessary by the Director of Public Works.

Subd. 2. *Site Inspection.* Permittee shall make the work site available to the city and to all others as authorized by law for inspection at all reasonable times during the execution of and upon completion of the work.

Subd 3. *Authority of Director.*

a. At the time of inspection, the director may order the immediate cessation of any work which poses a serious threat to the life, health, safety, or well-being of the public.

b. The director may issue an order to the permittee for any work that does not conform to the terms of the permit or other applicable standards, conditions, or codes. The order shall state that failure to correct the violation will be cause for revocation of the permit. Within ten (10) days after issuance of the order, the permittee shall present proof to the director that the violation has been corrected. If such proof has not been presented within the required time, the director may revoke the permit pursuant to this Chapter.

#### **901.20 WORK DONE WITHOUT A PERMIT.**

Subd. 1. *Emergency Situations.* Each registrant shall immediately notify the director of any event regarding its facilities that it considers to be an emergency. The registrant may proceed to take whatever actions are necessary to respond to the emergency. Excavators' notification to Gopher State One Call regarding an emergency situation does not fulfill this requirement. Within two (2) business days after the occurrence of the emergency, the registrant shall apply for the necessary permits, pay the fees associated therewith, and fulfill the rest of the

requirements necessary to bring itself into compliance with this chapter for the actions it took in response to the emergency.

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

**Subd. 2. *Non-Emergency Situations.*** Except in an emergency, any person who, without first having obtained the necessary permit, obstructs or excavates a right-of-way must subsequently obtain a permit and, as a penalty, pay double the normal fee for said permit, pay double all the other fees required by the city code, deposit with the city the fees necessary to correct any damage to the right-of-way, and comply with all of the requirements of this chapter.

**Subd. 3. *Cause for Probation.*** Except in an emergency, any person or contractor who, without first having obtained the necessary permit, obstructs or excavates a right-of-way shall automatically be placed on probation for one full year.

#### **901.21 SUPPLEMENTARY NOTIFICATION.**

If the obstruction or excavation of the right-of-way begins later or ends sooner than the date given on the permit, permittee shall notify the city of the accurate information as soon as this information is known.

#### **901.22 REVOCATION OF PERMITS.**

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

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

Subd. 2. *Written Notice of Breach.* If the city determines that the permittee has committed a substantial breach of a term or condition of any statute, ordinance, rule, regulation, or any condition of the permit, the city shall make a written demand upon the permittee to remedy such violation. The demand shall state that continued violations may be cause for revocation of the permit. A substantial breach, as stated above, will allow the city, at its discretion, to place additional or revised conditions on the permit to mitigate and remedy the breach.

Subd. 3. *Response to Notice of Breach.* Within twenty-four (24) hours of receiving notification of the breach, permittee shall provide the city with a plan, acceptable to the city, that will cure the breach. Permittee's failure to so contact the city, or permittee's failure to timely submit an acceptable plan, or permittee's failure to reasonably implement the approved plan, shall be cause for immediate revocation of the permit. Further, permittee's failure to so contact the city, or permittee's failure to submit an acceptable plan, or permittee's failure to reasonably implement the approved plan, shall automatically place the permittee on probation for one (1) full year.

Subd. 4. *Cause for Probation.* From time to time, the city may establish a list of conditions of the permit, which if breached will automatically place the permittee on probation for one full year, such as, but not limited to, working out of the allotted time period or working on right-of-way grossly outside of the permit authorization.

Subd. 5. *Automatic Revocation.* If a permittee, while on probation, commits a breach as outlined above, permittee's permit will automatically be revoked and permittee will not be allowed further permits for one full year, except for emergency repairs.

Subd. 6. *Reimbursement of city costs.* If a permit is revoked, the permittee shall also reimburse the city for the city's reasonable costs, including restoration costs and the costs of collection and reasonable attorneys' fees incurred in connection with such revocation.

