

CHAPTER 3. PUBLIC PROPERTY

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📌 Section 300 - Smoking Policy

300.01 Purpose. The purpose of this section shall be to provide the City's employees and the public with a safe and healthy environment, and to protect the public health and comfort by prohibiting smoking in public structures and public vehicles. Nothing in this section shall be construed in any way to affect smoking prohibitions imposed by the Fire Marshal or other laws, ordinances or regulations.

300.02 Definitions. For the purpose of this section, the following words shall have the meaning ascribed to them.

300.02.1. “Public entrance” shall mean all doorway(s) commonly used by the public to access any public structure.

300.02.2. “Public structures” shall mean buildings and structures financed in whole or part by City funds and are under City jurisdiction and control.

300.02.3. “Public vehicles” shall mean any vehicle owned by the City.

300.02.4 “Smoke” or “smoking” shall mean inhaling or exhaling smoke from any lighted or heated cigarette, cigar, pipe, or any other lighted or heated tobacco or plant product, or inhaling or exhaling vapor from any Electronic Delivery Device, as defined in Section 400.02. Smoking shall include carrying a lighted or heated cigarette, cigar, or pipe or any other lighted or heated tobacco or plant product intended for inhalation.

(Am. Ord. 2013-13, passed 11-18-13)

300.03 Smoke Free Requirements. No person may smoke within a public structure or a public vehicle at any time.

300.04 Signs.

300.04.1. The City shall advise persons of the existence of the no smoking requirements of this section by placing signs at every public entrance to the public structure which state “Smoking is Prohibited. Please Extinguish all Smoking Materials Immediately” and by placing signs in every public vehicle which state “Smoking is Prohibited. Please Extinguish all Smoking Materials Immediately.”

300.04.2. All signs which are used at the entrance of the public structure shall be placed at a height and location easily seen by the person entering the public structure and not obscured in any way.

300.04.3. All signs which are used in the public vehicles shall be placed at a height and location easily seen by any person sitting in a public vehicle and not obscured in any way.

300.04.4. The City shall provide ash stands or permanent ashtrays at or near each public entrance and at or near the sign designated in this subsection.

300.05 Prohibition. Smoking an Electronic Delivery Device is prohibited anywhere smoking is prohibited by the Minnesota Clean Indoor Air Act. The prohibition contained in this Section 300.05 is intended to complement the Minnesota Clean Indoor Air Act, Minnesota Statutes §§144.411 to 144.417, as amended from time to time. Nothing in this Section 300 or any other ordinance of the City of Hermantown authorizes smoking in any location where smoking is restricted by other applicable laws.

(Am. Ord. 2013-13, passed 11-18-13)

📌 Section 310 - Use of Public Property

310.01 Definitions. The following terms, phrases, words and their derivatives shall have the meaning given them in this subsection. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The words “shall” and “will” are mandatory, and “may” is permissive. Words not defined shall be given their common and ordinary meaning.

310.01.1. “City” shall mean the City of Hermantown, Minnesota.

310.01.2. “City Attorney” shall mean that person designated by the City Council as the City Attorney.

310.01.3. “City Council” shall mean the City Council of the City of Hermantown.

310.01.4. “City Engineer” shall mean that person designated by the City Council as the City Engineer.

310.01.5. “City Superintendent” shall mean that person designated by the City Council as the City Street Superintendent.

310.01.6. “Excavating contractor” shall mean any person who shall be issued an excavating contractor license pursuant to this section.

310.01.7. “Excavating contractor license” shall mean the annual license required to be obtained by an excavating contractor under this section.

310.01.8. “Excavating permit” shall mean the permit required to be obtained by a licensed excavating contractor under this section before the excavating contractor performs any work in any City street.

310.01.9. “Person” shall mean any corporation, partnership, proprietorship or any natural person.

310.01.10. “Public property” shall mean any real property owned by the City or any other governmental unit, other than a street.

310.01.11. “Public utility” shall mean Minnesota Power, Northern Minnesota Utilities, Triax and Northwestern Bell Telephone.

310.01.12. “Street” shall mean the surface of and the space above and below any public street, road, cartway, highway, freeway, lane, path, public way, alley, court, sidewalk, boulevard, parkway, drive or any easement or right-of-way now or hereafter held by the City.

310.02 Excavating Contractor License and Excavating Permits Required. No person shall make any excavation for any purpose or perform any other construction work in any street or on any public property without first having applied for and obtained an excavating contractor license and an excavating permit covering the work to be performed. Notwithstanding anything to the contrary contained in this section, no excavating contractor's license or permit shall be required for any work performed on behalf of the City by any employee of the City; any work performed by any person for the purpose of completing a contract awarded by the City; or work performed by or on behalf of any public utility, provided that the public utility shall have complied with all other applicable ordinances, regulations and franchise or other agreements between the public utility and the City.

310.03 Fees.

310.03.1 Excavating Contractor License. The fee for an excavating contractor license shall be set by the Fee Schedule, as it may be amended from time to time. License fees shall not be prorated for fractions of a year.

310.03.2 Excavating Permit Fee. The fee for an excavating permit shall be set by the Fee Schedule, as it may be amended from time to time for each excavating permit issued by the City Superintendent under this section.

310.03.3 City Engineer Fee. Where any work done pursuant to an excavating permit requires an inspection from the City Engineer, the excavating contractor, as a condition to the issuance of an excavating permit, shall agree to pay the cost incurred by the City in connection with the City Engineer inspecting the work. The City Superintendent may require, as a condition to issuing an excavating permit to an excavating contractor in such situation, that the excavating contractor deposit an amount of cash equal to an estimate made by the City Engineer of the costs of inspecting the work.

(Am. Ord. 2008-11, passed 12-15-08)

310.04 Excavating Contractor License.

310.04.1 Application. Any person desiring to obtain an excavating contractor's license shall make written application to the City Superintendent for the license on a form provided by the City Superintendent.

310.04.2 Procedure. Upon presentation to the City Superintendent of an application for an excavating contractor license, the City Superintendent shall issue the excavating contractor license to the applicant upon the applicant filing with the City Superintendent the bond and insurance certificates required under this section in form and substance acceptable to the City Attorney, and paying the required license fee.

310.04.3 Excavations Permitted. An excavating contractor license shall entitle the holder thereof to engage in the business of making excavations or performing other work in any street or public property, subject to the provisions of this section and subject to the provisions of other applicable ordinances, laws, rules and regulations.

310.04.4 Excavating Permit Required. The holder of an excavating contractor license shall be required to obtain an excavating permit for any excavation or work performed in any street or public property, in addition to the excavating contractor license.

310.04.5 Bond Required.

310.04.5.1. With each application for an excavating contractor license, the applicant shall file with the City Superintendent a surety bond in the amount of \$5,000 in favor of the City. The required surety bond shall be:

310.04.5.1.1. With good and sufficient surety by a surety company authorized to do business in the State of Minnesota;

310.04.5.1.2. Satisfactory to the City Attorney in form and substance;

310.04.5.1.3. Conditioned that the applicant shall faithfully comply with all the terms and conditions of this section; all other applicable rules, regulations and requirements of the City or any other governmental body;

310.04.5.1.4. Conditioned that the applicant shall secure and hold the City and its officers harmless against any and all claims, judgments or other costs arising out of any work performed pursuant to the excavating contractor license or any excavating permit issued to the applicant pursuant to this section or for which the City, the City Council or any City officer or employee may be made liable by reason of any accident or injury to persons or property through the fault of the applicant;

310.04.5.1.5. Conditioned that the applicant in all material, equipment and appliances furnished by him or her, and in all work done or performed by him or her, or all work to be performed, which shall be subject to the provision of this section, shall fully conform to the revisions of this section.

310.04.5.2. With each application for an excavating contractor license, the applicant shall file with the City Superintendent a certificate of an insurance company duly authorized by the laws of the state to transact business as an insurance company, duly certifying to the fact that the applicant shall have in force with the company a comprehensive general liability policy, including completed operations, products liability coverage and collapse and underground property damage coverage to cover applicant's operations under the excavating contractor license. If any excavating permit is issued that authorizes blasting, the insurance policy shall have explosion, collapse and underground property damage coverage in addition to the coverage stated above. All policies shall have a combined single limit of coverage of at least the same as the statutory tort liability limits of the city or \$1,000,000 for any one incident and shall name the City of Hermantown as an additional insured.

