

*CITY OF SILVER LAKE*  
*ORDINANCE CODE*  
*1986*

**(Updated July 2023)**

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## CHAPTER 1

### MISCELLANEOUS PROVISIONS

Section 1. General Provisions.

Subd. 1. How Cited. This code of ordinances shall be known as the Silver Lake City Code and may be so cited.

Subd. 2. Additions. New ordinances proposing amendments or additions to the code shall be assigned appropriate code numbers and shall be incorporated in the code as of their effective date. Reference or citation to the code shall be deemed to include such amendments and additions. When an ordinance is integrated into the code, there may be omitted from the ordinance the title, enacting clause, section numbers, definitions of terms identical to those contained in this ordinance, the clause indicating date of adoption and validating signatures and dates. In integrating ordinances into the code, the clerk, in cooperation with the city attorney, may correct obvious grammatical, punctuation, and spelling errors; change reference numbers to conform with sections, articles, and chapters; substitute figures for written words and vice versa; substitute dates for the words "the effective date of this ordinance"; and perform like actions to insure a uniform code of ordinances without, however, altering the meaning of the ordinances enacted.

Subd. 3. Numbering. Each section number of this code consists of two component parts separated by a decimal. The first digit of the number refers to the chapter number and the digits after the period refer to the position of the section within the chapter. If the chapter is divided into parts, the figure immediately to the left of the decimal corresponds to the part number. Wherever herein the word Subd. appears it is to be construed as the abbreviation of subdivision.

Subd. 4. Title headings; cross-references. Chapter, part, section, subdivision, and other titles shall not be considered part of the subject matter of this code but are intended for convenience only and not necessarily as comprehensive titles.

Subd. 5. Copies. Copies of this code shall be kept in the office of the Clerk/Treasurer for public inspection or sale for a reasonable charge.

Section 2. Definitions.

Subd. 1. General. Unless the context clearly indicates otherwise, the following words and phrases have the meaning given them in this section.

Subd. 2. City. "City" means City of Silver Lake.

Subd. 3. State. "State" means State of Minnesota.

Subd. 4. Council. "Council" means the City Council of the City of Silver Lake.

Subd. 5. Clerk/Treasurer. "Clerk/Treasurer" means the City Clerk/Treasurer/Administrator.

Subd. 6. Clerk. "Clerk or City Clerk" means the City Clerk or Administrator as referred to in Chapter 3 of this ordinance code.

Subd. 7. Person. "Person" means any natural individual, firm, partnership, association, or corporation. As applied to partnerships or associations, the term includes the partners or members; as applied to corporations the term includes the officers, agents, or employees.

Section 3. Statutory Rules Adopted.

The definitions and rules of construction, presumptions, and miscellaneous provisions pertaining to construction contained in Minnesota Statutes, Chapter 645 are adopted by reference and made a part of this code. As so adopted, references in that chapter to laws and statutes mean provisions of this code and references to the legislature mean the council.

Section 4. Existing Rights and Liabilities.

The repeal of prior ordinances and adoption of this code are not to be construed to affect in any manner rights and liabilities existing at the time of repeal and the enactment of this code. Insofar as provisions in this code are substantially the same as pre-existing ordinances, they shall be considered as continuations thereof and not as new enactments. Any act done, offense committed, or right accruing, or liability, penalty, forfeiture or punishment incurred or assessed prior to the effective date of this code is not affected by the enactment of this code.

Section 5. Hearings.

Subd. 1. General. Unless otherwise provided in this code, or by law, every public hearing required by law, ordinance, or resolution to be held on any legislative or administrative matter shall be conducted in accordance with this section.

Subd. 2. Notice. Every hearing shall be preceded by 10 days' mailed notice to all persons entitled thereto by law, ordinance, or regulation unless only published notice is required. The notice shall state the time, place, and purpose of the hearing. Failure to give the notice or defects in it shall not invalidate the proceedings if a good faith effort has been made to comply with this subdivision.

Subd. 3. Conduct of hearing. At the hearing, each party in interest shall have an opportunity to be heard and to present such evidence as is relevant to the proceeding. The council may adopt rules governing the conduct of hearings, records to be made, and such other matters as it deems necessary.

Subd. 4. Record. Upon the disposition of any matter after hearing, the council shall have prepared a written summary of its findings and decisions and enter the summary in the official council minutes.

Section 6. Penalties.

Subd. 1. Petty offenses. Whenever an act or omission is declared by this code to be a petty offense or a petty misdemeanor, any person violating the provision shall, upon conviction, be subject to a fine of not more than \$100.00

Subd. 2. General misdemeanors. In any other case, unless other penalty is expressly provided in this code, any person violating any provisions of this code, or any rule or regulation adopted in pursuance thereof, or any provision of any code adopted in this code by reference, including any provision declaring an act or omission to be a misdemeanor, shall, upon conviction, be subject to a fine of not more than \$700.00 or imprisonment for a term not to exceed 90 days or both, plus, in either case, the costs of prosecution.

Subd. 3. Separate violations. Unless otherwise provided, each act of violation and every day on which a violation occurs or continues constitutes a separate offense.

Subd. 4. Application to city personnel. The failure of any officer or employee of the city to perform any official duty imposed by this code shall not subject the officer or employee to the penalty imposed for violation unless a penalty is specifically provided for such failure.

Section 7. Separability.

If any ordinance or part thereof in the Silver Lake City Code or hereafter enacted is held invalid or suspended, such invalidity or suspension shall not apply to any other part of the ordinance or any other ordinance unless it is specifically provided otherwise.

## CHAPTER 2

### ELECTIONS AND TERMS OF OFFICE

Section 1. Method.

All Elections of the City of City Officers shall be held and conducted under the "Australian Ballot System".

Section 2. Terms of Office.

Two Council Members shall be elected for four-year terms at each biennial election. The Mayor shall be elected for a two-year term at each biennial election.

Section 3. Candidacy.

Candidates for such offices shall file an affidavit, at least ten (10) days before such election, with the City Clerk/Treasurer stating his residence, that he is a qualified voter for such City and the name of the office for which he desires to be a candidate. Upon payment to the City Clerk/Treasurer of \$2.00 and the filing of such affidavit, the Clerk/Treasurer shall place the name of the candidate on the ballot.

Section 4. Ballots.

The City Clerk/Treasurer shall prepare and have printed, at the expense of the City, the ballots for such election and the necessary tally sheets. The ballots shall contain no party designation of the candidates and the candidates for each office shall be listed alphabetically according to the surname of each candidate. The ballots shall be counted, tallied and preserved as in a general election except that the City Clerk/Treasurer shall be the final custodian of such ballots. The City Clerk/Treasurer shall post a sample ballot at the place of election at least two (2) days before such election.

Section 5. Primary Election.

There shall be no primary election in the City of Silver Lake for the election of City Officers.

## CHAPTER 3

### OFFICERS AND THEIR DUTIES; OFFICERS SALARIES

Section 1. Mayor.

The Mayor of the City shall, by virtue of office, preside over the meetings of the Council, but in that person's absence any councilman whom the council may elect shall preside, and shall have and exercise all the powers of a presiding officer. The mayor shall be the general custodian of all public property of the City.

Section 2. Administrator (Adopted by Ordinance #19, March 17, 1994)

Subd. 1. Duties and Title: The duties of the city administrator shall include those duties as described by state statute as city clerk treasurer and those duties described herein, and shall be held by the same person. The administrator may employ the title of city clerk/treasurer, city administrator or any combination of these titles as deemed necessary and convenient.

Subd. 2. Other Duties , Responsibilities and Powers:

a. Chief Administrative Officer: The city administrator shall be the chief administrative officer of the city and shall be responsible to the city council for proper administration of duties set forth in this ordinance and all affairs of the city.

b. Supervision of City Departments: The city administrator shall supervise the administration of all departments and offices of the city, including but not limited to police, fire, ambulance, public works, parks and recreation, auditorium, liquor store, community development and financial administration; and may delegate duties and responsibilities to department supervisors.

c. Administration: The city administrator shall develop and administer, subject to council approval and direction, all administrative rules, regulations procedures necessary to ensure the proper functioning of all departments and offices of the city including, but not limited to department practices or procedures, and performance of department responsibilities.

d. Personnel Matters: The city administrator shall be the personnel officer of the city with the following duties: implementation of all adopted personnel policies, periodic evaluation of all city employees, and the regulation of the terms and conditions of employee compensation for presentation to the city council.

e. Personnel Rules and Regulations: The city administrator shall develop and administer, subject to council approval and direction, all administrative rules, regulations and procedures necessary for effective personnel management consistent with federal, state laws and city ordinances, including but not limited to: scheduling of work, including overtime; payroll practices including determination of work periods and payroll check issuance; hiring, discipline and termination practices; grievance resolution; and compensation negotiation.

f. Personnel Hiring, Discipline, Discharge. The city administrator or respective department heads as delegated by the city administrator, shall interview and screen prospective employees as permitted by law and shall have recommendations to the city council before the city council makes any appointments. The city administrator shall have the power, as provided in the city personnel policy, to discipline and discharge any city employee with council approval.

g. Meetings: The city administrator shall attend and participate in all meetings of the city council. The city administrator shall be responsible for the preparation of the city council agenda and recommend such measures as deemed necessary for the welfare of the citizens and the efficient administration of

the city. The city administrator will attend the planning commission meetings and be responsible for preparation of the agenda and keep minutes of the planning commission meetings.

- h. Budget: The city administrator shall prepare the annual fiscal budget and capital improvement plan for the city council. The city administrator shall maintain financial guidelines for the municipality within the scope of the administrator's guidelines, submit reports to the city council on the financial condition of the municipal accounts and make sure the annual financial statement is prepared in accordance with Minnesota Statutes.
- i. Purchasing: The city administrator shall act as purchasing agent for the city and be responsible in making all purchases in accordance with the approved municipal budget, and subject to such approval of the city council as may be required. The city administrator shall have the authority to sign purchase orders for routine services, equipment and supplies for which the cost does not exceed one thousand dollars (\$1,000). All claims resulting from orders placed by the city administrator shall be audited for payment by the city council. The city administrator shall negotiate contracts for any kind of merchandise, materials, equipment or construction work for presentation to the city council.
- j. Programs: The city administrator shall coordinate municipal programs and activities as directed by the city council. The city administrator shall monitor all consultant activities and contractor work performed for the city ; and shall coordinate the activities of the city attorney.
- k. Public Relations: The city administrator shall represent the city at all official functions as directed city council and maintain good public relations with the citizens of the community.
- l. Knowledge: The city administrator shall keep informed regarding federal, state and county programs affecting the municipality. The city administrator shall consult with officials of both public and private agencies as may be required.
- m. Community Development: The city administrator will work with the city and community groups in pursuing community and economic development activities. The city administrator will act as chief negotiator when said activities have resulted in interested development. The city administrator, with the help of the above mentioned parties will develop proposals that meet guidelines set by the city council. The city administrator will present said proposals to the city council for their review and approval.
- n. Other: The city administrator shall perform such other duties as the city council may from time to time prescribe.

Section 4. Qualifications: The city administrator shall have considerable knowledge of municipal government operations, proper procedures, public relations, personnel management, finance and budgeting, purchasing, all administrative requirements for proper municipal operation. That person shall have knowledge of, or the ability to acquire , full knowledge of all laws affecting the municipality. That person shall have the ability to encourage harmonious relations with the municipal employees and general public. He shall have the ability to coordinate development, to collect and analyze material for reporting, and to initiate and implement standards of procedure, operation and organization. He will preferably have a degree in public administration or a related subject and at least two years of related work experience.