### **901.23 MAPPING DATA.**

Subd. 1. *Information Required.* Each registrant and permittee shall provide mapping information required by the city in accordance with Minn. R. 7819.4000 and 7819.4100. Within ninety (90) days following completion of any work pursuant to a permit, the permittee shall provide the director accurate maps and drawings certifying the "as-built" location of all equipment installed, owned, and maintained by the permittee. Such maps and drawings shall include the horizontal and vertical location of all facilities and equipment and shall be provided consistent with the city's electronic mapping system, when practical or as a condition imposed by the director. Failure to provide maps and drawings pursuant to this subsection shall be grounds for revoking the permit holder's registration.

Subd. 2. *Service Laterals.* All permits issued for the installation or repair of service laterals, other than minor repairs as defined in Minn. R. 7560.0150, subp. 2, shall require the permittee's use of appropriate means of establishing the horizontal locations of installed service laterals and

the service lateral vertical locations in those cases where the director reasonably requires it. Permittees or their subcontractors shall submit to the director evidence satisfactory to the director of the installed service lateral locations. Compliance with this subdivision 2 and with applicable Gopher State One Call law and Minnesota Rules governing service laterals installed after Dec. 31, 2005, shall be a condition of any city approval necessary for:

a. Payments to contractors working on a public improvement project, including those under Minn. Stat. ch. 429, and

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

#### **901.24 LOCATION AND RELOCATION OF FACILITIES.**

Subd. 1. Placement, location, and relocation of facilities must comply with the Act, with other applicable law, with other applicable standards adopted by the Director of Public Works, and with Minn. R. 7819.3100, 7819.5000, and 7819.5100, to the extent the rules do not limit authority otherwise available to cities.

Subd. 2. *Undergrounding.* Unless otherwise agreed in a franchise or other agreement between the applicable right-of-way user and the City, Facilities in the right-of-way must be located or relocated and maintained underground subject to the requirements of this Chapter.

Subd. 3. *Corridors.* The city may assign a specific area within the right-of-way, or any particular segment thereof as may be necessary, for each type of facility that is or, pursuant to current technology, the city expects will someday be located within the right-of-way. All excavation, obstruction, or other permits issued by the city involving the installation or replacement of facilities shall designate the proper corridor for the facilities at issue.

Subd. 4. *Nuisance.* One year after the passage of this chapter, any facilities found in a right-of-way that have not been registered shall be deemed to be a nuisance. The city may exercise any remedies or rights it has at law or in equity, including, but not limited to, abating the nuisance or taking possession of the facilities and restoring the right-of-way to a useable condition.

Subd. 5. *Limitation of Space.* To protect the health, safety, and welfare of the public, or when necessary to protect the right-of-way and its current use, the city shall have the power to prohibit or limit the placement of new or additional facilities within the right-of-way. In making such decisions, the city shall strive to the extent possible to accommodate all existing and potential users of the right-of-way, but shall be guided primarily by considerations of the public interest, the public's needs for the particular utility service, the condition of the right-of-way, the time of year with respect to essential utilities, the protection of existing facilities in the

right-of-way, and future city plans for public improvements and development projects which have been determined to be in the public interest.

#### **901.25 UNDERGROUNDING OF FACILITIES.**

Subd. 1. *Purpose.* The purpose of this section is to promote the health, safety, and general welfare of the public, and is intended to foster (i) safe travel over the right of way, (ii) safety around homes and buildings where overhead feeds are connected, and (iii) orderly development in the city consistent with its Comprehensive Plan. Location and relocation, installation and reinstallation of facilities in the right of way or in or on other public ground must be made in accordance with this section and is intended to be enforced consistently with state and federal law regulating right-of-way users, to the fullest extent of the city's statutory and common law authority.

Subd. 2. *Undergrounding of Facilities.* All facilities newly installed, constructed, or otherwise placed in the public right-of-way, or in other public property held in common for public use, must be located and maintained underground pursuant to the terms and conditions of this section and in accordance with applicable construction standards, subject to the exceptions below. Above-ground installation, construction, modification, or replacement of existing meters, gauges, transformers, street lighting, pad mount switches, capacitor banks, re-closers, small wireless facilities and service connection pedestals shall be allowed, in addition to above-ground placement of new small wireless facilities in compliance with Minn. Stat. § 237.163 and properly permitted by the city. These requirements shall apply equally outside of the corporate limits of the city coincident with city jurisdiction of platting, subdivision regulation, or comprehensive planning as may now or in the future be allowed by law. If public electric utility service is undergrounded in an area, all other right-of-way users shall also underground their facilities.