310.04.5.3. The certificates of insurance shall be approved as to form, correctiveness and validity by the City Attorney.

310.04.6 Cancellation Requirements of Bond; Insurance.

310.04.6.1. The insurance certificates required shall contain the following provision: “The above-described policies shall not be canceled, materially altered or not renewed unless 30 days written notice of the cancellation, material alteration or non-renewal shall be given to the City.”

310.04.6.2. The bond required by this section shall be non- cancellable and shall be for a term extending one year beyond the expiration date of the excavating contractor license for which the bond was filed.

310.04.7 Expiration of Licenses. All excavating contractor licenses issued pursuant to this section shall expire on the 31st day of December of the year for which it was issued.

310.04.8 Use of Licenses; Subletting.

310.04.8.1. No person licensed under this section who has been issued an excavating permit for a particular job shall sublet or assign any work contemplated by the excavating permit to any person not licensed under this section, and any such attempted subletting or assignment shall be void.

310.04.8.2. In the event the person holding any excavating permit sublets any portion of the work to be done under the excavating permit to any other person holding an excavating contractor license, the person holding the excavating permit shall remain responsible for the completion of all work under the excavating permit in accordance with the provisions of this section, and he or she and the person so doing the work shall be subject to prosecution for the violation of any provision of this section.

310.04.9 Maintenance of Bond and Insurance. If any person to whom an excavating contractor license has been issued pursuant to this section fails to maintain in full force and effect the bond and insurance required by this section, the excavating contractor license issued to the person shall become void immediately upon the bond or insurance ceasing to be in full force and effect.

310.04.10 Fraud or Error in Issuance. Any excavating contractor license issued shall be null and void if the license was obtained through fraud or error.

310.05 Excavating Permit.

310.05.1 Permits. Any person holding an excavating contractor license issued pursuant to this section shall obtain all required permits from the City and other appropriate government units before commencing any work on any street or public property.

310.05.2 Procedure for Excavating Permit.

310.05.2.1 Application. Any person holding an excavating contractor license who desires to obtain an excavating permit shall make written application to the City Superintendent for the permit on a form provided for such purpose by the City Superintendent.

310.05.2.2 Procedure. Upon presentation to the City Superintendent of an application for an excavating permit, the City Superintendent shall issue the permit to the applicant if the applicant has an excavating contractor license in full force and effect, pays the required permit fee and if the work to be done pursuant to the permit complies with all applicable codes, rules and regulations.

310.05.2.3 Excavation Permit. An excavating permit shall entitle the holder thereof to perform the work described on the permit.

310.05.2.4 Other Requirements; Card with Permit Number; Posting.

310.05.2.4.1. The City Superintendent, before granting an excavating permit, may require the applicant to furnish a drawing of the area proposed to be excavated, occupied or

obstructed in any street or public property and an estimate of the length of time of the excavation, occupation or obstruction.

310.05.2.4.2. The City Superintendent, at the time of granting an excavating permit, shall assign to the applicant a number, and shall give to the applicant a card or board upon which shall be plainly written or printed, in letters at least one inch high, the following: "Street Department Permit No. _____ Expires _____." In the first blank space shall be inserted the number of the permit. After the word "Expires," the time when the permit expires shall be stated. Any person receiving the permit shall keep posted in a conspicuous place at the excavation or obstruction the card or board. No person or his or her agents shall misstate upon any such board or card the number of the permit or the time when the permit expires.

310.05.2.5 Additional Authorization Required for Work on Water and Sewer Mains. If the application for an excavating permit under this section is for excavations to be used for the purpose of making water or sewer connections to City water or sewer mains, the City Superintendent shall not issue the excavating permit unless the applicant shall first make application to the Hermantown Utilities Commission for the making of the connection. All work done and materials used in installing the connections shall conform to the rules, regulations and specifications of the Hermantown Utilities Commission in force as of the date of the commencement of the work.

310.05.2.6 Blasting. If blasting is to be performed in conjunction with any excavating or work performed pursuant to an excavating permit issued pursuant to this section, the excavating permit shall state on the face of the permit that the permit authorizes blasting provided other required permits have been obtained from all other appropriate governmental units and agencies.

310.06 Regulations for Public Safety.

310.06.1 Traffic Control Requirements. Before commencing any excavation, the person to whom an excavating permit for a project was issued shall set up an effective system to protect vehicular traffic and pedestrians from the excavation, to safely guide vehicular traffic and pedestrians through the construction area or detour them where necessary as determined by the City Superintendent and the Chief of Police, and to provide for the public safety in general. For this purpose, the person to whom an excavating permit was issued for the project shall utilize signs, flags, flashers, barricades, flag persons and such other methods or devices as shall be deemed necessary by the City Superintendent and the Chief of Police to adequately warn the public of the hazards involved, to allow adequate time for vehicle drivers to react and make the necessary adjustment in speed or course, and to efficiently conduct traffic through or around the construction area.

310.06.2 Detours. Whenever possible, excavations shall be made in such a manner as to allow traffic to pass through the construction area. If it is not practicable to allow traffic to pass, a suitable detour shall be established on a route approved by the City Superintendent and the Chief of Police. Notice of any such detour shall be given to the Chief of the Hermantown Volunteer Fire Department, the City Superintendent and the Chief of Police before the detour shall be established.

310.06.3 Blasting. If blasting is to be performed in conjunction with any excavating or work performed pursuant to an excavating permit issued pursuant to this section, the excavating permit shall state on the face of the permit that the permit authorizes blasting provided other required permits have been obtained from all other appropriate governmental units and agencies.

310.07 Regulations for Protection of Existing Improvements.

310.07.1 Existing Improvements Defined. The person to whom an excavating permit for a project was issued shall be responsible for the protection, repair or replacement of all improvements which exist within the limits of the construction area. For the purposes of this section, the term “improvements” shall include, but shall not be limited to, the following: water lines, sanitary and storm sewer lines, street lighting, traffic signal systems, traffic signs, topsoil, sod, trees, public utility lines and systems and street improvements, including subgrade, base, pavement or other surfacing, curbs, gutters, medians, sidewalks and all of the various appurtenances of these improvements.

310.07.2 Permit Holder's Responsibility as to Improvements. Before commencing any excavation, the person to whom an excavating permit was issued shall determine what improvements exist within the limits of the construction area and shall make detailed arrangements with the owners thereof for the protection or replacement of the improvements.

310.07.3 Installation of Underground Pipes. Installation of pipes under any street shall be done by jacking or boring. When installing pipes by jacking or boring, extreme care shall be exercised to assure that the soil surrounding the pipe remains in place so as to prevent the formation of void which shall result in the settlement or cave-in of the material surrounding the pipe.

310.07.4 Protection of Improved Streets. Where an excavation shall be made in an improved street, which shall be hereby defined as any bituminous-surfaced street with curbs or curbs and gutters, any bituminous-surfaced street having three inches or more of bituminous surfacing with or without curbs or gutters, or any street having a concrete pavement with or without curbs or gutters, the excavation shall be cribbed with continuous sheeting to the full depth of the excavation to a point at least five feet beyond the curb or beyond the edge of the surfacing or pavement. Provided, however, that, in the event it shall be determined to be impossible or unnecessary to utilize sheeting because of unusual soil conditions, any alternate method of protecting the improvements shall meet the approval of the City Engineer.

310.07.5 Protection of Non-excavated Roadway Surfaces. The excavation of materials from any surfaced roadway shall be accomplished either by hand or by the use of equipment. Where any piece of equipment is used, adequate provision shall be employed to assure that those portions of the street surface which shall not be removed shall not be damaged. This shall be accomplished with the use of protective planking, pads or other method meeting the approval of the City Superintendent. In the event any portion is damaged as a result of the operations of the person to whom the permit was issued for the project, the person shall be responsible for the repair or replacement thereof in accordance with the directions of the City Superintendent.

310.07.6 Excavated Materials. When making excavations, the various materials excavated shall be piled separately. All concrete and bituminous materials, any soils which cannot be properly compacted, and all other deleterious materials shall be removed from the construction site.