Section 5. Term of Office. The term of office of the city administrator and the term of office of the city clerk/treasurer shall be concurrent. The administrator shall be appointed for an indefinite term; but may contract with the city council for renewal of his appointment and compensation.

Section 6. Discharge , Appeal. The city administrator may be removed from office according to all applicable state statutes and city ordinances concerning the removal of appointed officers. If the city administrator also holds the

office of the city clerk/treasurer, the removal from one office pursuant to such statutes shall be a removal from both offices.

Section 3. Health Officer. Position repealed and section 3 deleted by Ordinance #5, April 15, 1991.

Section 4. Building Inspector.

At the first regular meeting of the City Council in January of each year, a Building Inspector shall be appointed by the Mayor with the approval of the majority of the Council. The Building Inspector shall perform the duties of examining each application for a building permit and advising the Council as to the acceptability of the application and shall make such inspections of buildings, structures and sidewalks, while in the process of construction, as may be necessary to determine that the regulations established by the Council are complied with. Upon detecting a violation of the regulations as established by the Council, the Building Inspector shall notify the owner of the premises on which the construction is being made and the person, firm or corporation, doing such construction, of the violation and shall order construction to be stopped until the violation is corrected. It shall be a misdemeanor for anyone to commence construction prior to the obtaining of a building permit as required by these ordinances of the City of Silver Lake.

Section 5. Street Commissioner.

*Repealed May 21<sup>st</sup>, 1998*

Section 6. Fire Chief and Assistant Fire Chief.

Subd. 1. The Chief of the Fire Department and the Assistant Chief shall be appointed by the Mayor with the approval of a majority of the Council, shall hold office during good behavior, and may be removed only for cause and after a public hearing.

Subd. 2. Fire Chief. The Fire Chief is charged with the enforcement of ordinances aimed at fire prevention. He shall inspect all buildings within the fire limits at least once each year to ascertain and cause to be corrected any conditions likely to cause fires or constitute fire hazards.

Subd. 3. Assistant Fire Chief. The Assistant Fire Chief shall assist the Fire Chief in handling the department and shall, in the absence or disability of the Chief, perform all the functions and exercise all the authority of the Chief.

Subd. 4. Police Authority. At all times the Fire Chief and in his absence, the Assistant Fire Chief, shall be endowed with the power and authority of peace officers of the City.

Section 7. Salaries. (Amended September 2, 2008 Ord. #71)

Subd. 1. The salary of the Mayor of the City of Silver Lake shall be \$2,400 per year; the salaries of each Councilman shall be \$2,000.00 per year. There shall be paid to the Councilmen, the Mayor extra remuneration for their attendance at special meetings of the council and the Board of Review in the amount of \$20.00 per meeting.

The salaries of non-elected officers shall be set by resolution of the City Council.

## CHAPTER 4

### COUNCIL MEETINGS, RULES AND PROCEEDINGS

Section 1. Time and Place:

The regular meetings of the City Council shall be shall be determined by resolution at each new reconstitution of the Council. In the event that for some reason the meeting cannot be held at that time, then the Mayor, at the Mayor's discretion, may set another date for that particular meeting. All regular meetings of the City Council are to be held in the City Auditorium.

Section 2. Agenda:

The order of business at the regular meetings of the City Council shall be as follows:

Roll Call

Approval of Consent Agenda

Auditing Claims

Special Order of Business

New Business

Section 3. Special meetings:

Special meetings may be held at any time upon the call of the Mayor or two of the Councilmen, but notice shall be transacted at such special meetings. The notice calling a special meeting of the Council shall be read at such meeting and entered in full upon the minutes of the City Clerk/Treasurer.

Section 4. Appointment of Committees:

The Mayor shall, at the first regular meeting of the Council, in each year, appoint the committees necessary to carry out the business of the coming year.

Section 5. Committees; Duties:

It shall be the duty of the various committees to exercise a general supervision over the affairs pertaining to their department, to investigate the condition of the same, and to report from time to time to the Council.

Section 6. Claims.

All claims against the City shall be in writing and verified by the person holding the same, and every claim shall be filed with the Clerk/Treasurer at least two (2) days before the regular meeting at which time such claim is to be acted upon by the Council.

## CHAPTER 5

### ADMINISTRATION OF THE FUNDS IN THE CITY TREASURY

#### Section 1. Funds.

There is created and set apart the following funds, and the Clerk/Treasurer of the City of Silver Lake shall keep an accurate account of all moneys credited to each of such funds, as follows: a General Fund, a Sewer And Water Fund, Federal Revenue Sharing Fund, Street Improvement Fund 1981, Water And Sewer Improvement Fund 1978, A Step 1, Step 2 And Step 3 Fund and A Liquor Store Fund.

#### Section 2. Receipts.

All moneys received from licenses and fines shall be paid into the City Treasury in current funds, and shall in the first instance be placed to the credit of the general fund. The money received for taxes shall be credited to various funds for which such taxes shall have been levied.

#### Section 3. Street Expenditures.

Money expended upon the streets, alleys and public sidewalks and public grounds shall be paid from the general fund.

#### Section 4.

All other expenses of the City of Silver Lake, of whatever character properly arising out of municipal affairs, and not otherwise provided for, shall be paid from the general fund, including payment of all debts as they become due, as well as the interest on the same.

#### Section 5. Claims.

Subd. 1. All claims against the City shall be in writing and verified by the person holding the same, and every claim shall be filed with the Clerk/Treasurer at least two (2) days before the regular meeting at which time such claim is to be acted upon by the Council.

Subd. 2. No money demand against the City of Silver Lake shall be paid until audited and allowed by the Council and before so audited and allowed, no order shall be drawn upon the Clerk/Treasurer therefore. Such demands shall be made out in items and be verified by an attached affidavit that the claim is just and correct, and that no part of it has been paid. The clerk shall endorse thereon the work "Disallowed" if such be the fact, or "Allowed in the sum of \$ \_\_\_\_\_", if approved in whole or in part specifically in the latter case the items rejected. Such accounts shall be filed with the Clerk/Treasurer and consecutively numbered throughout the year. Each claim allowed shall also bear the number of the order drawn for its payment, and the Clerk/Treasurer shall take and preserve a receipt for each order issued.

#### Section 6. Disbursements.

Subd. 1. Method. No disbursement of City funds, including funds of any municipal liquor dispensary operated by the City, shall be made except by an order drawn by the Mayor and the City-Treasurer. Except when issued for the payment of judgments, salaries and wages previously fixed by the Council or by statute, principal and interest on obligations, rent and other fixed charges, the exact amount of which has been previously determined by contract authorized by the Council, and except as otherwise provided elsewhere in these ordinances no order shall be issued until the claim to which it relates has been audited and allowed by the Council.

Subd. 2. Claims, payments. Except for wages paid on an hourly or daily basis, where a claim for money due on goods or services furnished can be itemized in the ordinary course of business, the person claiming payment, or his agent, shall prepare the claim in written items and sign a declaration that the claim is just and correct and that no part of

it has been paid; but the Council may in its discretion allow a claim prepared by the Clerk/Treasurer prior to such declaration by the claimant, if the declaration is made by an endorsement ion the order-check by which the claim is paid as provided below. Whenever work for which wages are to be paid on an hourly or daily basis is done by employees of the City, the Clerk/Treasurer shall keep a payroll giving the name of each employee and the number of hours or days worked by him, and the timekeeper, foreman or other officers or employees having knowledge of the facts, shall sign a declaration that the facts recited on the payroll are correct to the best of his information and belief; and when any claim for wages listed on a payroll is paid, the employee shall sign a declaration, which may be a part of the payroll, to the effect that he has received the wages and done the work for which wages have been paid. The declarations relating to claims or payrolls shall be ins substantially the following form:

"I declare under the penalties of perjury (here insert, if claimant; that this claim is just and correct and no part of it has been paid; if timekeeper, foreman, officer or employee having knowledge of the facts; that to the best of my information and belief the items of this payroll are correct; if employee has been paid; that I have received the wages stated on this payroll opposite my name and have done the work for which the wages were paid.)

Date \_\_\_\_\_ Signed \_\_\_\_\_ "

The effect of this declaration shall be the same as if subscribed and sworn to under oath.

Subd. 3. Endorsement of claims: The Clerk/Treasurer shall endorse on each claim required to be audited by the Council, the word "disallowed", if such be the fact, or "allowed in the sum of \$ \_\_\_\_\_", if approved in whole or in part, specifying in the latter case the items rejected. Each order shall be so drawn that when signed by the Clerk/Treasurer in an appropriate space, it becomes a check on the City depository. Such order-check may have printed on its reverse side, above the space for endorsement thereof by the payee, the following statement:

"The undersigned payee, in endorsing this order-check, declares that the same is received in payment of a just and correct claim against the City of Silver Lake and that no part of such claim has heretofore been paid".

When endorsed by the payee named in the order-check, such statement shall operate and shall be deemed sufficient as the required declaration of the claim. Any order presented to the Clerk/Treasurer and not paid for want of funds shall be so marked and paid in the order of its presentation with interest from the date of presentation at the rate of five percent (5%) or such lower rate as is fixed by the Council prior to its issuance.

Subd. 4. Immediate payment of claims. When payment of a claim based on contract can not be deferred until the next Council meeting without loss to the City through forfeiture of discount privileges or otherwise, it may be immediately made if the itemized claim is endorsed for payment by at least a majority of all the members of the Council. The claim shall be acted upon formally at the next Council meeting in the same manner as if it had not been paid, and the earlier payment shall not affect the right of the City or any taxpayer to challenge the validity of the claim.

Subd. 5. Petty cash - imprest funds. The Council may establish one or more imprest funds for the payment in cash of any proper claim against the City, which it is impractical to pay in any other manner, except that no claim for salary or personal expenses of an officer or employee shall be paid from such funds. The Council shall appoint a custodian of each such fund and he shall be responsible for its safekeeping and disbursement according to law. Money for the operation of such fund shall be secured by a transfer from the general fund. A claim itemizing all the various demands for which disbursements have been made from the fund shall be presented to the Council at the next Council meeting after the disbursements have been made. The Council shall act upon it as in the case of other claims and an order shall be issued to the custodian for the amount allowed. The custodian shall use the proceeds of the order to replenish the fund; and if the council fails to approve the claim in full for any sufficient reason, he shall be personally responsible for the difference.

## **CHAPTER 6**

### **POLICE-POWERS AND DUTIES**

#### Section 1.

In case of any riotous noise or any unlawful disturbance of any person or persons, or any disorderly assemblage in or about any house or place in the City of Silver Lake, which may disturb or annoy the inhabitants of the house or neighborhood, it shall be the duty of the police to repair to the scene of such riotous noise, unlawful disturbance or disorderly assemblage and thereto command the peace in the name and by virtue of his office; and if thereupon the peace and order is not restored and preserved he shall arrest all persons participating in such unlawful proceedings; and for the purpose of making any arrest by virtue of the ordinances of the City, he may summon to his aid any male person present and over the age of eighteen years; it shall be the duty of such person so summoned to the assistance of the police to promptly respond and render all the necessary assistance within his power to such police.

#### Section 2.

It shall be unlawful for any persons in said City by threats, force or fraud to rescue or attempt to rescue any person from lawful custody, or from an officer or other person having such person under lawful arrest.

#### Section 3.

The City police shall have power, and it shall be their duty to arrest any person or persons engaged in violating any ordinance of the City, or any of the laws of the state, and also any person or persons for whom they hold a warrant charging a violation of any of the ordinances of the City or the laws of the state.

#### Section 4.

After making any arrest, it shall be the duty of the City police to comply with the terms of the Rules of Criminal Procedure in and for the State of Minnesota cited as Rule 4. Procedure Upon Arrest Under Warrant Following Complaint or Without a Warrant.