Subd. 3. *Undergrounding of Permanent Replacement, Relocated or Reconstructed Facilities.* If the city finds that one or more of the purposes set forth in chapter would be promoted, the city may require a permanent replacement, relocation, or reconstruction of a facility to be located and maintained underground, with due regard for seasonal working conditions. For purposes of this subdivision, reconstruction means any substantial repair of or any improvement to existing facilities. Undergrounding may be required, whether a replacement, relocation, or reconstruction is initiated by the right-of-way user owning or operating the facilities, or by the city in connection with (1) the present or future use by the city or other local government unit of the right of way or other public ground for a public project, (2) the public health or safety, or (3) the safety and convenience of travel over the right of way. Subject to subd. 4 below, all relocations from previously placed underground facilities shall be to another underground location. If public electric utility service is undergrounded in an area, all other right-of-way users shall also underground their facilities.

Subd. 4. *Exceptions.* The following exceptions to the strict application of this subdivision shall be allowed upon the conditions stated:

a. *Technical Feasibility; Promotion of Policy.* Above-ground installation, construction, or placement of facilities shall be allowed in residential, commercial, and industrial areas where the Council, following consideration and recommendation by the Director of Public Works, finds that:

- i. Underground placement is not technically feasible due to topographical, subsoil, or other existing conditions which significantly and adversely affect underground facilities placement; or
- ii. Failure to promote the purposes of undergrounding. The right-of-way user clearly and convincingly demonstrates that none of the purposes under this Chapter would be advanced by underground placement of facilities on the project in question, or the city determines on its own review that undergrounding is not warranted based on the circumstances of the proposed undergrounding.

b. *Temporary Service.* Above-ground installation, construction, or placement of temporary service lines shall only be allowed:

- i. During new construction of any project for a period not to exceed three (3) months.
- ii. During an emergency in order to safeguard lives or property within the city.
- iii. For a period of not more than seven (7) months when soil conditions make excavation impractical.

c. *Facilities Subject to Preemptive Public Utilities Commission Siting and Routing Jurisdiction.* Facilities that are subject to certificate of need and siting and routing requirements of the Minnesota Public Utilities Commission are exempted from this section to the extent that the city's undergrounding authority is pre-empted by law.

d. *Collocation of Small Cell Wireless Facilities.* Collocation of small wireless facilities and installation of wireless support structures, approved by the city and in compliance with Minn. Stat. §§ 237.162, 237.163, are exempted from this section.

e. *City Projects.* The City Council may at its discretion waive undergrounding requirements for projects initiated by the City of Shorewood.

Subd. 5. *Developer Responsibility.* All owners, platters, or developers are responsible for complying with the requirements of this subdivision, and prior to final approval of any plat or development plan, shall submit to the director written instruments from the appropriate right-of-way users showing that all necessary arrangements with said users for installation of such facilities have been made.

Subd. 6. *Relocation Notification Procedure.* The city shall notify the utility owner at least 90 days in advance of the need to relocate existing facilities so the owner can determine if relocation or replacement is required and plan for any required work. The city shall provide a second notification to the owner one month before the owner needs to begin the relocation. The utility owner shall begin relocation of the facilities within one month of the second notification. To the extent technically feasible, all utilities shall be relocated within one month or in a time frame determined by the city. The city may allow a different schedule if it does not interfere with the city's project. The utility owner shall diligently work to relocate the facilities within the above schedule. The registrant shall restore any rights-of-way to the condition it was prior to removal and relocation.