310.07.7 Backfill; Generally. All materials used for backfilling shall be compatible so as to assure stability of the backfilled area. No snow or ice shall be permitted in the backfill. No frozen lumps and no stones exceeding three inches in greatest dimension shall be permitted within 12 inches of any pipe, conduit or cable, or within 18 inches of the street surfaces. No stones, frozen lumps and no items exceeding six inches in greatest dimension shall be permitted in the backfill.

310.07.8 Backfill; Near Roadway Surface. All backfill material shall comply with all applicable Minnesota Highway Department specifications and such other specifications as may be determined by the City Engineer.

310.07.9 Backfill; Layers and Compacting. All backfill shall be placed in accordance with all applicable Minnesota Highway Department specifications and such other specifications as may be determined by the City Engineer.

310.08 Restoration of Right-of-Way.

310.08.1 Restoration of Improvements. Following completion of the excavation and backfill operations, the person to whom the excavating permit was issued for the project shall be responsible for restoring all improvements which were damaged or destroyed by his or her operations to a condition equal to or better than their original condition.

310.08.2 Restoration of Road Surface or Shoulder, Unpaved. Any unpaved road surface or shoulder shall be restored in accordance with all applicable Minnesota Highway Department specifications and such other specifications as may be determined by the City Engineer.

310.08.3 Restoration of Paved Surface, Curbs, Gutters, Sidewalks. All replacement concrete or bituminous street surfacing, concrete curbs or curbs and gutters, sidewalks, and the like, shall be constructed in accordance with the current standards for the construction as used by the City on its construction projects and the special requirements established by the City Engineer.

310.08.4 Restoration of Topsoil and Sod. All topsoil and sod removed by the person to whom the excavating permit for the work was issued shall be replaced. The minimum depth of topsoil used on any boulevard, shoulder, ditch or slope within the right-of-way shall be five inches. Where sod is required, it shall be the contractor's responsibility to maintain the sod for a period of 60 days (that is, 60 "growing days") following placement thereof.

310.08.5 Removal of Surplus Materials. All surplus materials or debris shall be removed from the right-of-way immediately following completion of the work permitted by the excavating permit.

310.08.6 Settlement of Excavation. If settlement occurs at the site of the excavation, or adjacent thereto, at any time within one year from the date of final completion of the original restoration, the person to whom the excavating permit for the work was issued shall be responsible for repairing the failure in accordance with the directions of the City Superintendent. In addition, the person to whom the excavating permit for the work was issued shall be responsible for reimbursing the City for any expenses incurred in the placement of warning devices and barricades for the protection of traffic.

310.09 City to Have Right to Complete Work.

310.09.1 Expeditious Completion of Work. All work covered under this section shall be accomplished expeditiously until completion in order to avoid unnecessary inconvenience to traffic, to pedestrians, and for the protection of other public interests.

310.09.2 Estimate of Time to Complete Work. The person to whom an excavating permit was issued shall state, in the person's application for permit, the time which the person estimates shall be required to complete the work. Upon review of the application, the City Superintendent shall have the right to amend the time requested and issue the permit so as to allow the minimum amount of time which he or she determines shall reasonably be required for the work. The time within which the work authorized by the excavating permit shall be stated on the face of the permit.

310.09.3 Extension of Time for Completion. The time allowed for completion may be extended by the City Superintendent as necessary if it shall be found that it is not reasonably possible to complete the work within the time allowed.

310.09.4 City Notice and Completion. In the event that the work is not being accomplished expeditiously, or if work on an excavation is ceased or abandoned without due cause, the City Superintendent may, if this failure creates a hazard to the public safety, without written notice to the person to whom the excavating permit was issued for the work of the City's intention to do so, have the City correct the work, backfill the excavation and effect all restoration as shall be required by this section. If the failure does not create a hazard to the public safety, the City Superintendent may, after ten days written notice to the person to whom the excavating permit was issued for the work, the Superintendent may have the city correct the work, backfill the excavation and effect all restoration as shall be required by this section.

310.09.5 City Restoration of Settlement. In the event settlement of an excavation occurs within one year of the date of final restoration and the person to whom the excavating permit was issued for the work shall be notified of the settlement, the person shall accomplish the required restoration or repair within a time limit specified by the City Superintendent. Thereafter, if the work has not been accomplished, the City Superintendent may have the City accomplish the work required.

310.09.6 City Restoration; Costs. In the event the City accomplishes work in accordance with either 310.09.4 or 310.09.5, the entire cost of the work, including any materials used therefor, shall be the liability of the person to whom the excavating permit was issued for the

work. Thereafter, if payment therefor is not made within 30 days of the billing date, no additional excavating permits shall be issued to the person until payment has been made to the City by the person or by the person's bonding company.

310.10 Regulations Regarding Installation of Water and Sewer Services.

310.10.1 Plumbing Code Applicable. All installations of water and/or sanitary sewer service connections shall be accomplished in accordance with all applicable plumbing regulations regarding size, alignment, depth, grade, and the like, of the service connections.

310.10.2 Taps by City; Fees. All taps to water mains shall be made by the City. No tap to a City water main shall be made until all of the requirements of this section and all other applicable ordinances and regulations shall have been met. A schedule of charges for the making of the taps shall be established by the Hermantown Utility Commission.

Payment for the making of the taps shall be made by the person to whom an excavating permit shall be issued at the time the person secures an excavating permit unless payment therefor has already been made by the homeowner.

310.10.3 Sanitary Sewer Service Connections. All sanitary sewer service connections shall be made to existing ways, tees or risers where the connection points shall be available at a reasonably convenient location. No connection to a City sewer main shall be made until all of the requirements of this section and all other applicable ordinances and regulations shall have been met and the City Superintendent is present to observe the connection. Where no such connection points exist at a reasonably convenient location, the person to whom an excavating permit is issued shall make the necessary tap utilizing a mechanical tapping machine which saws the required opening in the main sewer pipe in such a manner as to accomplish a smooth cut without cracking the pipe, and the person shall then make the service connection utilizing a pipe saddle. The pipe saddle shall be designed for use with the size of main sewer pipe which is being tapped and shall be of a design which shall prohibit any protrusion beyond the inside wall of the main sewer. Pipe saddles used on vitrified clay pipe or polyvinyl chloride pipe sewers shall be cemented to the main sewers utilizing an epoxy cement or other water-tight cementing agent approved by the City Superintendent. Pipe saddles on types of sewer pipe shall be attached in a manner which accomplishes a rigid and water-tight connection meeting the approval of the City Superintendent. The pipe saddle used on any particular installation shall be designed specifically for use with the same type of gaskets as are used on the balance of the sewer service pipe.

310.10.4 Depth of Water and Sewer Connections. All water service and sewer service connections shall be installed with a minimum of seven feet of earth cover within the street right-of-way, unless the depth of the existing main lines shall make it impossible to install the service connections at such depth. Where it is impossible to provide seven feet of cover at any point within the street right-of-way, the service connections shall be protected by insulation in a manner approved by the City Superintendent.

310.10.5 Inspection Before Excavation Covered. Installation of water and or sanitary sewer service lines shall not be backfilled until the City Superintendent has inspected the installation and connections to the City mains.

310.11 Suspension and Revocation of Licenses. Upon notice to the City Council that a person holding an excavating contractor license has been convicted of a violation of this section, and that the conviction has become final, the City Council may suspend the person's excavating contractor license for such period of time as the City Council may deem proper under the circumstances, or the City Council may revoke said excavating contractor license and order that no new excavating contractor license shall be granted to the person for a period not to exceed six months from the date that the action is ordered by the Council.

310.12 Notice of Hearing upon Revocation. Before the City Council shall revoke any excavating contractor licenser, the person holding the excavating contractor license shall be entitled to a hearing by the City Council upon ten days written notice to the person holding the excavating contractor license by regular mail addressed to that person's place of business, or by serving notice upon the person holding the excavating contractor license in the manner prescribed by statute for serving summons in the district court.

310.13 Hold Harmless Agreement. The person holding any excavating contractor license or excavating permit shall defend, indemnify and secure and hold the City and its officers harmless against any and all claims, judgments or other costs arising from the excavation and other work covered by an excavating permit issued to the person to whom the permit was issued or for which the City, the City Council or any City officer or employee may be made liable by reason of any accident or injury to persons or property through the fault of the person to whom the excavating permit was issued for the work giving rise to the injury or damage either in not properly guarding the excavation or for any other injury resulting from the negligence of the person to whom the excavating permit was issued. In the event of any suit or claim against the City by reason of the negligence or default of the person to whom the excavating permit was issued for the work giving rise to the injury or damage, upon the City giving written notice to the person to whom the excavating permit was issued for the work giving rise to the injury or damage of the suit or claim, any final judgment against the City requiring it to pay for the damage shall be conclusive upon the person to whom the excavating permit was issued for the work giving rise to the injury or damage.