#### Section 5.

It shall be the duty of the City police to suppress and restrain all disorderly houses or houses of ill-fame and to seize and take into custody all gambling devices and all spirituous, vinous, malt or fermented liquors of any kind that may be kept for sale or dealt in contrary to any ordinance of the City, and he shall make quarterly reports to the City Council of his acts under this section.

#### Section 6.

When any wood, lumber or other substance is left on any street, alley, sidewalk or public place within this City, contrary to the provisions of any ordinance thereof, it shall be the duty of the City police to cause such wood, lumber, or other substance to be removed from such street, alley, sidewalk or public place to some convenient place within the City at the expense of the owner of such wood, lumber or other substance.

#### Section 7.

All persons who shall fail to promptly respond and render assistance to the police when called upon, as provided by Section 1, of this chapter, and all persons who shall be found guilty of violations of section 2, of this chapter, shall be guilty of a misdemeanor and, on conviction thereof, shall be punished by a fine of not less than five dollars and not more than five hundred dollars, and cost of prosecutions, and in default of payment of such fine and cost are paid, not exceeding ninety days.

## CHAPTER 7

### FIRE DEPARTMENT ORGANIZATION AND INSPECTION

#### Section 1. Fire Department Established.

There is hereby established in the City of Silver Lake, a volunteer fire department consisting of a Chief, an Assistant Fire Chief, and the number of volunteer firemen determined from time to time by the City Council.

#### Section 2. Fire Fighters.

The assistant fire chief and fire fighters shall be able bodied and not less than 18 years of age. They shall become members of the fire department only after six months' probationary period. The council may require that each candidate, before he may become a probationary fire fighter, must satisfy certain minimum requirements of height, weight, education and other qualifications which may be specified by the council, and that he must pass satisfactorily a mental and physical examination. Absence of any fire fighter from three consecutive drills or calls unless excused by the Chief shall be cause for removal from the department.

#### Section 3.

The Chief shall have control over all of the fire fighting apparatus and shall be solely responsible for its care and condition. He shall make a report to the council at its meetings in March and September as to the condition of the equipment and needs of the fire department. He may submit additional reports and recommendations at any meeting of the council and shall report suspensions by him of members of the fire department at the first meeting of the council following such suspension. He shall be responsible for the proper training and discipline of the members of the fire department and may suspend any member for refusal or neglect to obey orders pending final action by the council on his discharge or retention.

#### Section 4.

The Chief shall keep in convenient form a complete record of all fires. Such report shall include the kind of building, name of owner and tenant, purpose for which occupied, value of building and contents, amount of loss, members of the department responding to the alarm, the exact time of the first alarm, of arrival at the fire, and of final return to the station, and such other information as he may deem advisable or as may be required from time to time by the City Council or State Insurance Department.

#### Section 5. Practice Drills.

The Chief shall, at regular intervals, when the weather permits, hold practice drills of at least one hour's duration for the fire department and give the firemen instructions in the approved method of fire fighting and fire prevention.

#### Section 6. Compensation.

The members and officers shall receive compensation, as the council shall allow by resolution. The Chief shall submit and certify to a monthly report showing in detail the hours served by each member of the department, and compensation to which he is entitled therefore, during the month in question. No payment of any compensation to a firemen will be ordered until such report is filed.

#### Section 7. Minimum Pay.

In computing compensation for fires, one hour shall be considered as the minimum to be paid to any firemen or officer, any fraction of an hour shall be considered an hour.

## CHAPTER 8

### COMMISSION FOR PLANNING DEVELOPMENT OF CITY OF SILVER LAKE AND TO RECOMMEND A ZONING PLAN

*Repealed May 21<sup>st</sup>, 1998*

## CHAPTER 9

### TRAFFIC, PARKING, MOTOR VEHICLES AND SNOW REMOVAL AREA

Section 1. Highway Traffic Regulation Act Incorporated By Reference.

The Minnesota Highway Traffic Regulation Act, contained in Chapter 169 of Minnesota Statutes, is hereby incorporated by reference and is adopted as the Traffic Code for the City of Silver Lake, wherever it is consistent with the Ordinances of the City of Silver Lake. In the event the City Council of the City of Silver Lake has enacted or hereafter enacts ordinances, which are inconsistent with said Chapter 169, Minnesota Statutes, the ordinance so enacted shall be enforced as passed.

Section 2.

Any term used in the Ordinance Chapter 9, and defined in Minnesota Statute Chapter 169, has the meaning given it by that Chapter.

Section 3. Unreasonable Acceleration (Amended August 15, 1988)

Subd. 1. Unreasonable Acceleration. Any driver or operator who accelerates a motor vehicle and thereby causes squealing or screeching sounds by the tires, or the throwing of sand, gravel or debris by the tires or creates excessive or unnecessary engine or vehicle noise or causes the vehicle to swerve, skid or fishtail shall be guilty of the offense of unreasonable acceleration. Such squealing or screeching sounds emitted by the tires, or the throwing of sand, gravel or debris by the tires, or unnecessary engine or vehicle noise or swerving, skidding or fishtailing shall be *prima facia* evidence of unreasonable acceleration.

Subd. 2. Penalty. Any violation of Subd. 1 is a petty misdemeanor unless such activity was committed in a manner and under circumstances so as to endanger or be likely to endanger any person or property, and then in that event, the offense shall be a misdemeanor. The punishment for such violation shall be as prescribed by the Statutes of the State of Minnesota for petty misdemeanors or misdemeanor.

Section 4. Operation Of All Terrain Vehicles (Amended by Ordinance 56 5/13/03)

Subd. 1. Definitions of All Terrain Vehicles are to include but are not limited to: snowmobiles, 3-wheelers, 4-wheelers, go-carts, motorcycles not licensed for operation on City streets, and other forms of off-road vehicles.

Subd. 2. It is unlawful for any person to operate an All Terrain Vehicle in the City of Silver Lake under the following circumstances:

- a. On private property of another without the express permission to do so by the owner or occupant of said property.
- b. On public grounds, park property, playgrounds, recreational areas without the express provision or permission to do so by the proper public authority.
- c. In a manner so as to create loud, unnecessary or unusual noise so as to disturb or interfere with the peace and quiet of other persons.

- d. In a careless, reckless or negligent manner so as to endanger, or be likely to endanger, the safety or any person or the property of any other person.
- e. At a speed in excess of 10 miles per hour.

Subd. 3.           Penalty.

In violation of this Subd. is a petty misdemeanor unless it is committed in a manner and under circumstances so as to endanger or be likely to endanger any person or property, and then in that event it shall be a misdemeanor. Punishment shall be as prescribed by the statutes of the State of Minnesota for a petty misdemeanor or for a misdemeanor as the case may appear.

Section 5.           General Parking Regulations (Sections 5-11 Amended and Added by Ordinance 93 6/17/19)

Subd. 1.           The owner, driver, operator, or person in charge of any vehicle parked or left standing upon any street, avenue, alley, boulevard, or public place within the corporate limits of the City of Silver Lake shall conform to and observe the regulations set forth in the subdivisions which follow in regard to the parking thereof.

Subd. 2.           Any vehicle left standing or parked at the curb of any street, avenue, alley, boulevard, or on any public place within the corporate limits of the City for more than 24 continuous hours shall be subject to a parking ticket, the fine shall be \$25.00 for the first 24 hour violation, \$35.00 for a violation after 48 hours, and \$50.00 for any violation after 72 hours. Each offense shall be a separate offense and fined separately as set out herein.

Subd. 3.           Removal of vehicles.

a.           Any vehicle left standing or parked at the curb of any street, avenue, alley, boulevard, or on any public place in the City of Silver Lake for more than 24 continuous hours shall be deemed to be so parked or left standing at the risk of the owner or operator thereof and any vehicle so parked may be towed away from said parking place at the direction of the police department of the City of Silver Lake. The owner of said towed vehicle shall pay the City Clerk/Treasurer of the City of Silver Lake the total cost of towing plus any cost of storage, prior to having the vehicle returned to them. The payment of said sums shall be prerequisite for the return of the vehicle to the person entitled thereto.

b.           Any damage occasioned to any such vehicle by such towing operations or the storage of said vehicle thereafter, shall be assumed by the owner or operator thereof, and no liability for damage shall be assumed by the City of Silver Lake.

Subd. 4.           The owner, driver, operator or person in charge of any vehicle within the City of Silver Lake, shall not allow any vehicle to be placed upon blocks or other similar means unless such placement of the vehicle is for immediate repair of the vehicle to place it in an operable condition. Any vehicle in an inoperable condition shall not be stored in public view within the City of Silver Lake beyond a reasonable period of time to allow for repairs of said vehicle. In no event shall such a vehicle be stored unless it has currently valid license plates and registration under the laws of the State of Minnesota.

Section 6.           Parking Regulations - Specified Areas For Vehicles.

Subd. 1.           No person shall park a vehicle or permit it to stand, whether attended or unattended, upon any street within the City, in any of the following places:

- a.           On a sidewalk,
- b.           In front of a public or private driveway,
- c.           Within an intersection,

- d. Within 10 feet of a fire hydrant,
- e. On a crosswalk,
- f. Within 10 feet of a crosswalk or an intersection,
- g. Within 10 feet of any flashing beacon, stop sign, or traffic control signal located at the side of a road,
- h. Within 10 feet of the driveway entrance to any fire station,
- i. Alongside or opposite any street excavation or obstruction when such stopping, standing, or parking would obstruct traffic,
- j. On the roadway side of any vehicle stopped or parked at the edge or curb of a street,
- k. At any place where official signs prohibit stopping.

Subd. 2. It shall be unlawful for anyone to park a vehicle on Thomas Avenue from Main Street to Cleveland Street unless signage installed by the city on said street permits parking. (Amended by Ord 95 8/19/2019)

Subd. 3. No person shall, for camping purposes, leave or park a house trailer or recreational vehicle on any street or the right-of-way thereof in the City.

Subd. 4. No person shall park a commercial vehicle of more than one-ton capacity upon any of the following streets, to wit:

- Main Street,
- Tower Avenue running south of Main Street for one block,
- Thomas Avenue running south of Main Street for one block,
- Lake Avenue running south of Main Street for one block.

This ordinance shall not prohibit the parking of vehicles for a period of not more than 30 minutes along any such street for the purpose of having access to any property abutting thereon when such access cannot conveniently be secured from any alley or other side street.

Subd. 5. No person shall park a vehicle, other than a legally licensed school bus, on:

- West side of Lake Avenue from Merrill Street to Cleveland Street,

Subd. 6. Signs shall be posted on all of the streets referred to herein setting out the restrictions.

Subd. 7. No vehicle shall be parked on any street for the purpose of displaying it for sale.

Section 7. Snow Removal Areas. (Amended Ord. 64 3/6/06)

Subd. 1. It shall be unlawful for any person, company or corporation, to park any kind of vehicle upon that portion of the streets of this City after (2) inches of snow have fallen from 2:01 am until the streets have been plowed from curb to curb.

Subd. 2. Parking on City streets shall be prohibited during snow emergencies. The Street Commissioner shall be responsible for declaring snow emergencies.

Subd. 3.

- a) Whenever any police officer or public works employee finds a vehicle standing upon the streets or highways in violation of any of the foregoing subdivisions of this section, such officer is hereby authorized to move such vehicle, or require the driver or other person in charge of the vehicle to remove the same, to a position off the paved or improved or main traveled part of such street or highway. If the owner or operator of said vehicle is not available to remove said vehicle, it shall be towed away from said parking place at the direction of the police or public works department of the City of Silver Lake, and the cost of the towing plus the cost of storage until claimed will be paid by the owner. The payment of said sums shall be the prerequisite for the return of the vehicle to the person entitled thereto.
- b) Any damage occasioned to any such vehicle thereafter, shall be assumed by the owner or operator thereof, and no liability for damage shall be assumed by the City of Silver Lake.