Subd. 7. *Delay to City Project.* The city shall notify the utility owner if the owner's progress will not meet the relocation schedule. If the owner fails to meet the relocation schedule due to circumstances within its control, the city may charge the utility owner for all costs incurred and requested by a contractor working for the city who is delayed because the relocation is not completed in the scheduled time frame and for all costs incurred by the city due to the delay. Delay penalties under this section shall be set time to time by the City Council. For relocations or requests made by the city that are matters of convenience, and where the city shall be charged for such costs, the utility owner shall provide the city a detailed estimate of all relocation costs, including, but not limited to: quantities of all materials and supplies, cost for each quantity, labor costs, other. The city shall have the right to independently verify the cost to determine reasonableness.

#### **901.26 PRE-EXCAVATION FACILITIES LOCATION.**

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

#### **901.27 DAMAGE TO OTHER FACILITIES.**

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

#### **901.28 RIGHT OF WAY VACATION.**

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

**901.29 INDEMNIFICATION AND LIABILITY.**

By registering with the city, or by accepting a permit under this chapter, a registrant or permittee agrees to defend and indemnify the city in accordance with the provisions of Minn. Rule 7819.1250, subd. 2.

**901.30 ABANDONED AND UNUSABLE FACILITIES.**

Subd. 1. *Discontinued Operations.* A registrant who has determined to discontinue all or a portion of its operations in the city must provide information satisfactory to the city that the registrant's obligations for its facilities in the right-of-way under this chapter have been lawfully assumed by another registrant.

Subd. 2. *Removal.* Any registrant who has abandoned facilities in any right-of-way shall remove it from that right-of-way if required in conjunction with other right-of-way repair, excavation, or construction, unless this requirement is waived by the city.

**901.31 APPEAL.**

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

**901.32 RESERVATION OF REGULATORY AND POLICE POWERS.**

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

**901.33 SEVERABILITY.**

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

**901.34 VIOLATION.**

Any person who shall violate any of the provisions of this Chapter shall be guilty of a misdemeanor unless otherwise specified.

**CHAPTER 902**  
**BOULEVARD USE AND MANAGEMENT**

Chapter	
902.01	Purpose
902.02	Scope
902.03	Encroachments in General
902.04	Allowable Encroachments
902.05	Severability
902.06	Violation

**902.01 PURPOSE.**

The public welfare requires that the public rights-of-way within the city, including highways, roads, streets and alleys, be reserved for public purposes. Public use of the full width of the rights-of-way is necessary to public safety and the proper and efficient maintenance of the rights-of-way. However, it is recognized that limited private use or encroachment onto the rights-of-way is not necessarily inconsistent with public use. It is the purpose of this section to provide for lawful incidental private use of publicly-owned rights-of-way not inconsistent with public use.

**902.02 SCOPE.**

The requirements of this chapter shall apply to the areas located within the public right-of-way, or public easements utilized for highways, roads, streets, sidewalks, and other similar public purposes. More specifically, this chapter shall provide requirements for the unimproved portions of these areas, located between the edge of the pavement and the property line, commonly referred to as a boulevard.

**902.03 ENROACHMENTS IN GENERAL.**

Subd. 1. *Permit required.* The right to use publicly-owned rights-of-way within the city for any private use or purpose other than the primary purpose of public travel, whether the use constitutes a substantial or incidental use, may be acquired only through permit granted pursuant to this section.

Subd. 2. *Application for permit.* Any person may apply to the City Council for a permit to keep or maintain private property within a publicly-owned right-of-way. The application shall be in writing and must describe with specificity the private property and right-of-way involved and the nature and extent of the requested encroachment.

Subd. 3. *Issuance of permit; conditions.* The City Council may grant the permit if it is determined that the use applied for is incidental and not inconsistent with safe and efficient public use. However, no permit will be issued until the applicant has agreed in writing to waive any right to recover from the city for damage occurring to the property located within the right-of-way which may result from the performance of the city or its agents of its public duties as required by law.

Subd. 4. *Revocation of permit.* The city reserves the right to revoke any permit granted under this section as may be required by the public interest.

Subd. 5. *Unlawful encroachments.* Any privately-owned property located within or encroaching upon public-owned rights-of-way, which has not been authorized in accordance with this section, shall be unlawful and be subject to removal by the city at the owner's expense.