310.14 City Liability. This section shall not be construed as imposing upon the City or any official or employee of the City of any liability or responsibility for damages to any person imposed by the performance of any work for which an excavating permit shall be issued under this section; nor shall the City or any official or employee of the City be deemed to have assumed any such liability or responsibility by reason of any inspections authorized under this section or the issuance of any licenses or permits under this section.

📌 Section 310a - Excavating Permits for Private Persons

310a.01 Definitions. The following terms, phrases, words and their derivatives shall have the meaning given them in this subsection. When not inconsistent with the context, words used in

the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The words "shall" and "will" are mandatory, and "may" is permissive. Words not defined shall be given their common and ordinary meaning.

310a.01.1. "City" shall mean the City of Hermantown, Minnesota.

310a.01.2. "City Attorney" shall mean that person designated by the City Council as the City Attorney.

310a.01.3. "City Council" shall mean the City Council of the City of Hermantown.

310a.01.4. "City Engineer" shall mean that person designated by the City Council as the City Engineer.

310a.01.5. "City Superintendent" shall mean that person designated by the City Council as the City Street Superintendent.

310a.01.6. "Excavating permit" shall mean the permit required to be obtained by a private person under this section before the private person performs any work in any City street or connects to a City sewer main.

310a.01.7. "Private person" shall mean any natural person who has not obtained an excavating contractor license under Section 310 of the Hermantown City Code.

310a.01.8. "Public property" shall mean any real property owned by the City or any other governmental unit, other than a street.

310a.01.9. "Public utility" shall mean any utility providing electric, gas, cable, telephone or other utility service to the public.

310a.01.10. "Street" shall mean the surface of and the space above and below any public street, road, cartway, highway, freeway, lane, path, public way, alley, court, sidewalk, boulevard, parkway, drive or any easement or right-of-way now or hereafter held by the City.

(Ord. 2008-10, passed 10-20-08)

310a.02 Excavating Permits Required. No private person shall make any excavation for any purpose or perform any other construction work in any street or on any public property without first having applied for and obtained an excavating permit covering the work to be performed.

(Ord. 2008-10, passed 10-20-08)

310a.03 Fees.

310a.03.1 Excavating Permit Fee. The fee for an excavating permit shall be the amount as set from time to time by ordinance of the City of Hermantown for each excavating permit issued by the City Superintendent under this section.

310a.03.2 City Engineer Fee. Where any work done pursuant to an excavating permit requires an inspection from the City Engineer, as a condition to the issuance of an excavating permit, the private person obtaining such excavating permit shall agree to pay the cost incurred by the City in connection with the City Engineer inspecting the work. The City Superintendent may require, as a condition to issuing an excavating permit to a private person in such situation, that the private person deposit an amount of cash equal to an estimate made by the City Engineer of the costs of inspecting the work.

(Ord. 2008-10, passed 10-20-08)

310a.04. Bond Required.

310a.04.1. With each application for an excavating permit, the private person shall file with the City Superintendent a cash deposit in the amount of \$5,000 in favor of the City. The cash deposit shall be held by the City:

310a.04.1.1. Conditioned that the private person shall faithfully comply with all the terms and conditions of this section; all other applicable rules, regulations and requirements of the City or any other governmental body;

310a.04.1.2. Conditioned that the private person shall secure and hold the City and its officers harmless against any and all claims, judgments or other costs arising out of any work performed pursuant to the excavating permit issued to the private person pursuant to this section or for which the City, the City Council or any City officer or employee may be made liable by reason of any accident or injury to persons or property through the fault of the applicant;

310a.04.1.3. Conditioned that the private person and all material, equipment and appliances furnished by him or her, and all work done or performed by him or her, or all work to be performed, which shall be subject to the provision of this section, shall fully conform to the provisions of this section and the excavating permit.

310a.04.2. With each application for an excavating permit, the private person shall file with the City Superintendent a certificate of an insurance company duly authorized by the laws of the State of Minnesota to transact business as an insurance company in the State of Minnesota, duly certifying to the fact that the private person shall have in force with the company a comprehensive general liability policy, including completed operations, products liability coverage and collapse and underground property damage coverage to cover the private person's operations under the excavating permit. If any excavating permit is issued that authorizes blasting, the insurance policy shall have explosion, collapse and underground property damage coverage in addition to the coverage stated above. All policies shall have a combined single limit of coverage of at least the same as the statutory tort liability limits of the city for any one incident and shall name the City of Hermantown as an additional insured.

310a.04.3. The certificates of insurance shall be approved as to form, correctness and validity by the City Attorney.

310a.04.4 Cancellation Requirements of Bond; Insurance.

310a.04.4.1. The insurance certificates required shall contain the following provision:
"The above-described policies shall not be canceled, materially altered or not renewed unless 30 days written notice of the cancellation, material alteration or non-renewal shall be given to the City."

310a.04.4.2. The cash security required by this section shall be non-cancellable and shall be for a term extending one year beyond the expiration date of the excavating permit for which the cash security was filed.

(Ord. 2008-10, passed 10-20-08)

310a.04.5 Assignment.

310a.04.5.1. No private person licensed who has been issued an excavating permit shall assign any work contemplated by the excavating permit to any person and any such attempted assignment shall be void.

310a.04.6 Maintenance of Cash Security and Insurance. If any private person to whom an excavating permit has been issued pursuant to this section fails to maintain in full force and effect the cash security and insurance required by this section, the excavating permit issued to the private person shall become void immediately upon the cash security or insurance ceasing to be in full force and effect.

310a.04.7 Fraud or Error in Issuance. Any excavating permit issued shall be null and void if the permit was obtained through fraud or error.

(Ord. 2008-10, passed 10-20-08)

310a.05 Excavating Permit.

3102.05.1 Permits. Any private person holding an excavating permit issued pursuant to this section shall obtain all required permits from the City and other appropriate government units before commencing any work on any street or public property.

310a.05.2 Procedure for Excavating Permit.

310a.05.2.1 Application. Any private person who desires to obtain an excavating permit shall make written application to the City Superintendent for the permit on a form provided for such purpose by the City Superintendent.

310a.05.2.2 Procedure. Upon presentation to the City Superintendent of an application for an excavating permit, the City Superintendent shall issue the permit to the private person if the private person pays the required permit fee and if the work to be done pursuant to the permit complies with all applicable codes, rules and regulations.

310a.05.2.3 Excavating Permit. An excavating permit shall entitle the holder thereof to perform the work described on the permit and only the work described on the permit.

310a.05.2.4 Other Requirements; Card with Permit Number; Posting.

310a.05.2.4.1. The City Superintendent, before granting an excavating permit, may require the private person to furnish a drawing of the area proposed to be excavated, occupied or obstructed in any street or public property and an estimate of the length of time of the excavation, occupation or obstruction.

310a.05.2.4.2. The City Superintendent, at the time of granting an excavating permit, shall assign to the private person a number, and shall give to the private person a card or board upon which shall be plainly written or printed, in letters at least one inch high, the following: "Street Department Excavating Permit No. ____ Expires ____." In the first blank space shall be inserted the number of the permit. After the word "Expires," the time when the permit expires shall be stated which shall be no more than 60 days after the date it is issued. Any private person receiving the permit shall keep it posted in a conspicuous place at the site of the excavation. No private person or his or her agents shall misstate the number of the permit or the time when the permit expires.

310a.05.2.5 Additional Authorization Required for Work on Water and Sewer Mains. If the application for an excavating permit under this section is for excavations to be used for the purpose of making water or sewer connections to City water or sewer mains, the City Superintendent shall not issue the excavating permit unless the private person shall first make application to the Hermantown Utilities Commission for the making of the connection. All work done and materials used in installing the connections shall conform to the rules, regulations and specifications of the Hermantown Utilities Commission in force as of the date of the commencement of the work.

310a.05.2.6 Blasting. If blasting is to be performed in conjunction with any excavating or work performed pursuant to an excavating permit issued pursuant to this section, the excavating permit shall state on the face of the permit that the permit authorizes blasting provided other required permits have been obtained from all other appropriate governmental units and agencies.