Subd. 4. Penalty.

Any violation of this section is a petty misdemeanor unless it is committed in a manner and under circumstances so as to endanger any person or property, and then in that event, it shall be a misdemeanor. The punishment shall be prescribed by the Statutes of the State of Minnesota for a petty misdemeanor or misdemeanor as the case may be.

Section 8. Truck Routes And Limited Truck Routes.

Subd. 1. The meaning of any term herein which is defined in Minnesota Statutes 169.01, as amended from time to time, shall have the meaning as so defined in said State statute. The meaning of any other term used herein not defined by said State statute shall be interpreted through common usage and meaning.

Subd. 2. It is hereby established the following classifications of public roads within the City of Silver lake:

- a. "Restricted Streets or Alleys". Restricted streets or alleys shall include all of the public streets and alleys within the City of Silver Lake, which are not otherwise designated as "truck routes" and/or "limited truck routes".
- b. "Truck Routes". Truck routes are hereby established as the following public streets in the City of Silver Lake:
  - i. All State highways.
  - ii. Main Street between the east and west city limits.
  - iii. Lake Avenue between State Highway 7 and Gehlen Drive.
  - iv. Gehlen Drive and County Road 2, between Lake Avenue and the City limits.
  - v. Lane Avenue between Main Street and State Highway 7.
- c. "Limited Truck Routes". The following City streets are established as limited truck routes:
  - i. Thomas Avenue from Main Street to Center Street.
  - ii. Center Street from Thomas Avenue to Lake Street.
  - iii. Cleveland Street from Grove Avenue to Tower Avenue.

iv. Tower Avenue from Cleveland Street to Main Street.

Subd. 3. No person, firm or corporation shall operate, drive, tow, or park any vehicle or any combination of vehicles with a gross weight in excess of 10,000 pounds on any restricted Public Street or Alley.

Subd. 4. Vehicles in excess of 10,000 pounds which are otherwise lawful under Minnesota Statutes to travel on State highways not in excess of 9 tons shall be permitted upon streets designated as "Truck Routes: provided they do not violate any other traffic or parking law, statute, or ordinance.

Subd. 5. Vehicles prohibited upon Restricted Public Streets or Alleys and Limited Truck Routes, may use such routes to load, unload, travel to and from a place of business, or to be serviced or repaired, provided there is no reasonable truck route which would lead to the same destination. Prohibited vehicles making no bona fide stop within the City of Silver Lake for fuel, service, conduct of business, loading or unloading, however, are restricted to Truck Routes or Limited Truck Routes as in each case applies, notwithstanding the directness of the route to such vehicle's destination.

Subd. 6. The Chief of Police or any police officer on duty may from time to time authorize the use of a Restricted Public Street or Alley or Limited Truck Route by a prohibited vehicle in emergency situations.

Subd. 7. Any person violating any provision of this ordinance shall, upon conviction thereof, be punished upon the first offense as a petty misdemeanor and upon the second offense within one (1) year as a misdemeanor.

Section 9. U Turns, Congested Area.

Subd. 1. The meaning of the term "congested area" for the purposes of this ordinance shall be the streets of the City of Silver Lake described as follows:

- \* Grove Avenue from Main Street to Gehlen Drive;
- \* Lake Avenue from Highway #7 to Gehlen Drive;
- \* Thomas Avenue from Main Street to Cleveland Street;
- \* Cleveland Street from Lake Avenue to Tower Avenue;
- \* Tower Avenue from Cleveland Street to Main Street;
- \* All of Main Street from the East City limits to Mimms Avenue.

Subd. 2. No person shall turn a vehicle in any street in a congested district so as to reverse its direction, commonly known as a "U" turn.

Section 10. One-Way Streets. (Added by Ord. 39 April 17, 1997)

Subd. 1. The following streets are hereby designated one-way streets:

- (A) Park Avenue SW from Main Street W to Cleveland Street SW. Direction of travel from the north to the south.
- (B) Cleveland Street SW from Park Avenue SW to Tower Street. Direction of travel from the west to the east.
- (C) Lake Avenue from Cleveland Street to Gehlen Drive. Direction of travel from the north to the south.

(D) Gehlen Drive from Lake Avenue to Grove Avenue. Direction of travel from the west to the east.

Subd. 2. No person shall operate a vehicle on a one-way street contrary to the direction of travel indicated for that particular street in Subdivision 1 of this section.

Subd. 3. Any violation of this section shall be a petty misdemeanor unless it is committed in a manner and under a circumstance so as to endanger any person or property, and then in that event, it shall be a misdemeanor. The punishment shall be prescribed by the Statutes of the State of Minnesota for a petty misdemeanor or misdemeanor as the case may be.

Section 11. Time-Limited Parking

Parking on streets shall be limited as follows.

a. The Chief of Police shall, as authorized by resolution of the City Council, designate certain streets, blocks or portions of streets or blocks as zoned parking. Such zones shall include, but not be limited to: prohibited parking, five-minute, ten-minute, 15-minute, 30-minute, one-hour, two-hour, four-hour, six-hour, eight-hour or morning or afternoon rush hour limited parking zones. Such zones shall be clearly marked by appropriate signs displaying any parking limitations.

b. These zones shall be established whenever necessary for the convenience of the public or to minimize traffic hazards and preserve the free flow of traffic.

c. It is unlawful for any person to stop, park or leave standing any vehicle in a prohibited parking zone, for a period of time in excess of the signposted limitation, or during signposted hours of prohibited parking. Any violation of this section shall be a petty misdemeanor.

## CHAPTER 10

### OFFENSES, CRIMES, NUISANCES

Section 1. Certain Acts Declared To Be Crimes Defined.

Subd. 1. It is hereby declared to be unlawful for any person or persons to:

a. Deposit or cause to be deposited in any place exposed to the public, any dead animal, offal, or any unwholesome substance or thing.

b. Make, aid, countenance or assist in committing any disturbance of the peace.

c. Drive through or interrupt any funeral, military or civil procession within the limits of said City.

d. Expose their person in any indecent manner or offer for sale or sell any lewd or indecent book, picture or thing as defined by MN Statutes.

e. Beat, injure or otherwise abuse any dumb animal.

f. Keep a disorderly house or place for the resort of persons of evil name or fame for the purpose of prostitution or wherein shall be committed any immoral, immodest or other improper conduct or behavior.

g. Let, hire or lease any house or other building to any person or persons for any of the purposes set forth in sub-paragraph f herein.

Subd. 2. **Disorderly Conduct and Assault.**

Whoever does any of the following in a public or private place within the City of Silver Lake, knowing or having reasonable grounds to know that it will, or will tend to, alarm, anger, or disturb others or provoke any assault or breach of the peace, is guilty of disorderly conduct:

- a. Engages in brawling or fighting; or
- b. Disturbs an assembly or meeting, not unlawful in its character; or
- c. Engages in offensive, obscene, or abusive language or in boisterous and noisy conduct intending reasonably to arouse alarm, anger, or resentment in others; or
- d. Does an act with intent to cause fear in another or immediate bodily harm or death; or
- e. Intentionally inflicts or attempts to inflict bodily harm upon another.

Subd. 3. **Nuisances.** It is unlawful for any person or persons to permit or suffer any condition to exist, on or in premises owned or occupied by such person or persons, offensive to the public in general or offensive, harmful or dangerous to the neighborhood. If such condition is determined to exist, it shall be the duty of the City Administrator or Police Officer to give notice to such person or persons to remove or remedy the condition and, if the same is not removed within twenty-four (24) hours after such notice is given, the City Administrator or Police Officer shall cause the condition to be remedied or removed and the person so notified shall be guilty of a misdemeanor and shall be fined or imprisoned as provided therein by the laws of the State of Minnesota for misdemeanor offenses and required to pay the cost of the removal of the offensive condition.

Subd. 4.      Firearms, Discharge within the City Limits. It is unlawful for any person to fire or discharge any cannon, gun, fire arm, air gun, pistol, compound bow, or other weapon or to fire or explode any rocket, roman candle, fireworks or other explosive instrument within the limits of the City of Silver Lake without first obtaining written permission of the City Council stating the time and place for such exhibition.

Subd. 5. Loitering.

- a. Definitions.
  - i. "Loitering" means to stand around, move slowly about, or to linger.
  - ii. "Public Building" means a structure or area owned and/or operated by the City or School District or other Governmental unit for the conduct of governmental functions but shall also include, but not be limited to, public and private schools, churches, and business or commercial buildings which are open to the general public for the transaction of commercial business.

### b. Restrictions.

- i. No person or persons shall remain in a public building or upon the grounds thereof after being requested to leave said premises by persons lawfully responsible for the control and maintenance thereof when the continued presence of any person or persons therein and thereon shall injure or endanger the safety of said buildings, or property, or unreasonably interfere with the administration thereof.
- ii. No person or persons shall stand, loiter, or assemble on any public sidewalks, public streets or other public ways so as to impede or obstruct the free passage or flow of pedestrian traffic thereon or to interfere with the use thereof.

iii. No person shall stand or loiter in or upon the driveway of any public or commercial property, nor sit upon the steps, window sills, or railings of any building in such a manner so as to obstruct ingress and egress to and from such building or in such a manner so as to cause annoyance to the owner or occupant thereof, or to the customers of such owner or occupant thereof, or to other persons lawfully within said building or while entering or leaving said building.

iv. No person shall loiter in or upon the public parks of the City of Silver Lake without a prior permit having been obtained from the City Clerk/Treasurer of the City of Silver Lake after the hours of 10:00 p.. A permit to use the City Park after 10:00 p.m. must be obtained by any organization so desiring to use the park and only those people within the purview of the permit may use the park after that hour.

Subd. 6. Loitering of Minors Prohibited. *(Amended July 19, 2001)*

a. It shall be unlawful for any minor 16 years of age or under to loiter, idle, wander, stroll, or play in or upon the public grounds, public places, and public buildings, places of amusement and entertainment, vacant lots or other unsupervised places between the hours of 10:00 p.m. and 6:00 a.m. of the following day, official city time, provided, however, that the provisions of this Section do not apply to a minor accompanied by his or her parent, guardian, or other adult person having the care and custody of the minor or where the minor is upon an emergency errand or legitimate business directed by his or her parent, guardian or other adult person having the care and custody of the minor. Each violation of the provisions of this Section shall constitute a separate offense.

b. Responsibility of parents. It shall be unlawful for the parent, guardian, or other adult person having care and custody of a minor to loiter, idle, wander, stroll or play in or, upon public streets, highways, roads, alleys, park, play grounds or other public grounds, public places and public buildings, place of amusement, and entertainment, vacant lots or other unsupervised places between the hours of 10:00 p.m. and 6:00 a.m. of the following day, official city time; provided however, that the provisions of this Section do not apply when the minor is accompanied by his or her parents, guardian, or other adult person having the care and custody of the minor or where the minor is upon an emergency errand or legitimate business directed by his or her parent, guardian, or other adult person having the care and custody of the minor. Each violation of the provisions of this Section shall constitute a separate offense.

c. The policemen of the City of Silver Lake upon finding a minor 16 years of age or under in or upon any of the public streets, highways, alleys, parks or other public places of the City of Silver Lake in violation of any of the provisions of this ordinance after the hour of 10:00 p.m. shall take the name of such child and the name and address of the parent, guardian or legal custodian of such minor, send such minor home, and make report of the same to the Chief of Police within 24 hours, whereupon the Chief of Police shall send to the said parent, guardian or legal custodian of such minor, a written notice of the violation of this ordinance together with a notice to such parent, guardian or legal custodian that unless the terms of this ordinance are complied with the penalty thereof will be invoked against such parent, guardian, or legal custodian of such minor.