#### **902.04 ALLOWABLE ENCROACHMENTS.**

The following boulevard uses shall be permitted encroachments within the public right-of-way, provided they do not impact traffic sightlines subject to the following:

##### *Subd. 1. Mailbox.*

- a. The mailbox shall be on placed and constructed in accordance with the requirements of the United States Postal Service.
- b. The location of the mailbox shall not interfere with the City's maintenance of the right-of-way.

##### *Subd. 2. Landscaping.*

- a. Landscaping, including vegetation, wood mulch, rock beds, edging, bushes, trees, and similar features, shall be permitted provided they are substantially maintained to a height of no more than 36 inches and do not impact traffic sightlines as determined by the Director of Public Works or their designee.

##### *Subd. 3. Underground Irrigation and Pet Containment.*

- a. The City assumes no responsibility for repair, replacement, or restoration of any private underground system located within public right-of-way that is damaged or disturbed due to construction, maintenance, utility work, snow removal, or other public operations.
- b. No person shall install, construct, or maintain a Private Underground System within the public right-of-way without first obtaining an encroachment permit from the City. The permit is subject to review and approval by the Director.

Subd. 4. *Removal.* The City reserves the right to remove or modify any permitted and/or allowable encroachment within the boulevard.

Subd. 5. *Damages.* Any damage that occurs to allowable encroachments including landscaping, irrigation, pet containment fence, or other items, for any reason, shall be the responsibility of the owner to repair. This includes, but is not limited to damage from snow removal, mowing,

roadway maintenance including sidewalk and trails, roadway reconstruction & repairs including sidewalk and trails, installation of new sidewalk & trails adjacent to existing roadways, and permitted utility installations, relocations, or repairs.

**902.05 SEVERABILITY.**

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

**902.06 VIOLATION.**

Any person who shall violate any of the provisions of this Chapter shall be guilty of a misdemeanor unless otherwise specified.

**CHAPTER 903  
PUBLIC PARKS & RECREATION AREAS**

Section	
903.01	Purpose
903.02	Definitions
903.03	Park Guidelines
903.04	Additional Guidelines for Specific Activities
903.05	Christmas Lake Boat Landing & AIS Inspections
903.06	Reservation of Facilities
903.07	Violation

**903.01 PURPOSE.**

The purpose of this chapter is to regulate the use of and to provide uniform rules of conduct for City parks and recreational areas in the City.

**903.02 DEFINITIONS.**

For the purpose of this Chapter, the following definition shall apply unless the context clearly indicates or requires a different meaning:

***PARKS & RECREATION AREAS.*** Public land and open spaces in the City dedicated or reserved for recreation purposes.

**903.03 PARK GUIDELINES.**

Subd. 1. To ensure our parks and recreation areas remain safe, enjoyable, and welcoming for all, visitors are required to observe the following guidelines:

- a. *Park Hours.* No person shall enter or remain in any park or recreation area between the hours of 10:00 p.m. and 6:00 a.m.
- b. *Overnight Use.* No person shall set up any tent or other temporary shelter in any park, nor shall person leave any property, including, but not limited to, vehicles, campers, and trailers in any park between the hours of 10:00 p.m. and 6:00 a.m. without the written permission of the City Administrator or their designee.
- c. *Tampering with City Property.* No person shall deface, destroy, tamper with, injure or remove any City property , including, but not limited to furniture, structures, pavement, trails, vegetation, signs, or soils.
- d. *Littering.* No person shall litter within a park and recreation area. Park visitors shall place the material in the proper receptacles where provided. Where receptacles are not provided, all materials shall be carried away from the area by the visitor.
- e. *Fires.* No person shall start a fire in a park and recreation area without written

permission of the City Administrator or their designee. Fires for the use of cooking may be conducted without written permission, provided they are located solely within designed grills, or portable stoves. Those cooking within parks and recreation areas are required to monitor and fully extinguish all fires.

f. *Food Trucks and Sales.* No person shall conduct any sales or other commercial enterprise within parks and recreation areas. Food trucks may be allowed for special events with written permission from the City Administrator or their designee.

g. *Gambling.* Gambling is prohibited.