(Ord. 2008-10, passed 10-20-08)

310a.06 Regulations for Public Safety.

310a.06.1 Traffic Control Requirements. Before commencing any excavation, the private person to whom an excavating permit was issued shall set up an effective system to protect

vehicular traffic and pedestrians from the excavation, to safely guide vehicular traffic and pedestrians through the construction area or detour them where necessary as determined by the City Superintendent and the Chief of Police, and to provide for the public safety in general. For this purpose, the private person to whom an excavating permit was issued shall utilize signs, flags, flashers, barricades, flag persons and such other methods or devices as shall be deemed necessary by the City Superintendent and the Chief of Police to adequately warn the public of the hazards involved, to allow adequate time for vehicle drivers to react and make the necessary adjustment in speed or course, and to efficiently conduct traffic through or around the construction area.

310a.06.2 Detours. Whenever possible, excavations shall be made in such a manner as to allow traffic to pass through the construction area. If it is not practicable to allow traffic to pass, a suitable detour shall be established on a route approved by the City Superintendent and the Chief of Police. Notice of any such detour shall be given to the Chief of the Hermantown Volunteer Fire Department, the City Superintendent and the Chief of Police before the detour shall be established.

(Ord. 2008-10, passed 10-20-08)

310a.07 Regulations for Protection of Existing Improvements.

310a.07.1 Existing Improvements Defined. The private person to whom an excavating permit is issued shall be responsible for the protection, repair or replacement of all improvements which exist within the limits of the construction area. For the purposes of this section, the term "improvements" shall include, but shall not be limited to, the following: water lines, sanitary and storm sewer lines, street lighting, traffic signal systems, traffic signs, topsoil, sod, trees, public utility lines and systems and street improvements, including subgrade, base, pavement or other surfacing, curbs, gutters, medians, sidewalks and all of the various appurtenances of these improvements.

310a.07.2 Permit Holder's Responsibility as to Improvements. Before commencing any excavation, the private person to whom an excavating permit was issued shall determine what improvements exist within the limits of the construction area and shall make detailed arrangements with the owners thereof for the protection or replacement of the improvements.

310a.07.3 Installation of Underground Pipes. Installation of pipes under any street shall be done by jacking or boring. When installing pipes by jacking or boring, extreme care shall be exercised to assure that the soil surrounding the pipe remains in place so as to prevent the formation of a void which shall result in the settlement or cave-in of the material surrounding the pipe.

310a.07.4 Protection of improved Streets. Where an excavation shall be made in an improved street, which shall be hereby defined as any bituminous-surfaced street with curbs or curbs and gutters, any bituminous-surfaced street having three inches or more of bituminous surfacing with or without curbs or gutters, or any street having a concrete pavement with or without curbs or gutters, the excavation shall be cribbed with continuous sheeting to the frill

depth of the excavation to a point at least five feet beyond the curb or beyond the edge of the surfacing or pavement. Provided, however, that, in the event it shall be determined to be impossible or unnecessary to utilize sheeting because of unusual soil conditions, any alternate method of protecting the improvements shall meet the approval of the City Engineer.

310a.07.5 Protection of Non-excavated Roadway Surfaces. The excavation of materials from any surfaced roadway shall be accomplished either by hand or by the use of equipment. Where any piece of equipment is used, adequate provision shall be employed to assure that those portions of the street surface which shall not be removed shall not be damaged. This shall be accomplished with the use of protective planking, pads or other method meeting the approval of the City Superintendent. In the event any portion is damaged as a result of the operations of the private person to whom the excavating permit was issued, the private person shall be responsible for the repair or replacement thereof in accordance with the directions of the City Superintendent.

310a.07.6 Excavated Materials. When making excavations, the various materials excavated shall be piled separately. All concrete and bituminous materials, any soils which cannot be properly compacted, and all other deleterious materials shall be removed from the construction site.

310a.07.7 Backfill; Generally. All materials used for backfilling shall be compatible so as to assure stability of the backfilled area. No snow or ice shall be permitted in the backfill. No frozen lumps and no stones exceeding three inches in greatest dimension shall be permitted within 12 inches of any pipe, conduit or cable, or within 18 inches of the street surfaces. No stones, frozen lumps and no items exceeding six inches in greatest dimension shall be permitted in the backfill.

310a.07.8 Backfill; Near Roadway Surface. All backfill material shall comply with all applicable Minnesota Highway Department specifications and such other specifications as may be determined by the City Engineer.

310a.07.9 Backfill; Layers and Compacting. All backfill shall be placed in accordance with all applicable Minnesota Highway Department specifications and such other specifications as may be determined by the City Engineer.

(Ord. 2008-10, passed 10-20-08)

310a.08 Restoration of Right-of-Way.

310a.08.1 Restoration of Improvements. Following completion of the excavation and backfill operations, the private person to whom the excavating permit was issued for the project shall be responsible for restoring all improvements which were damaged or destroyed by his or her operations to a condition equal to or better than their original condition.

310a.08.2 Restoration of Road Surface or Shoulder, Unpaved. Any unpaved road surface or shoulder shall be restored in accordance with all applicable Minnesota Highway Department specifications and such other specifications as may be determined by the City Engineer.

310a.08.3 Restoration of Paved Surface, Curbs, Gutters, Sidewalks. All replacement concrete or bituminous street surfacing, concrete curbs or curbs and gutters, sidewalks, and the like, shall be constructed in accordance with the current standards for the construction as used by the City on its construction projects and the special requirements established by the City Engineer.

310a.08.4 Restoration of Topsoil and Sod. All topsoil and sod removed by the private person to whom the excavating permit for the work was issued shall be replaced. The minimum depth of topsoil used on any boulevard, shoulder, ditch or slope within the right-of-way shall be five inches. Where sod is required, it shall be the private person's responsibility to maintain the sod for a period of 60 growing days following placement thereof.

310a.08.5 Removal of Surplus Materials. All surplus materials or debris shall be removed from the right-of-way immediately following completion of the work permitted by the excavating permit.

310a.08.6 Settlement of Excavation. If settlement occurs at the site of the excavation, or adjacent thereto, at any time within one year from the date of final completion of the original restoration, the private person to whom the excavating permit for the work was issued shall be responsible for repairing the failure in accordance with the directions of the City Superintendent. In addition, the private person to whom the excavating permit for the work was issued shall be responsible for reimbursing the City for any expenses incurred in the placement of warning devices and barricades for the protection of traffic.

(Ord. 2008-10, passed 10-20-08)

310a.09 City to Have Right to Complete Work.

310a.09.1 Expeditious Completion of Work. All work covered under this section shall be accomplished expeditiously until completion in order to avoid unnecessary inconvenience to traffic, to pedestrians, and for the protection of other public interests.

310a.09.2 Estimate of Time to Complete Work. The private person to whom an excavating permit was issued shall state, in the application for an excavating permit, the time which the private person estimates shall be required to complete the work. Upon review of the application, the City Superintendent shall have the right to amend the time requested and issue the permit so as to allow the minimum amount of time which he or she determines shall reasonably be required for the work. The time within which the work authorized by the excavating permit shall be stated on the face of the permit.

310a.09.3 Extension of Time for Completion. The time allowed for completion may be extended by the City Superintendent as necessary if it shall be found that it is not reasonably possible to complete the work within the time allowed.

310a.09.4 City Notice and Completion. In the event that the work is not being accomplished expeditiously, or if work on an excavation is ceased or abandoned without due cause, the City Superintendent may, if this failure creates a hazard to the public safety, without written notice to the private person to whom the excavating permit was issued for the work of the City's intention to do so, have the City correct the work, backfill the excavation and effect all restoration as shall be required by this section. If the failure does not create a hazard to the public safety, the City Superintendent may, after ten days written notice to the private person to whom the excavating permit was issued for the week, the Superintendent may have the city correct the work, backfill the excavation and effect all restoration as shall be required by this section.

310a.09.5 City Restoration of Settlement. In the event settlement of an excavation occurs within one year of the date of final restoration and the private person to whom the excavating permit was issued for the work shall be notified of the settlement, the private person shall accomplish the required restoration or repair within a time limit specified by the City Superintendent. Thereafter, if the work has not been accomplished, the City Superintendent may have the City accomplish the work required.