Subd. 7. False Fire Alarms and Interference with Fire Department

No person shall give an alarm of fire without probable cause, nor neglect nor refuse to obey any reasonable order of the Fire Chief nor interfere with the fire department in the discharge of its duties.

Subd. 8. Unsafe storage of freezer or any other air-tight chests.

No persons shall keep or store any refrigerator, freezer, or any other air tight chest of a size that would be sufficient to enclose the person of a child without first removing the door or lid of said chest.

Section 2. Forbidding climbing of water towers. *(Added Jan 10<sup>th</sup>, 1994, #18)*

All persons are hereby forbidden to climb any water tower owned by the City of Silver Lake, or to go upon the roof, legs, structure or top of said tower(s), or upon the roof of the pump house or power house of the City's water works system, unless authorized by the City or its employees in charge of the waterworks system.

Section 3. Snow, ice, dirt and rubbish on sidewalks (*Declared a nuisance March 1, 1993 # 13*)

Subd. 1. When deposits of snow, ice, and rubbish are declared a nuisance.

All snow, ice, dirt, and rubbish remaining on a public sidewalk more than 24 hours after its deposit thereon is declared to be a public nuisance. The owner and the occupant of any property adjacent to the public sidewalk shall use due diligence to keep such sidewalk safe for pedestrians by the removal of any snow, ice, dirt or rubbish which is deposited thereon, regardless of source. No owner or occupant shall allow snow, ice, dirt or rubbish to remain on the sidewalk longer than 24 hours after its deposit thereon.

Subd. 2. Public works director may remove deposits of snow, ice or rubbish.

The public works director may remove any and all snow, ice, dirt or rubbish from any public sidewalks as soon as practically possible, beginning 24 hours after deposit of the same thereon, or after snow has ceased to fall. The public works director shall keep a record showing the cost of such removal adjacent to each separate lot or parcel and shall deliver such information to the City Clerk. The public works director may order the removal of snow from public sidewalks in a commercial district where the accumulation of snow impedes public access or where such removal will facilitate snow removal from the commercial district.

Subd. 3. Determination of charges for removal.

The city council may from time to time prescribe by resolution the charges to be imposed for removal of snow, ice, dirt or rubbish remaining on public sidewalks in violation of this ordinance. The owner thereof shall pay all charges incurred within thirty (30) days after billing by the City Clerk. The City shall additionally have the power to certify any unpaid charges for taxes against the property adjacent to the sidewalk which was cleared incurring such costs.

Subd. 4. Penalties

Any violation of this ordinance by an owner or occupant shall constitute a petty misdemeanor. Each day that snow, ice, dirt or rubbish remains on a public sidewalk in violation hereof shall constitute a separate offense.

Section 4 Animal Control (Amended 12/12/02 Ordinance 54; Amended 5/16/11 Ord. 75; Amended 3/19/2018 Ord. 87)

Subd. 1 Definitions as used herein:

- (a) The term "person" shall mean any natural person, firm, partnership, corporation or other legal entity whatsoever.
- (b) The term "owner" shall mean any person owning, harboring, keeping, or otherwise evidencing any incidence of possession or ownership of an animal.
- (c) The term "a wild animal" shall mean any creature commonly recognized as not having been generally domesticated as a species and as defined by Minnesota Statutes 8978.015, Subd. 55.
- (d) The term "pet" shall mean any creature, which is not a wild animal, which is retained by a person for the purposes of companionship, but is not being retained for commercial or resale purposes. Pets shall be limited to the following animals: dogs, cats, lawful tropical fish, lawful amphibians, caged birds, caged rodents, lawful reptiles, and contained lower orders of life, but shall not include any species recognized as dangerous, containing venom, or otherwise prohibited by any local state or federal law or regulation.
- (e) The term "livestock" means any animal, which is not a wild animal nor a pet.

- (f) The term "running at large" shall mean the permitting of any animal to go on about public streets, alleys or public or private places of the City, when not under a restraint, except the immediate premises of the owner or harborer thereof.
- (g) The term "under restraint" shall mean upon the premises of the owner or harborer thereof, or at heel beside a person or within a private motor vehicle; or controlled by a leash not exceeding five (5) feet in length.
- (h) The term "chicken" means all life stages of the fowl of the genus *Gallus* and species *domesticus*.
- (i) The term "coop" means a cage or pen for confining chickens.
- (j) The term "hen" means female chicken.
- (k) The term "lot" means a contiguous parcel of land under common ownership.
- (l) The term "rooster" means male chicken.
- (m) The term "run" means an area inside a fence where chickens are kept and allowed to walk around.

No person shall possess, own, harbor, keep, maintain, or otherwise foster any wild animal or livestock, except horses and chickens, whatsoever in any public or private place within the City of Silver Lake. Wild animals in their natural state, free from human restraint, such as squirrels, rabbits, birds, are not subject to this provision. Feeding wild birds shall not be a violation of this provision, provided the person does not intend to have captive control over such wild birds.

#### Subd. 2 Harboring Animals to Conform to Other Regulations

No living creature whatsoever shall be harbored, maintained or possessed in any zone within the City of Silver lake, except as authorized by the existing ordinances, including zoning regulations of the City of Silver Lake.

#### Subd. 2A. Tag Requirement (added 5/16/11 Ord. 75)

All animals shall wear a collar and have an identification tag firmly affixes thereto indicating the animal's owner by name, address, and telephone number. All animals shall also have vaccination tag affixed to the animal's collar. It is unlawful for the owner of an animal to fail to have the identification tag or vaccination tag firmly attached to the animal's collar.

#### Subd. 3 Running at Large Prohibited.

No animal shall be permitted to run at large within the limits of the City of Silver Lake. All pets, except dogs and cats, shall be confined in a fenced area, cage aquarium or other escape proof enclosure suitable to the species. Dogs and cats shall be permitted upon public or private property if under restraint, and as provided for under City ordinances.

#### Subd. 4 Abandonment of Animals

No person shall abandon any animal within the City of Silver Lake.

#### Subd. 5 Limitation of Cats & Dogs

No person shall harbor or keep more than two (2) dogs or cats on any one premises unless the existing zoning provides and allows a kennel operation. Kittens and puppies under 12 weeks of age as offspring of permitted pets shall not count against this limitation. No person shall harbor, maintain or keep any other variety in any number in any conditions so as to cause a health hazard, public nuisance, or under any other unsanitary, inhumane or unlawful condition. Permission to obtain additional animals may be petitioned through the Animal Control Officer with an opportunity to appeal through the City Council.

Subd. 6 Records of Vaccinations

All owners of cats & dogs must have record that all shots are current and proper and said record must be readily available at the request of the Animal Officer with a 7-day notice.

Subd. 7 Dangerous Dogs

Subject to Minnesota Statute 347.50, the City shall delegate registration and enforcement policies of dangerous dogs to the appropriate McLeod County departments enforcing M.S. 347.50 at that time. The Silver Lake Police, City Attorney, and Clerk's office shall offer full cooperation and assistance in enforcement of this ordinance, within justification, of county policy or protocol, which presently includes but shall not be limited to:

1. Determination of a dangerous dog by the City law enforcement officer and medical personnel.
2. Prosecution of persons in violation of M.S. 347.55 within city jurisdiction upon receipt of investigative reports of dangerous dogs violations.
3. A duplicate copy of completed registration to be sent to the police chief's office.
4. The county auditor may charge the owner of the dangerous dog within the City's jurisdiction extra fees for administrative and any copies of materials of registration as requested by the City Police Chief beforehand.

Subd. 8 State Rabies Control Statutes Adopted by Reference.

The provisions of Minnesota Statutes, Sections 35.67, 35.68, and 35.69, are hereby adopted by reference and a incorporated in and made a part of this Ordinance as completely as if the same were set out here in full.

Any person, firm, or corporation violating any of the provisions of this Ordinance shall be guilty of a misdemeanor and upon conviction thereof shall be punished accordingly. (See Uniform Misdemeanor Penalties in General Regulations Section of this Code.)

Subd. 9 Horses

No person, firm, or corporation shall maintain or stable horses, colts, ponies or mules upon land lying within the limits of the City of Silver Lake without first obtaining a permit therefore as herein set forth.

Application for the permit shall be made to the City Clerk in writing by the owner of the animal or animals upon blanks or forms furnished by and obtainable from the City Clerk. Each application for permit shall have thereon the correct legal description of the property on which the animal or animals will be kept and the name of the owner of the land; the area of land available for pasture; the total number of horses to be kept by the applicant ; and the description of shelter provided for the animal or animals.

No permit shall be issued by the City Clerk until the application has been approved by the City Council. The following standards are to be met and provided by the applicant before the permit shall be issued:

- a. The pasture is at least one-fourth (1/4) acre.
- b. A sturdy wood or metal fence for the pasture that would keep the animal or animals confined. Barbed wire or electrical fences shall not be permitted.
- c. Shelter which shall keep the animal or animals comfortable and protected from the elements and the shelter shall be so located so as not to create a nuisance.
- d. Pasture which will be of a nature that can be used by the animal for grazing. Pastures closer than 30 feet from any structure used for residential purposes shall not be permitted.
- e. The number of animals per one-fourth (1/4) acre shall be limited to one.
- f. Clean and sanitary premises which will not be a harbor for rodents, flies, and insects.

Upon knowledge disclosing that the applicant has complied with the standards provided by above, and approval of the application by the City Council, the City Clerk may issue a permit for the keeping of said horses, colts, ponies, or mules; which permit shall expire on the ensuing 15<sup>th</sup> day of April.

Permits issued pursuant to this ordinance may be revoked by the City Council if the Council finds, after investigation and after holding a hearing thereon (written notice of said hearing to be given by U.S. mail to the holder of the permit) that:

- a. The premises upon which the animal is kept are unsightly and a harbor for rodents, flies, and insects; or
- b. The winter accumulation of manure is not removed from the premises prior to April 15<sup>th</sup> of each year; or
- c. Accumulation of manure is not removed after such periods as will insure that no objectionable aroma exists and that the requirements or section a above are complied with; or
- d. That the applicant has tried to make a reasonable effort to keep the animal of animals under control and fenced within its pasture; or
- e. The animal has been cruelly or inhumanely treated.

Any person violating the provisions of this ordinance shall be guilty of a misdemeanor and shall upon conviction thereof be punished by a fine of not to exceed \$300.00 or by imprisonment of not to exceed ninety (90) days. (See Uniform Misdemeanor Violation penalties in General Regulations Sections and also appropriate state statute.

#### Subd. 10 Chickens

No person shall keep a chicken within the limits of the City of Silver Lake except as allowed by this subdivision. This prohibition does not apply to those portions of the City zoned for agricultural purposes.

General Requirements. A person may keep up to five (5) hens on a lot and the hens are, at all times, confined to the lot as described in this subdivision. No permit is required. However, the owner of the chickens is subject to the following general requirements:

- A. Chickens must be confined on the owner's lot at all times, in a chicken coop or chicken run, and may not be kept in any part of the principal dwelling, garage, front yard, or side yard.
- B. All chicken grains and feed must be stored in a rodent proof container.
- C. Chickens shall not be kept for breeding purposes.
- D. The use of the chickens for cockfighting is prohibited.
- E. Roosters are prohibited.
- F. The owner's lot shall not have more than one single family dwelling.
- G. The coop and run shall be located in the rear yard of the owner of the chicken's lot: (1) setback from the principal dwelling; (2) not less than twenty-five (25) feet away from the principal dwelling on the lot and the principal dwellings on the adjacent properties; and (3) not less than six (6) feet from the property lines of the owner's lot.
- H. Chicken coops shall have a maximum footprint area of ten (1) square feet per chicken and a minimum footprint area of five (5) square feet per chicken. Chicken runs shall have a maximum footprint area of twenty (20) square feet per chicken and a minimum footprint area of ten (10) square feet per chicken. The coop shall be elevated above ground and may not exceed a height of seven (7) feet as measured from the ground.
- I. The coop and run shall be completely enclosed and rodent proof. Further, the coop shall provide adequate protection from the elements and shall be winterized. All fencing and electrical work associated with the chicken coop and run shall comply with all building and zoning codes and all appropriate permits and licenses shall be obtained therefore.
- J. Outdoor butchering of the chickens is prohibited.
- K. The owner of the chickens shall not cause the ownership of chickens to violate any nuisance ordinances.