h. *Music.* No person shall provide amplified music in any park or recreation area without written permission from the City Administrator or their designee. Speakers and amplifiers shall be projected away from any homes located within 500 feet of the stage or performance area. The City withholds the right to require the sound level to be lowered or turned off.

i. *Glass Containers.* No person shall bring any glass containers into a park or recreation area.

j. *Weapons.* No person shall bring any firearms, bow and arrow, air rifle, BB gun, sling shot, or similar items to a park or recreation area without a state permit.

k. *Fireworks.* The use of fireworks and explosives is prohibited in all parks and recreation areas.

l. *Use of Toys and Equipment.* Visitors shall be cognizant of others in park and recreation areas and utilize toys and equipment in a manner that does not interfere with others.

m. *Improper Conduct.* No person shall appear nude, commit any nuisance, harass, behave in a reckless manner, or use threatening, abusive, insulting, obscene, or indecent language or act in an indecent, lascivious or improper manner or do any act which constitutes a breach of the public peace.

n. *Illegal Activity.* All activity which is illegal pursuant to any applicable rule and regulation shall be prohibited.

o. *Disobey City Officials.* No person shall disobey any reasonable order or direction of any City Official, law enforcement officer, or other person designated by the City Administrator or their designee to give orders or directions.

p. *Discrimination.* No person involved in any event or in any use of the parks or recreation areas, including, but not limited to, sponsors of teams, shall deny another person access to, admission to, utilization of or benefit from any event or use because of

race, age, sex, color, creed, religion or national origin.

Subd. 2. *Animals in Park and Recreation Areas.* No person in a City park or recreation area shall

- a. Kill, trap, hunt, pursue or in any manner disturb or cause to be disturbed any wildlife.
- b. Bring any dog, cat or other animal unless caged or kept on a leash not more than six feet in length.
- c. Permit any animal to disturb, harass or interfere with or endanger any visitor or visitor's property or tether any creature to a tree, plant, building or park equipment.
- d. Permit any animal to enter unauthorized areas. Unauthorized areas are active play areas, picnic areas and park buildings.
- e. Release any insect, fish, animal or other wildlife or introduce any plant, chemical or other agent potentially harmful to the vegetation, water supply or wildlife of the area.
- f. Ride a horse, except with prior approval from the city.
- g. Permit any domestic animal to defecate in or upon public property. The owner or person having the custody or control of the animal shall be responsible for immediately cleaning up any feces of the animal and disposing of the feces in a sanitary manner.

Subd. 3. *Vehicle Restrictions.* Except for City officials and emergency services in performance of their duties, no person in a City park or recreation area shall:

- a. Drive or park a vehicle, except an authorized or emergency vehicle, on any turf or other area not designated for parking or travel.
- b. Wash, grease, dismantle, repair, change or deposit the oil of a vehicle anywhere in a park or recreation area.
- c. Operate a motorized vehicle except on marked trails during times designated by the City Council and/or Park Commission.
- d. Operate any watercraft within designated swimming areas.
- e. Operate a motorized vehicle in excess of 15 miles per hour.
- f. This section does not prohibit the operation of any manual or motorized wheelchair as defined by M.S. § 169.01, subd. 24A.

Subd. 4. *Liquor.* No person shall use or bring alcoholic beverages, including beer, except that

the City Council may authorize sale, service and/or consumption of alcohol in Badger Park and Freeman Park for approved special events as authorized by written permit from the City Council, subject to the following:

- a. The sellers must be duly licensed by the State of Minnesota, Hennepin County, and the City of Shorewood as may be applicable.
- b. The area where alcohol is permitted during the event must be clearly identified on a site plan submitted with the application and with physical barriers installed in the park.
- c. The organizers shall be responsible for checking the ages of any purchasers and banding those 21 years of age or older.
- d. No person who is under 21 years of age may purchase, consume, or hold alcoholic beverages.
- e. A minimum of one sworn law enforcement officer shall be present at the event during all hours alcohol is sold on the site. Additional officers may be required based on the size of the event or other operational issue.