310a.09.6 City Restoration; Costs. In the event the City accomplishes work in accordance with either 310.09.4 or 310.09.5, the entire cost of the work, including any materials used therefore, shall be the liability of the private person to whom the excavating permit was issued for the work.

310a.10 Regulations Regarding Installation of Water and Sewer Services.

310a.10.1 Plumbing Code Applicable. All installations of water and/or sanitary sewer service connections shall be accomplished in accordance with all applicable plumbing regulations regarding size, alignment, depth, grade, and the like, of the service connections.

310a.10.2 Taps by City; Fees. All taps to water mains shall be made by the City. No tap to a City water main shall be made until all of the requirements of this section and all other applicable ordinances and regulations shall have been met. A schedule of charges for the making of the taps shall be established by the Hermantown Utility Commission. Payment for the making of the taps shall be made by the private person to whom an excavating permit shall be issued at the time the private person secures an excavating permit unless payment therefore has already been made by the homeowner.

310a.10.3 Sanitary Sewer Service Connections. All sanitary sewer service connections shall be made to existing wyes, tees or risers where the connection points shall be available at a reasonably convenient location. No connection to a City sewer main shall be made until all of the requirements of this section and all other applicable ordinances and regulations shall have been met and the City Superintendent is present to observe the connection. Where no such connection points exist at a reasonably convenient location, the private person to whom an

excavating permit is issued shall make the necessary tap utilizing a mechanical tapping machine which saws the required opening in the main sewer pipe in such a manner as to accomplish a smooth cut without cracking the pipe, and the private person shall then make the service connection utilizing a pipe saddle. The pipe saddle shall be designed for use with the size of main sewer pipe which is being tapped and shall be of a design which shall prohibit any protrusion beyond the inside wall of the main sewer. Pipe saddles used on vitrified clay pipe or polyvinyl chloride pipe sewers shall be cemented to the main sewers utilizing an epoxy cement or other water-tight cementing agent approved by the City Superintendent. Pipe saddles on other types of sewer pipe shall be attached in a manner which accomplishes a rigid and water-tight connection meeting the approval of the City Superintendent. The pipe saddle used on any particular installation shall be designed specifically for use with the same type of gaskets as are used on the balance of the sewer service pipe.

310a.10.4 Depth of Water and Sewer Connections. All water service and sewer service connections shall be installed with a minimum of seven feet of earth cover within the street right-of-way, unless the depth of the existing main lines shall make it impossible to install the service connections at such depth. Where it is impossible to provide seven feet of cover at any point within the street right-of-way, the service connections shall be protected by insulation in a manner approved by the City Superintendent.

310a.10.5 Inspection Before Excavation Covered. Installation of water and or sanitary sewer service lines shall not be backfilled until the City Superintendent has inspected the installation and connections to the City mains.

(Ord. 20008-10, passed 10-20-08)

310a.11 Hold Harmless Agreement. The private person holding any excavating permit shall defend, indemnify and secure and hold the City and its officers harmless against any and all claims, judgments or other costs arising from the excavation and other work covered by an excavating permit issued to the private person to whom the permit was issued or for which the City, the City Council or any City officer or employee may be made liable by reason of any accident or injury to persons or property through the fault of the person to whom the excavating permit was issued for the work giving rise to the injury or damage either in not properly guarding the excavation or for any other injury resulting from the negligence of the person to whom the excavating permit was issued. In the event of any suit or claim against the City by reason of the negligence or default of the private person to whom the excavating permit was issued for the work giving rise to the injury or damage, upon the City giving written notice to the private person to whom the excavating permit was issued for the work giving rise to the injury or damage of the suit or claim, any final judgment against the City requiring it to pay for the damage shall be conclusive upon the private person to whom the excavating permit was issued for the work giving rise to the injury or damage.

310a.12 City Liability. This section shall not be construed as imposing upon the City or any official or employee of the City any liability or responsibility for damages to any person resulting from the performance of any work for which an excavating permit shall be issued under this section; nor shall the City or any official or employee of the City be deemed to have

assumed any such liability or responsibility by reason of any inspections authorized under this section or the issuance of any permits under this section.

(Ord. 2008-10, passed 10-20-08)

📌 **Section 320 - City Cemetery**

320.01 Eligibility. The following shall, upon their death, be entitled to be buried in the City of Hermantown Cemetery:

320.01.1. Persons who have resided in the City for 30 years or more;

320.01.2. Persons who are landowners and residents of the City for at least five consecutive years at the time of their death;

320.01.3. Persons who were landowners and residents of the City for at least five consecutive years until taking up residence in a skilled care nursing facility;

320.01.4. Persons residing in an apartment or other leased or rented dwelling unit in the City at the time of their death if they have resided in the City for five consecutive years; and

320.01.5. Dependent children of persons who shall be entitled to be buried in the City Cemetery.

320.02 Reservation of Lots. No burial lots in the City Cemetery may be reserved by any person eligible to be buried therein. Provided, however, that the surviving spouse of a person buried in the City Cemetery may reserve the lot next to the lot in which his or her spouse is buried.

320.03 Fees. The cost for a lot and a burial in the City Cemetery shall be established from time to time by resolution of the Hermantown City Council.

320.04 Interpretations. All questions related to the interpretation and application of this section shall be referred to the City Council for its determination.

320.05 Administration. The City Cemetery shall be maintained and managed by the City Superintendent.

320.06 Limitations.

320.06.1. No burials shall be made at times when the ground is frozen.

320.06.2. No storage of remains shall be done by the City.

320.06.3. No storage of markers shall be done by the City.

320.06.4. No plantings may be made by anyone in the Cemetery other than by the City.

320.06.5. The City Superintendent may, from time to time, establish other rules and regulations as are necessary for the proper maintenance and operation of the Cemetery.

📌 **Section 330 - Parks and Recreation**

330.01 Rules and Regulations Governing City Owned Property.

330.01.1. The Council may, from time to time by Council action, establish prohibited activities, uses and practices in or on any park, playground, recreation area or other City owned property.

330.01.2. The prohibited activities, uses and practices shall be posted on any park, playground, recreation area or other City owned property in such manner as the Council shall direct.

330.01.3. Any activity, use or practice conducted or performed in or on any park, playground, recreation area or other City owned property in violation of the prohibition placed thereon shall be a public nuisance.

(Am. Ord. 2009-03, passed 7-6-09)

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

330.02.1. "Park" shall mean any open or enclosed space, area or facility wherever located which is owned, operated or controlled by the City or located within the City but owned, operated or controlled by any other political or governmental subdivision which space is reserved, designated or used for or as a playground, picnic area, school ground, beach, park, arena, concession, playing field or court, structure or building and devoted, designated or intended for active or passive recreation including all parking lots, paths or roadways appurtenant to or used therewith.

330.02.2. "Park Board" shall mean the board of individuals appointed by the City Council that shall have full, absolute and exclusive control over all property located in the City of Hermantown set aside for park purposes.

330.02.3. "Person" shall mean any person, firm, partnership, association, corporation, company or organization of any kind.

330.02.4. "Superintendent" shall mean a person immediately in charge of any park area and its activities, and to whom all park attendants of each area are responsible.

330.02.5. "Vehicle" shall mean any wheeled conveyance, whether motor powered, animal drawn or self-propelled. The term shall include any trailer in tow of any size, kind or description

and all snowmobiles. Exception is made for baby carriages and vehicles in the service of the City parks.

(Am. Ord. 2009-03, passed 7-6-09)

330.03 Park Operation Policy.

330.03.1. Except for unusual and unforeseen emergencies, parks shall be open to the public every day of the year during designated hours. The opening and closing hours for each individual park may be posted therein for public information.

330.03.2. A permit shall be obtained from the appropriate Superintendent before participating in any of the following activities: carnivals, community celebrations, gatherings of 25 or more persons including picnics and political gatherings, activity contests including those requesting exclusive use of charging admission and exhibitions either as a stage production or otherwise.

330.03.3. Except as provided in this section, no person shall enter or remain in any park or public recreation area between the hours of 12:00 a.m. and 6:00 a.m.