Waste. The chicken coop and run shall be kept in a sanitary and odor free condition, including the regular and frequent removal, storage in a leak proof container and proper disposal of any accumulated feces or waste. Composting or burying feces, discarded feed or dead chickens on the owner's lot is prohibited. Dead chickens must be disposed of according to Minnesota Board of Animal Health rules.

Private Restrictions and Covenants. Notwithstanding the terms of this subdivision, private restrictions or covenants on the use of the lot shall remain enforceable. Private restrictions include, but are not limited to, deed restrictions, neighborhood association bylaws, and covenant declarations.

Penalties for Violations. Any person violating the provisions of this subdivision shall be guilty of a misdemeanor and shall upon conviction thereof be punished by a fine of not to exceed \$300.00 or by imprisonment of not to exceed ninety (90) days. (See Uniform Misdemeanor Violation penalties in General Regulations Sections and also appropriate state statute.)

Section 5. Regulation And Control Of Growth Of Weeds, Grass, Brush And Other Rank, Poisonous Or Harmful Vegetation.

Subd. 1. Cutting and Removal of Grass, Weeds and other Rank, Poisonous or Harmful Vegetation.

It shall be unlawful for any owner, lessee, or occupant, or any agent, servant, representative or employee of any such owner, lessee or occupant having control of any occupied or unoccupied lot or land or any part thereof in the City of Silver Lake to permit or maintain on any such lot or land, or on or along the sidewalk, street or alley adjacent to the same between the property line and the curb or middle of the alley or for ten feet outside the property line if there be no curb, any growth of weeds, grass, brush, or other rank vegetation to a greater height than six (6) inches on the average, or any accumulation of dead weeds, grass or brush. It shall also be unlawful for any such person or persons to cause, suffer or allow poison ivy, ragweed or other poisonous plants, or plants detrimental to health to grow on any such lot or land in such manner that any part of such ivy, ragweed, or other poisonous or harmful weed shall extend upon, overhang or border any public place or allow to seed, pollen or other poisonous particles or emanations there from to be carried through the air into any public place.

Subd. 2. Duty of Owner, Lessee or Occupant.

It shall be the duty of any owner, lessee or occupant of any lot or land to cut and remove or cause to be cut and removed all such weeds, grass, brush or other rank, poisonous or harmful vegetation as often as may be necessary to comply with the provisions of Subd. 1; provided that cutting and removing such weeds, grass and vegetation at least once in every three weeks, between May 15 and September 15, shall be deemed to be a compliance with this Section.

Subd. 3. When City to do Work. (Amended 12/18/2017; Ord.88)

If the provisions of the foregoing subdivisions are not complied with, the City Weed Inspector shall make service either in person or by certified mail written notice upon the named owner, lessee or occupant or any person having the care or control of any such lot or land to comply with the provisions of this chapter. If the person named upon the notice fails, neglects or refuses to cut and remove or to cause to be cut and removed such weeds, grass, brush or other vegetation within five (5) days after receipt of such notice, or if no person can be found in the City of Silver Lake who either represents or claims to represent such owner, the City Weed Inspector shall cause such weeds, grass, brush and other vegetation on such lot or land to be cut and removed and the actual cost of such cutting and removal and other additional costs in connection therewith, shall thereupon become and be a lien upon the property on which such weeds, grass, brush and other vegetation were located. If not paid, the City Clerk/Treasurer shall certify such cost to the County Auditor as a special assessment against the property involved for collection in the same manner as other special assessments. As an additional or alternative remedy, the owners of any interest in said land and the occupant shall be jointly and severally liable for such costs and the costs shall be recoverable in any action brought against any of them in the name of the City.

Section 6. Regulation And Control To Prevent, Reduce, Or Eliminate Blighting Factors Within The City Of Silver Lake.

Subd. 1. Causes of Blight or Blighting Factors.

a. It is hereby determined that the uses, structures, and activities and causes of blight or blighting factors described herein, if allowed to exist, will tend to result in blighted and undesirable neighborhoods, so as to be harmful to the public welfare, health and safety. No person, firm or corporation of any kind shall maintain or permit to be maintained, any of these causes of blight or blighting factors upon any property in the City of Silver Lake owned, leased, rented or occupied by such person, firm or corporation.

i. In any area, the storage upon any property of junk automobiles. for the purpose of this Section, the term "junk automobiles" shall include any motor vehicle, part of a motor vehicle, stored in open, which is not currently licensed for use upon the highways of the State of Minnesota, and is either (1) unusable or inoperable because of lack of, or defects in component parts; or (2) unusable or inoperable because of damage from collision, deterioration, alteration or other factors; or (3) beyond repair and, therefore, not intended for future use as a motor vehicle; or (4) being retained on the property for possible use of salvageable parts.

ii. In any area, the storage or accumulation of junk, trash, rubbish or refuse of any kind, except refuse stored in such a manner as not to create a nuisance for a period not to exceed thirty (30) days. The term "junk" shall include parts of machinery or motor vehicles, unused stoves or other appliances stored in the open, remnants of wood; decayed, weathered or broken construction materials; metal or other cast off material of any kind, whether or not the same could be put to any reasonable use.

iii. In any area, the existence of any structure or part of any structure, which because of fire, wind or other natural disaster, or physical deterioration is no longer, habitable as a dwelling or useful for any other purpose for which it may have been intended.

iv. In any area, the existence of any vacant dwelling, garage, or other out building, unless such buildings are kept securely locked, windows kept glazed or neatly boarded up and otherwise protected to prevent entrance thereto by vandals.

Subd. 2. Enforcement and Penalties.

a. The owner and the occupant of any property upon which any of the causes of blight or blighted factors set forth in this Subd. hereof is found to exist, shall be notified, by writing, by the enforcement officer to remove or eliminate such causes of blight or blighting factors from such property within ten (10) days after service of the notice upon him. Such notice may be served personally or by mail, the same by registered mail, return receipt requested, to the last known address of the owner, and if the premises are occupied, to the premises. The enforcement officer may grant additional time when bona fide efforts to remove or eliminate such causes of blight or blighting factors are in progress.

b. Failure to comply with such notice within the time allowed shall constitute a violation of this section.

c. In the case of failure to remove any blight within the time prescribed, the City shall remove any garbage, refuse or other materials accumulated on such property at the expense of the owner. If not paid, the City Clerk/Treasurer shall certify such cost to the County Auditor as a special assessment against the property involved for collection in the same manner as other special assessments. As an additional or alternative remedy, the owners of any interest in said land and the occupant shall be jointly and severally liable for such costs and the costs will be recoverable in any action brought against any of them in the name of the City.

Section 7. AN ORDINANCE RELATING TO NOISE, PROVIDING FOR THE ELIMINATION AND PREVENTION OF PROHIBITED NOISE, AND IMPOSING PENALTIES FOR VIOLATION. *(Passed July 18, 1996)*

**Subd. 1. Noises Prohibited.**

- a. **General Prohibition.** No person shall make or cause to be made any distinctly and loudly audible noise that reasonably annoys, disturbs, injures, or endangers the comfort, repose, health, peace, safety or welfare of any person or precludes their enjoyment of property or affects their property's value. This general prohibition is not limited by the specific restrictions of the following subdivisions.
- b. **Horns, Audible Signaling Devices, Etc.** No person shall sound any audible signaling device on any vehicle except as a warning of danger, as required by Minnesota Statute 169.68.
- c. **Exhaust.** No person shall discharge the exhaust or permit the discharge of exhaust of any steam engine, stationary internal combustion engine, motor boat, motor vehicle or snowmobile except through a muffler or other device that effectively prevents loud or explosive noises there from and complies with all applicable state laws and regulations.
- d. **Defective Vehicles or Loads.** No person shall use any vehicle so out of repair or so loaded as to create loud and unnecessary grating, grinding, rattling or other noise.
- e. **Loading, Unloading, Unpacking.** No person shall create loud or excessive noise in loading, unloading or unpacking any vehicle.
- f. **Radios, Phonographs, Paging Systems, Etc.** No person shall use or operate or permit the use or operation of any radio receiving set, musical instrument, phonograph, paging system, machine or other device for the production or reproduction of sound in a distinct and loudly audible manner as to unreasonably disturb the peace, quiet and comfort of any person nearby. Operation of any such set, instrument, phonograph, machine or other device between the hours 10:00 p.m. and 7:00 a.m. in such a manner as to be plainly audible at the property line of the structure or building in which it is located, in the hallway or apartment adjacent, or at a distance of fifty feet (50') if the source is located outside a structure or building shall be *prima facie* evidence of a violation of this section.
- g. **Participation in Noisy Parties or Gatherings.** No person shall participate in any party or other gathering of people giving rise to noise, unreasonably disturbing the peace, quiet or repose of another person. When a police officer determines that a gathering is creating such a noise disturbance, the officer may order all persons present, other than the owner or tenant of the premises where the disturbance is occurring, to disperse immediately. No person shall refuse to leave after being ordered by a police officer to do so. Every owner or tenant of such premises who has knowledge of the disturbance shall make every reasonable effort to see that the disturbance is stopped.
- h. **Loudspeakers, Amplifiers for Advertising, Etc.** No person shall operate or permit the use or operation of any loudspeaker, sound amplifier or other device for the production of or reproduction of sound on a street or other public place for the purpose of commercial advertising or attracting the attention of the public to any commercial establishment or vehicle.
- i. **Animals.** No person shall keep any animal that unreasonably disturbs the comfort or repose of persons in the vicinity by its frequent or continued noise. For purposes of this subdivision, "disturbs the comfort or repose of persons in the vicinity by its frequent or continued noise" means the following:
  - A. The animal noise occurs at a time between 10:00 p.m. and 7:00 a.m. and can be heard from a location outside the building and premises where the animal is being kept and the animal has made such noises intermittently for more than three (3) minutes with one minute or less lapse of time between each animal noise during the three (3) minute period; or

- B. The animal noise can be heard from a one block distance from the location of the building and premises where the animal is being kept and the animal has made such noises intermittently for more than three (3) minutes with one minute or less lapse of time between each animal noise during the three (3) minute period; or
- C. The animal noise can be heard from a location outside the building and premises where the animal is being kept and the animal has made such noises intermittently for at least five (5) minutes with one minute or less lapse of time between each animal noise during the five (5) minute period.

j Institutions. No person shall create any excessive noise on a street, alley or public ground adjacent to any school, institution of learning, church or health care facility when the noise unreasonably interferes with the working of the institution or disturbs or unduly annoys its occupants or residents and when conspicuous signs indicate the presence of such institution.