**903.04 ADDITIONAL GUIDELINES FOR SPECIFIC ACTIVITIES.**

Subd. 1. *Public Tennis Courts.* No person shall:

- a. Be allowed on any tennis courts while wearing street shoes.
- b. Be allowed to make use of the tennis courts except for playing tennis, or pickleball where courts are striped by the City for pickleball.
- c. Use a tennis court for longer than 60 minutes when other tennis players are waiting to use the tennis court.

Subd. 2. *Swimming.*

- a. No person shall swim except at designated areas.
- b. No person shall swim beyond buoys marking the limits of swimming areas.
- c. No child under ten years of age shall be allowed at a designated swimming area without competent supervision.
- d. Any person swimming at a public beach when a lifeguard is off duty swims at their own risk.

Subd. 3. *Public Skating Rinks.*

- a. Skating areas shall be posted for “hockey” or “free skating”.
- b. No hockey sticks or pucks shall be allowed in areas posted as a “free skating” area.

### **903.05 CHRISTMAS LAKE BOAT LANDING & AIS INSPECTIONS.**

#### *Subd. 1. Christmas Lake Boat Landing.*

- a. The Christmas Lake boat landing/public access and parking lot (the “Christmas Lake Landing” or the “Landing”) shall be considered a city recreation area, and subject to the general rules and regulations of city park and recreation areas.
- b. Boats launched from city property, including the Christmas Lake Landing must meet all applicable federal, state, and local laws and regulations.
- c. No person shall leave, store, abandon, or otherwise cause to remain any fish house, shelter, dark house, boat, trailer overnight in the Christmas Lake Landing area, except as permitted in paragraph f., or by permission from the city.
- d. Parking is prohibited except in designated parking spaces, except during launching and removal of the watercraft from the water, and except while watercraft or trailers are being inspected or decontaminated for aquatic invasive species.
- e. Vehicles may only park the Christmas Lake Landing area if there is a designated parking spot then available in the landing area for the vehicle, or the vehicle and its trailer is towing a trailer. Vehicles without a trailer must first park in a spot intended for vehicles without trailers, if one is available, though they may park in a parking spot intended for vehicles with trailers, if none are available. If no spots are available, vehicles may utilize the Christmas Lake Landing area to turn around and immediately exit.
- f. All vehicles and trailers must park at the landing in a manner that does not obstruct the equipment used to inspect or decontaminate watercraft or trailers for aquatic invasive species or disrupt or make unreasonably difficult the ability to inspect or decontaminate watercraft or trailers, or the ability to launch or retrieve watercraft. Nothing in this section prevents or limits the ability to use, store or leave at the Christmas Lake Landing trailers, mats or other equipment used to inspect or decontaminate boats or trailers for aquatic invasive species at the landing.
- g. All bait disposed of at the Christmas Lake Landing shall be disposed of in a manner that complies with all State of Minnesota laws and regulations.

#### *Subd. 2. Inspections for Aquatic Invasive Species.*

a. *Purpose and Intent.* The city finds that the uncontrolled spread of aquatic invasive species ("AIS") poses an imminent and irrevocable threat to the water resources, property values, enjoyment and habitability of the community. Pursuant to M.S. Chapter 84D, the city has adopted mandatory inspection of AIS as a reasonable measure to contain the spread of AIS within the community.

b. *Mandatory Inspections.* The city does hereby require inspection of water-related equipment for prohibited aquatic invasive species, as defined in Minn. Rules Part 6216.0250, prior to entering public waters of the state within the corporate limits of the city. A person who fails to comply with the mandatory inspection of water-related equipment, as provided by this section adopted in compliance with M.S. § 84D.105, and introduces water-related equipment at the point of public access to public waters shall be guilty of a misdemeanor subject to the penal provisions set forth in M.S. § 609.02.

#### **903.06 RESERVATION OF FACILITIES.**

In addition to the provisions of this Chapter, reservation of park and recreation area facilities shall be in accordance with the City of Shorewood Parks and Recreation Field Use Policy, and the terms and conditions set forth in an Athletic Association agreement if applicable.

#### **903.07 VIOLATION.**

Any person who shall violate any of the provisions of this Chapter shall be guilty of a misdemeanor unless otherwise specified.