(Am. Ord. 2009-03, passed 7-6-09)

330.04 General Prohibitions on Park Property. No person in any park shall:

330.04.1 Disfiguration and Removal. Willfully mark, deface, disfigure, injure, tamper with or displace or remove any buildings, bridges, tables, benches, fireplaces, railings, paving or paving materials, water lines or other public utilities, parts or appurtenances thereof, signs, notices or placards whether temporary or permanent, monuments, stakes, posts or other boundary markers or other structures or equipment, facilities or park property or appurtenances whatsoever, either real or personal.

330.04.2 Restrooms and Washrooms. Fail to cooperate in maintaining restrooms and washrooms in a neat and sanitary condition. No person over the age of four years shall use the restrooms and washrooms designated for the opposite sex.

330.04.3 Removal of Natural Resources. Dig or remove any beach sand, whether submerged or not, or any soil, rock, stones, trees, shrubs or plants, down timber or other wood or materials, or make any excavation by tool, equipment, blazing or other means or agency.

330.04.4 Erection of Structures. Construct or erect any building or structure of whatsoever kind, whether permanent or temporary in character, or run or string any public service utility into, upon or across such lands, except on special written permit issued hereunder.

330.04.5 Throwing. Throw or cast any stone or other missile carelessly or needlessly in disregard of the rights or the safety of others, or in a manner so as to endanger or be likely to endanger any person or property.

330.04.6 Walking on Grass. Go on foot or otherwise upon the grass or turf of any park where any prohibitory sign is posted.

330.04.7 Injury and Removal. Damage, cut, carve, transplant or remove any tree or plant or injure the bark, or pick the flowers or seed of any tree or plant. A person shall not dig in or otherwise disturb grass areas or in any other way injure or impair the natural beauty or usefulness of any area.

330.04.8 Climbing Trees or Walks. Climb any tree or walk, stand or sit upon monuments, vases, fountains, railings, fences or upon any other property not designated or customarily used for such purposes.

330.04.9 Hunting. Hunt, molest, harm, frighten, kill, trap, chase, shoot or throw missiles at any animal, reptile or bird, nor shall he or she remove or have in his or her possession the young of any wild animal, or the eggs or nest, or young of any reptile or bird; nor shall he or she collect, remove, have in his or her possession, give away, sell or offer to sell, or buy or offer to buy, or accept as a gift, any specimen alive or dead.

330.04.10 Feeding Animals. Give or offer, or attempt to give to any animal or bird any tobacco, alcohol or other known noxious substances.

330.04.11 Gambling, Drugs and Other Activities. Gambling, the use or possession of drugs, as defined by M.S. Chapter 152, as it may be amended from time to time, and successor statutes, the possession of which is a violation of M.S. Section 152.09, as it may be amended from time to time, and successor statutes, and disorderly conduct is prohibited.

330.04.12 Posting or Painting. No person shall post, paste, paint or affix any placard, bill, notice or sign upon any structure or thing within any park or recreation area or upon any of the fences or enclosures thereof.

330.04.13 Noise. The use of electronic sound amplification devices of any kind within any of the parks or recreation areas of the City or upon any of the roads within the parks or recreation areas shall be hereby prohibited. Nothing contained in this section, however, shall be deemed to prohibit the use of electronic sound amplification devices within parks or recreation areas of the City in connection with events licensed by the City or approved by resolution of the City Council or in cases where a permit has been issued by the Park Board allowing the use of the electronic sound amplification devices subject to rules and regulations established by resolution of the City Council.

(Am. Ord. 2009-03, passed 7-6-09)

330.05 Sanitation Regulations. No person in a park shall:

330.05.1. Throw, discard or otherwise place or cause to be placed in the waters of any fountain, pond, lake, stream, bay or other body of water in or adjacent to any park or any

tributary, stream, storm sewer or drain flowing into such waters, any substance, matter or thing, liquid or solid, which will or may result in the pollution of the waters.

330.05.2. Have brought in or shall dump, deposit or leave any bottles, broken glass, ashes, paper, boxes, cans, dirt rubbish, waste garbage or refuse or other trash. No such refuse or trash shall be placed in any waters in or contiguous to any park, or left anywhere on the grounds thereof; but shall be placed in the proper receptacles where these are provided; where receptacles are not so provided, all such rubbish or waste shall be carried away from the park by the person responsible for its presence, and properly disposed of elsewhere.

(Am. Ord. 2009-03, passed 7-6-09)

330.06 Traffic Regulations.

330.06.1 State Laws Apply. No person in a park shall fail to comply with all applicable provisions of the state motor vehicles traffic laws in regard to equipment and operation of vehicles together with such regulations as are contained in this chapter and other ordinances.

330.06.2 Enforcement. No person in a park shall fail to obey all traffic officers and park employees, such persons being hereby authorized and instructed to direct traffic wherever and whenever needed in the parks and on the highways, streets or roads immediately adjacent thereto in accordance with these regulations as may be issued subsequently by the Superintendent.

330.06.3 Traffic Signs. No person in a park shall fail to comply with all traffic signs indicating speed, direction, caution, stopping or parking and all others posted for proper control and to safeguard life and property.

330.06.4 Speed of Vehicles. No person in a park shall ride or drive a vehicle at a rate of speed exceeding ten miles per hour, except upon such roads as the Superintendent may designate by posted signs.

330.06.5 Operation Confined to Roads. No person, except Park Department employees or authorized agents of the City, shall drive or operate a motor vehicle in any park except on roads as designated parking areas or such other areas as the Superintendent of Parks shall designate.

(Am. Ord. 2009-03, passed 7-6-09)

330.06.6 Parking.

330.06.6.1 Designated Areas. No person in a park shall park a vehicle in other than established or designated parking area, and such use shall be in accordance with the posted directions thereat and with the instruction of any attendant who may be present.

330.06.6.2 Night Parking. No person in a park shall leave a vehicle standing or parked at night without lights clearly visible for at least 50 feet from both front and rear on any driveway or roadway area except legally established parking areas.

330.06.6.3 Emergency Procedure. No person in a park shall fail to notify an attendant of an emergency in the nature of a breakdown requiring the assistance of a tow truck, mechanic or other person.

330.06.6.4 Muffler Required. No person in a park shall fail to use a muffler adequate to deaden the sound of the engine in a motor vehicle.

330.06.6.5 Citations. Sections 830.13 to 830.15 shall govern parking citations issued pursuant to this section.

(Am. Ord. 2009-03, passed 7-6-09)

330.06.7 Bicycles.

330.06.7.1 Confined to Roads. No person in a park shall ride a bicycle on other than a paved vehicular road or path designated for that purpose. A bicyclist shall be permitted to wheel or push a bicycle over any grassy area, wooded trail or on any paved area reserved for pedestrian use.

330.06.7.2 Operation. No person in a park shall ride a bicycle upon a paved road or path other than as near to the right side of the roadway or path as practicable, and bicycles shall be kept in single file when two or more are operating as a group. Bicyclists shall at all times operate their machines with reasonable regard to the safety of others, signal all turns, pass to the right of any vehicle they are overtaking and pass to the right of any vehicles they may be meeting.

330.06.7.3 Rider Prohibited. No person shall operate a bicycle carrying more persons than the number for which it is designated and equipped.

330.06.7.4 Designated Racks. No person shall leave a bicycle in a place other than a rack when such is provided and there is a space available.

330.06.7.5 Immobile Bicycles. No person in a park shall leave a bicycle lying on the ground, paving or set against trees, or in any place or position where other persons may trip over or be injured by it.

330.06.7.6 Night Operation. No person shall ride a bicycle on any road between 30 minutes after sunset to 30 minutes before sunrise without an attached lamp on the front which shall emit a white light visible from a distance of at least 500 feet to the front and with a red reflector on the rear of a type approved by the Minnesota Department of Highways which is visible from all distances from 50 feet to 300 feet to the rear when directly in front of lawful upper beams of head lamps on a motor vehicle.

330.06.8 Trucks. No trucks shall be operated upon any of the drives or roads of any park or recreation area, except at the point of crossing an intersection with a public highway or thoroughfare.

(Am. Ord. 2009-03, passed 7-6-09)

330.07 Specific Recreational Activities Regulated.

330.07.1 Hunting and Firearms. No person shall hunt, trap or pursue wild life at any time. No person shall use, carry or possess firearms of any description, or air rifles, spring guns, bow and arrows, slings or any other form of weapon potentially inimical to wildlife and dangerous to human safety, or any instrument that can be loaded with a fire blank cartridge, or any kind of trapping device. Shooting into park areas from beyond park boundaries is forbidden.