**Subd 2. Hourly Restriction on Certain Operations.**

- a. Recreational Vehicles. No person shall, between 10:00 p.m. and 7:00 a.m., drive or operate any minibike, snowmobile or other recreational vehicle not licensed for travel on the public highways.
- b. Domestic Power Equipment. No person shall operate a power lawn mower, power hedge clipper, chain saw, mulcher, garden tiller, edger, drill or similar domestic power maintenance equipment except between the hours of 7:00 a.m. and 10:00 p.m. on any weekday or between the hours of 9:00 a.m. and 9:00 p.m. on any weekend or holiday. Snow removal equipment is exempt from this provision.
- c. Refuse Hauling. No person shall collect or remove garbage, refuse or recycling materials in any residential district except between the hours of 7:00 a.m. and 10:00 p.m. on any day.
- d. Construction Activities. No person shall engage in or permit construction activities involving the use of any kind of electric, diesel or gas powered machine or other power equipment except between the hours of 7:00 a.m. and 10:00 p.m. on any weekday or between the hours of 9:00 a.m. and 9:00 p.m. on any weekend or holiday

**Subd 3. Exception for Emergency Work.**

Noise created exclusively in the performance of emergency work to preserve the public health, safety or welfare, or in the performance of emergency work necessary to restore a public service or eliminate a public hazard shall be exempt from the provisions of this ordinance for a period not to exceed twenty-four (24) hours after work has commenced. Persons responsible for such work shall inform the noise control officer of the need to initiate such work or, if the work is commenced during non-business hours of the city, at the beginning of business hours of the first day thereafter. Any person responsible for such emergency work shall take all reasonable actions to minimize the amount of noise.

**Subd. 4. Variances.**

- a. Authority. The zoning administrator shall have the authority, consistent with this section, to grant variances from the requirements of any section of this ordinance.
- b. Application. Any person seeking a variance shall file an application with the zoning administrator on a form prescribed by the zoning administrator. The application shall state the dates during which the variance is proposed, the location of the noise source and times of operation, the nature of the noise source, reasons why the variance is sought, steps taken to minimize the noise level and such other information as required by the zoning administrator. If the application is for a variance for more than three days, the zoning administrator shall give mailed notice of the requested variance to all property owners within 500 feet of the noise source. Any person claiming to be adversely affected by the variance applied for may within twenty (20) days of mailing the notice, file a statement with the zoning administrator in support of their claim.

c. Action on Application. If the zoning administrator finds that sufficient controversy exists regarding the proposed variance, the zoning administrator may hold a public hearing on the proposal at which all persons affected shall be given the opportunity to be heard. The zoning administrator shall also hold such hearing upon the request of the applicant or any person claiming to be adversely affected by the variance applied for. Within thirty (30) days of receipt of the application, the zoning administrator shall approve or deny the application. It may be approved only if the zoning administrator finds that full compliance with the requirements of the ordinance would constitute an unreasonable hardship on the applicant, on other persons or on the community. In determining whether to grant or deny the application, the zoning administrator shall balance hardship to the applicant against the adverse impact on the health, safety and welfare of the persons affected, the adverse impact on property affected and any other adverse affects of granting the variance. The variance may be granted subject to conditions, including a time limit, which shall be clearly stated.

d. Appeals. Either applicant or any party aggrieved may, within twenty (20) days of the decision on the variance application, appeal to the city council for a review of the decision. The appeal shall be filed in writing with the city clerk. The appeal shall be heard as soon as practicable and within twenty (20) days of the filing of the appeal and the applicant. The applicant and any person who has filed a statement on the application for a variance with the zoning administrator shall be given at least ten (10) days mailed notice of the time when and place where the appeal will be considered by the council. The council may affirm, modify or overrule the action of the zoning administrator on the basis of criteria set forth in Subd. 3.

#### **Subd. 5. Enforcement.**

a. Administering Officer. The noise control program established by this ordinance shall be administered by the noise control officer. Until otherwise provided by ordinance, the police department shall serve as the noise control officer.

b. Powers and Duties. The noise control officer shall exercise such powers as necessary and perform such duties as are reasonable and necessary to enforce this ordinance, including, but not limited to the following:

- A. May inspect private premises other than private residences.
- B. May require any person applying to the city for a change in zoning classification or a permit or license for any structure, operation, process, installation, alteration project or event that may be considered a potential noise source to submit a noise impact statement on a form prescribed by the officer. The officer shall evaluate each such statement and make appropriate recommendations to the council or other agency or officer authorized to take the action or approve the license or permit applied for.
- C. May conduct such research, monitoring and other studies related to sound as are necessary or useful in enforcing this ordinance and reducing noise in the city. The officer shall make such investigations and inspections in accordance with law as required in applying ordinance requirements.

c. Civil Remedies. This ordinance may be enforced by injunction, action for abatement or other appropriate civil remedy.

d. Criminal Penalties. Any violation of this ordinance involving the operation of a motor vehicle is a petty misdemeanor and, upon conviction, a fine not to exceed \$100 shall punish the violator. Every person who violates any other provision of this ordinance is guilty of a misdemeanor and shall, upon conviction, be subject to a fine of not more than \$700 or imprisonment for a term not to exceed ninety (90) days, or both. In all cases the city shall be entitled to collect the costs of prosecution to the extent outlined by law, Rules of Criminal Procedure and the Rules of Court. Each act of violation and each day a violation occurs or continues constitutes a separate offense.

### **Subd 6. Severability.**

If any provision of this ordinance or the application of any provision to a particular situation is held to be invalid by a court of competent jurisdiction, the remaining portions of the ordinance and the application of the ordinance to any other situation shall not be invalidated.

**Section 8: Social Hosting** (Adopted 6/16/14; Ord. 81): The City prohibits, and establishes penalties for, any person hosting an event or gathering where alcohol is present and being possessed or consumed by persons under twenty-one (21) years of age.

**Subd. 1. Purpose and Findings.** The City of Silver Lake intends to discourage underage possession and consumption of alcohol, even if done within the confines of a private residence, and intends to hold persons criminally responsible who host events or gatherings where persons under 21 years of age possess or consume alcohol regardless of whether the person hosting the event or gathering supplied the alcohol. The City of Silver Lake finds that:

- (a) Events and gatherings held on private or public property where alcohol is possessed or consumed by persons under the age of twenty-one are harmful to those persons and constitute a potential threat to public health requiring prevention or abatement.
- (b) Prohibiting underage consumption acts to protect underage persons, as well as the general public, from injuries related to alcohol consumption, such as alcohol overdose or alcohol-related traffic collisions.
- (c) Alcohol is an addictive drug which, if used irresponsibly, could have drastic effects on those who use it as well as those who are affected by the actions of an irresponsible user.
- (d) Often, events or gatherings involving underage possession and consumption occur outside the presence of parents. However, there are times when the parent(s) is/are present and, condone the activity, and in some circumstances provide the alcohol.
- (e) Even though giving or furnishing alcohol to an underage person is a crime, it is difficult to prove, and an ordinance is necessary to help further combat underage consumption.
- (f) A deterrent effect will be created by holding a person criminally responsible for hosting an event or gathering where underage possession or consumption occurs.

**Subd. 2. Authority.** This ordinance is enacted pursuant to Minn. Stat. §145A.05 subdivision 1.

**Subd. 3. Definitions.** For purposes of this ordinance, the following terms have the following meanings:

- (a) Alcohol. “Alcohol” means ethyl alcohol, hydrated oxide of ethyl, or spirits of wine, whiskey, rum, brandy, gin, or any other distilled spirits including dilutions and mixtures thereof from whatever source or by whatever process produced.
- (b) Alcoholic beverage. “Alcoholic beverage” means alcohol, spirits, liquor, wine, beer, and every liquid or solid containing alcohol, spirits, wine, or beer, and which contains one-half of one percent or more of alcohol by volume and which is fit for beverage purposes either alone or when diluted, mixed, or combined with other substances.
- (c) Event or gathering. “Event or gathering” means any group of three or more persons who have assembled or gathered together for a social occasion or other activity.
- (d) Host. “Host” means to aid, conduct, allow, entertain, organize, supervise, control, or permit a gathering or event.

- (e) Parent. "Parent" means any person having legal custody of a juvenile:
  - (1) As natural, adoptive parent, or step-parent;
  - (2) As a legal guardian; or
  - (3) As a person to whom legal custody has been given by order of the court.
- (f) Person. "Person" means any individual, partnership, co-partnership, corporation, or any association of one or more individuals.
- (g) Residence or Premises. "Residence" or "premises" means any home, yard, farm, field, land, apartment, condominium, hotel or motel room, or other dwelling unit, or a hall or meeting room, park, or any other place of assembly, public or private, whether occupied on a temporary or permanent basis, whether occupied as a dwelling or specifically for a party or other social function, and whether owned, leased, rented, or used with or without permission or compensation.
- (h) Underage Person. "Underage person" is any individual under twenty-one (21) years of age.

**Subd. 4. Prohibited Acts.**

- (a) It is unlawful for any person(s) to:
  - (1) host or allow an event or gathering;
  - (2) at any residence, premises, or on any other private or public property;
  - (3) where alcohol or alcoholic beverages are present;
  - (4) when the person knows or reasonably should know that an underage person will or does
    - (i) consume any alcohol or alcoholic beverage; or
    - (ii) possess any alcohol or alcoholic beverage with the intent to consume it; and
  - (5) the person fails to take reasonable steps to prevent possession or consumption by the underage person(s).
- (b) A person is criminally responsible for violating Subdivision 4(a) above if the person intentionally aids, advises, hires, counsels, or conspires with or otherwise procures another to commit the prohibited act.
- (c) A person who hosts an event or gathering does not have to be present at the event or gathering to be criminally responsible.

**Subd. 5. Exceptions.**

- (a) This ordinance does not apply to conduct solely between an underage person and his or her parents while present in the parent's household.
- (b) This ordinance does not apply to legally protected religious observances.
- (c) This ordinance does not apply to retail intoxicating liquor or 3.2 percent malt liquor licensees, municipal liquor stores, or bottle club permit holders who are regulated by Minn. Stat. §340A.503 Subd.1(a)(1).
- (d) This ordinance does not apply to situations where underage persons are lawfully in possession of alcohol or alcoholic beverages during the course and scope of employment.

**Subd. 6. Enforcement.** This ordinance may be enforced by the Silver Lake Police Department or any law enforcement officer assisting the Silver Lake Police Department.

**Subd 7. Severability.** If any section, subsection, sentence, clause, phrase, word, or other portion of this ordinance is, for any reason, held to be unconstitutional or invalid, in whole, or in part, by any court of competent jurisdiction, such portion shall be deemed severable, and such unconstitutionality or invalidity shall not affect the validity of the remaining portions of this law, which remaining portions shall continue in full force and effect.

Subd. 8. **Penalty.** Violation of subdivision 4 is a misdemeanor which carries with it a maximum penalty of 90 days jail and/or \$1,000.00 fine.

Section 9. Tree Regulation within the City and establishment of a Tree Commission.

**Subd. 1. Summary of Title.**

This ordinance shall be known and may be cited as the TREE ORDINANCE, for the City of Silver Lake, in the State of Minnesota.

**Subd. 2. Purpose, Intent, and Definitions.**

For the purpose of this Ordinance the following terms, phrases, words and any derivations shall have the meaning given herein.

*Community Tree Plan*- shall mean a written document that guides the work of the Tree Commission.

*City*- is a city, town or political unit of the State of Minnesota.

*City Arborist*- a citizen of the City and member of the Tree Commission who volunteers to carry out the enforcement of said Ordinance.

*Large Trees*- designated as those attaining a height of forty-five (45) feet or more with a mature spread of 40 feet or more.

*Medium Trees*- designated as those attaining a height of thirty (30) to forty-five (45) with a mature spread of 30 feet or more.

*Park*- shall include all public parks having individual names.

*Person* - any person, firm, partnership, corporation, company, association or organization of any kind.

*Property Line* – shall mean the outer edge of a street or highway right of way (R.O.W.).

*Property Owner* – shall mean the person owning such property as shown on city Plat maps.