330.07.2 Horseback Riding and Domestic Animals. No person shall ride a horse or other animal except on designated trails or paths or allow any animal unattended or without physical restraint in a public park. No domestic animals of any description shall be allowed within a recreational area unless on an adequate leash and accompanied by a person capable of controlling such animal.

330.07.3 Picnic Areas and Use.

330.07.3.1 Regulation. Picnic or lunch in places other than those designated for that purpose. Attendants shall have the authority to regulate the activities in such areas when necessary to prevent congestion and to secure the maximum use for the comfort and convenience of all. Visitors shall comply with all directions given to achieve this end.

330.07.3.2 Availability. Violation of the regulation of the use of individual fireplaces together with tables and benches follows generally the rule of "first come, first served," except shelter houses that are reserved by the Superintendent of Parks for group activities as set out in 330.07.4.

330.07.4 Group Activities. To schedule group activities such as picnics, sporting activities, parties or theatrical or entertainment performances, to be held in park facilities the representative of the group, the association or organization shall first obtain a permit from the Superintendent of Parks for such purpose. The City Council may adopt an application form to be used by the Superintendent of Parks and Recreation for such situations or if the application is not adopted, he or she shall prepare a form for such purpose. The Superintendent of Parks and Recreation shall grant the application if it appears that the group, association or organization will not interfere with the general use of the park or the individual members of the public and if the group, association or organization meets all other conditions contained in the application. The application may contain a requirement for an indemnity bond to protect the City from any liability of any kind or character and to protect the City property from damage. The Superintendent shall require that group activities requiring extra police protection or other special facilities or expenses to the City shall be provided at the sole expense of the group, association or organization requesting a permit and may require that the indemnity bond cover such services.

330.07.5 Skating and Warming House Rules. To do or engage in any of the following acts within skating rinks on ice in any park, except in the course of winter sports or organized events

held under the supervision of the staff of the City or its delegates, shall be prohibited: racing or playing any games which interfere with the general use of the skating rink, the use of sleds, toboggans, hockey sticks and pucks. This section shall not be construed to prohibit the use of hockey rinks by the City. No person shall smoke or loiter on any skating rink or on the ice in any park, or within any warming house in any park.

330.07.6 Ball Fields, Tennis Courts and Basketball Courts.

330.07.6.1. No person shall play any sport or game except softball or soccer on the City softball fields.

330.07.6.2. No person shall play any sport or game except baseball or soccer on the City baseball fields. No person shall play any sport or game except basketball on any City basketball court.

330.07.6.3. In regard to softball and baseball fields, no bases shall be placed on the grass of the outfield or infield, and may be placed only on the base paths as laid out by the Park Department.

330.07.6.4. No person shall play any sport or game except tennis on the City tennis courts.

330.07.6.5. In regard to ball fields and tennis courts, no person shall drive or ride a motor vehicle or bicycle upon the playing surface of any ball field or tennis court.

330.07.6.6 The usage of each tennis court shall be restricted to one hour per party.

(Am. Ord. 2009-03, passed 7-6-09)

330.08 Prohibited Behavior in Parks. No person in a park shall:

330.08.1 Fireworks and Explosives. Have in his or her possession or set off or otherwise cause to explode or discharge or burn, any firecrackers, torpedoes, rockets or other fireworks or explosives of inflammable material, or discharge them or throw them into such area from land or highway adjacent thereto; this includes any substance, compound, mixture or article that in conjunction with any other substance or compound would be dangerous from any of the foregoing standpoints;

330.08.2 Reservation of Facilities. Occupy any seat or bench, or enter into, loiter or remain in any pavilion or other park structure or section thereof which may be reserved and designated by the Board for the use of the opposite sex; exception is made for children under four years of age;

330.08.3 Soliciting. Solicit alms or contributions for any purpose, whether public or private;

330.08.4 Fires. Build or attempt to build a fire except in such areas and under such regulations as may be designated by the Superintendent; drop, throw or otherwise scatter lighted

matches, burning cigarettes or cigars, tobacco paper or other inflammable material, within any park area or on any highway, road or street abutting or continuous therein;

330.08.5 Closed Areas. Enter an area posted as "Closed to the Public" nor shall any person use or abet the use of any area in violation of posted notices;

330.08.6 Loitering and Boisterousness. Engage in loud, boisterous, threatening, abusive, insulting or indecent language or engage in any disorderly conduct or behavior tending to a breach of the public peace; and/or

330.08.7 Intoxicating Liquor. No person shall drink intoxicating liquor in or upon any park or recreation area.

(Am. Ord. 2009-03, passed 7-6-09)

330.09 Merchandising Prohibited. No person in a park shall:

330.09.1 Vending and Peddling. Expose or offer for sale any article, thing or station or place any stand, cart or vehicle for the transportation, sale or display of any such article or thing; exception is here made as to any regularly licensed concessionaire action by and under the authority and regulation of the Superintendent;

330.09.2 Advertising. Announce, advertise or call the public attention to any article or service for sale or hire; and/or

330.09.3 Signs. Paste, glue, tack or otherwise post any sign, placard, advertisement or inscription whatever or erect or cause to be erected any sign whatsoever on any public lands, highways or roads adjacent to a park unless approved by the Superintendent.

(Am. Ord. 2009-03, passed 7-6-09)

330.10 Enforcement. In addition to any other persons or peace officers vested with the powers of enforcement and arrest of any person for the violation of any provision of this section, all employees of the City whose duties are being discharged in a public park shall have the power to enforce provisions of this section by arrest of any person violating any provision thereof.

(Am. Ord. 2009-03, passed 7-6-09)

Section 340 - Public Rights-of-Way, Boulevards and Sidewalks

340.01 Definitions. For the purpose of this section, the following words and phrases shall have the following meanings.

340.01.1. “Boulevard” shall mean the area between the edge of the driving surface of any City street or road and the edge of the sidewalk closest to the City street or road.

340.01.2. “City” shall mean the City of Hermantown.

340.01.3. “City roads or streets” shall mean all roads and streets within the City that are subject to the jurisdiction and control of the City.

340.01.4. “City Street Superintendent” shall mean the person designated as such by the City Council from time to time.

340.01.5. “Right-of-way” shall mean the entire area under the control of the City by fee ownership, easement, prescription, use or otherwise with respect to any City roads or streets.

340.01.6. “Sidewalk” shall mean the sidewalks adjacent to the following City roads or streets or such other roads or streets as are designated by the City Council by resolution or ordinance:

| | |
|---------------------|---------------------|
| White Pine Street | Greystone Street |
| Hidden Creek Avenue | Sterling Pond Place |
| Red Cedar Street | Amelia Avenue |
| Willow Place | Trails End Drive |
| Sugar Maple Drive | Creekwood Place |
| Knotty Wood Court | Trailwood Street |
| Timber Hill Court | Silver Leaf Street |

340.02 Boulevard Maintenance and Use.

340.02.1. The following are prohibited in or on any boulevard or right-of-way without the written approval of the City Street Superintendent: privately- owned structures, shrubs, boulders, and/or landscape material.

340.02.2. The following are permitted in the boulevard or right-of-way: grass, ground cover, mailboxes, and delivery tubes.

340.02.3. The owners or occupants of buildings, grounds or premises shall maintain the boulevards to the sidewalks as defined in this section.

340.04. Maintenance of Sidewalks.

340.04.1. It shall be the responsibility of the owner of real property to maintain, repair and replace sidewalks abutting the owner’s property within 30 days after notice is given to such owner to maintain, repair or replace such sidewalk. All maintenance, repairs and replacements

shall be done in accordance with City sidewalk plans and specifications and approved by the City Street Superintendent. The provisions of Ord. 86-02 shall be applicable to any work performed on the sidewalk.

340.04.2. If the owner fails to maintain, repair or replace the sidewalk in the manner provided for by such notice, the City may cause such sidewalk to be maintained, repaired or replaced and assess the cost against the property owner in accordance with M.S. Chapter 429.

340.05 Penalties.

340.05.1. Any person who violates this section shall be guilty of a petty misdemeanor.

340.05.2. A separate violation occurs each day that a violation hereunder continues.

(Ord. 2007-01, passed 2-5-07; Am. Ord. 2010-01, passed 4-5-10)