*Public Places* – shall include all grounds owned by the city.

*Public Trees* – shall include all ornamental and shade trees now or hereafter growing on any street or on any public land where otherwise indicated.

*Small Trees* – designated as those attaining a height of twenty (20) to thirty (30) feet with a mature spread of 20 feet or more.

*Street or Highway* – refers to the entire width of every public way or right of way when any part thereof is open to the use of the public, as a matter of right, for purposes of vehicular and pedestrian traffic.

*Treelawn (R.O.W. edge)* – that part of the street or highway not covered by sidewalk or other paving, lying between the property line and the edge of the street.

*Urban Forest* – shall mean the collection of shrubs, trees, vegetation, and associated natural features that make up the city tree canopy and its growing zone.

**Subd. 3. Tree Commission Established.**

There shall be created commission to be known and designated as the “Tree Commission”.

1. The Tree Commission shall be composed of five (5) citizens, with experience or knowledge of trees and gardening.
  - a. Four (4) voting members, one of whom shall be designated the City Arborist, shall be appointed by the Mayor with approval of the City Council. The Mayor shall be an ex-officio member.
  - b. The four (4) members, including the City Arborist, shall be appointed annually by the Mayor with approval of the City Council.
  - c. All members of the commission shall serve without pay.

**Subd. 4. Authority Given to the Tree Commission.**

The duties of the “Tree Commission” shall be as follows:

1. To assist the properly constituted officials of the city as well as citizens and community groups, in the dissemination of news and information regarding the selection, planting and maintenance of trees within the corporate limits, whether they be on private or public property.
2. To study the urban forest including problems involving the city tree population, determine needs, compose and review annually a Tree Plan and seek ways to implement it.
3. To provide regular and special meetings at which the subject of the urban forest may be discussed by the citizens of the city.

- a. Within a reasonable amount of time after the appointment of the Tree Commission, the Commission shall meet and organize by the election of a chairman and vice chairman. The Commission shall elect from their membership, a City Arborist who will act as secretary and conduct the normal affairs of the Tree Commission as described below.
- b. A majority of voting members shall constitute a quorum for the transaction of business.
4. The Tree Commission shall provide for the adoption of rules and procedures for the holding of regular and special meetings as said Commission shall deem advisable and necessary in order to perform the duties set forth. A journal of proceedings and activities is to be recorded.
5. The Tree Commission may engage in any other lawful activity in pursuit of the mission of this commission which may benefit the urban forest.

**Subd. 5.** Qualifications of the City Arborist.

City Arborist shall, where possible, be a person skilled or trained in forestry, horticulture or other closely related field.

**Subd. 6.** Duties of the City Arborist.

The City Arborist shall make rules governing the planting, maintenance and removal of trees on the streets or other public sites in the City.

**Subd. 7.** Authority of the City Arborist.

1. The City Arborist shall report to the Tree Commission on a regular basis and shall be in attendance at all regular and special meetings of the Tree Commission, Tree Commission Sub-committees or other community meetings as designated by the Chairman.
  - a. The City Arborist shall record all activities of the Commission or subcommittees of the Commission.
2. The City Arborist shall have the authority and jurisdiction of regulating the planting, maintenance and removal of trees on streets and other publicly owned properties to insure the safety or preserve the integrity of such public sites by granting permits.
  - a. The City Arborist shall have the authority to affix reasonable conditions to the granting of a permit in accordance with the terms of Ordinance.

**Subd. 8.** Community Tree Plan.

1. Community Tree Plan. The Tree Commission shall have the authority to formulate a Community Tree Plan with the advice of consultants, agencies and approval of the City Council.

- a. The Community Tree Plan shall include but not be limited to the goals and missions of the Tree Commission, an inventory of resources, needed work, associated cost and time schedules for work and relevant information such as activities of the Tree Commission, standard tree maintenance and planting specifications and permit application procedures.

**Subd. 9.** Required Permits.

The following tree permits are required.

1. Planting, Maintenance and Removal
  - a. No person shall plant, spray, fertilize, remove, prune or otherwise disturb any tree on any street or public owned property without first procuring a permit from the City Arborist.
2. Planting Permit
  - a. Application Data. When making application for a planting permit on publicly owned property, the Applicant shall illustrate the number and types of trees or other plants to be planted.
  - b. Proper Planting. When any tree shall be planted on public land it shall be planted, staked, fertilized, watered, mulched and otherwise cared for according to proper planting specifications issued by the City Arborist.
3. Maintenance Permit
  - a. Application Data. When making application for a maintenance permit the Applicant shall state the number and kinds of trees to be sprayed, fertilized, pruned or otherwise preserved; the kind of treatment to be

administered; the composition of the spray materials to be applied; and other such information as the City Arborist shall deem reasonably necessary to determine issuance of permit.

**4. Removal and Replacement Permit**

- a. When making application for a tree removal permit the Applicant shall describe the number and kinds of trees to be removed, their size, location, health/age condition and the proposed method of removal and other such information as the City Arborist shall deem reasonably necessary to determine issuance of permit.

**Subd. 10. Trees on Private Property.**

1. It shall be the duty of any person or persons owning or occupying real property bordering on any street upon which there may be trees, to prune such trees in such manner that they will not obstruct; utilities (such as power lines or street light), the passage of pedestrians on sidewalks, vision of traffic signs or views of any street or drivable intersection.
2. It shall be the duty of any person owning or occupying real property, bordering on any street, park or other public land, on which there may be trees that are diseased or insect infested, to remove, spray or treat said trees in such a manner that they will not infect, damage or endanger any nearby public vegetation or citizens in use of area.
3. The City Arborist may order the pruning, treatment or removal of trees on private land that cause obstructions, present insect or disease problems or are an otherwise present danger to public health or safety.

**Subd. 11. Abuse of Public Trees.**

No person shall intentionally damage, cut, transplant, carve or remove any tree; attach any wire, rope, advertisements, nails, posters or other apparatus to any tree; allow any gaseous liquid or solid substance which is deemed harmful to trees to come in contact with them; or set fire or permit any fire to burn when such fire or the heat thereof will injure any portion of the tree.

**Subd. 12. Interference with City/Town Arborist.**

No person or persons shall delay, hinder, prevent or interfere with the City Arborist while engaging in carrying out the execution or enforcement of this Ordinance.

**Subd. 13. Protection of Municipal Trees.**

All public trees shall be protected during construction.

1. All trees on any street or other publicly owned property near any excavation or construction of any building, structure or street work, shall be guarded with an appropriately substantial fence, frame or box. The "Tree Guard" shall not be less than four (4) feet high and eight (8) feet square, or at a distance in feet from the tree trunk equal to the diameter of the trunk at breast height (D.B.H.) in inches, whichever being the greater. All building materials, dirt or other debris shall be kept outside the Tree Guard.
2. No person shall change natural drainage or attempt to excavate any ditches, tunnels, trenches or lay any drive within a radius of ten (10) feet from any public tree without first obtaining a written permit from the City Arborist.

**Subd. 14. Placing Materials on Public Property.**

No Person or persons shall place, deposit, store or maintain upon any public place, any stone, sand, concrete, brick or other material which may impede the passage of water, air or fertilizer to the roots of any tree growing therein. Sunlight to any public tree shall not be permanently blocked by placement of materials without written authorization of the City Arborist.

**Subd. 15. Enforcement, Penalty, and Appeals.**

Any person, firm or corporation in violation of compliance with any of the provisions of this Ordinance shall be guilty of a misdemeanor, and upon conviction thereof shall be fined a sum no less than one hundred (\$100.00) dollar, nor more than one thousand (\$1,000.00) dollars or may be imprisoned for a term not exceeding sixty (30) days, or both.

**Subd. 16. Administrative Guidelines.**

1. Permits may be applied as set forth below.

- a. Application for permits must be made to the City Arborist no less than forty-eight (48) hours in advance of the time the work is scheduled to be done.
- b. Standards of Issuance. The City Arborist shall issue the permit provided for herein if, in fair judgment, the proposed work is desirable and the proposed method and workmanship thereof are of a satisfactory nature. Any permit shall be rendered null and void if its terms are violated.
- c. Notice of completion shall be given within seven (7) days to the City Arborist for inspection.

**Subd. 17.** Conflicts.

In the event any section, clause or provisions of this Ordinance be declared by the Courts to be invalid, the same shall not affect the validity of the Ordinance as a whole, or parts thereof, other than the part so declared to be invalid.

**Subd. 18.** Severability.

Should any section, subsection, sentence, clause, provision or part of this Ordinance be held invalid for any reason, the remainder of this Ordinance shall not be affected thereby, but shall remain in force and effect.

Section 10. Fines and separability for this Chapter

Subd. 1. Charges and Fines

Unless otherwise provided, any violation of the provisions of this Chapter 10 shall be deemed a misdemeanor and shall be punishable by a maximum fine of \$700.00 and/or imprisonment of no more than 90 days in jail. In the event the person violating the provisions of this chapter is a minor, he shall be dealt with according to the Laws of the State of Minnesota concerning minors.

Subd 2. Separability

It is the intention of the City Council that each separate provision of this Chapter shall be deemed independent of all other provisions herein, and it is further the intention of the City Council that if any provisions of this Chapter be declared invalid, all other provisions thereof shall remain valid and enforceable.

## CHAPTER 11

### LIQUOR REGULATIONS

*(amended July 16<sup>th</sup>, 2018)*

#### Section 1. Definitions of Terms.

- a. As used in this ordinance, the term "person" shall mean and include a natural person of either sex, persons, co-partnership, corporations and associations of persons; and shall include the agent or manager of any of the aforesaid. The singular number shall include the plural and the masculine pronoun shall include the feminine and neuter.
- b. "3.2% Malt Liquor" shall mean malt liquor containing not less than 0.5% alcohol by volume, nor more than 3.2% alcohol by weight. This definition includes so-called "malt coolers" within the alcoholic content limits stated herein.
- c. "Intoxicating Liquor" or "Liquor" shall mean ethyl alcohol and distilled, fermented, spirituous, vinous and malt beverages containing in excess of 3.2% of alcohol by weight. This definition includes so-called "wine coolers" within the alcoholic content limits stated herein.
- d. "Wine" shall mean a beverage made without rectification or fortification by the fermentation of sound ripe grapes, grape juice, other fruits or honey, and also carbonated wine, wine made from condensed grape must, wine made from other agricultural products, imitation wine, compounds sold as "Wine", vermouth, cider, perry and sake, containing not less than 0.5%, nor more than 14%, alcohol by volume. This definition includes so-called "wine coolers" within the alcoholic content limits stated herein.
- e. "Off-Sale" shall mean the sale of alcoholic beverages in original packages for consumption off the licensed premises only.
- f. "On-Sale" shall mean the sale of alcoholic beverages for consumption on the licensed premises only.
- g. "Alcoholic Beverage" shall mean any beverage containing more than 0.5% alcohol by volume, including, but not limited to, 3.2% malt liquor, wine and liquor as defined in this section.
- h. "Original package" as used herein shall mean the bottle or sealed container in which the liquor is placed at the place of manufacture.
- i. "Cafe" or "Restaurant" as used in this ordinance shall mean any place where preparing and serving lunches or meals to the public to be consumed on the premises constitutes the major business thereof.

#### Section 2. Regulation of 3.2% Malt Liquor.

##### Subd. 1. License Required.

- a. No person shall sell, vend, deal in or dispose of by gift, sale or otherwise, or keep or offer for sale, any 3.2% Malt Liquor within this City without first having obtained a license therefor as hereinafter provided. Licenses shall be of two (2) kinds: "On-Sale" and Off-Sale".
- b. "On-Sale" licenses shall be granted only to drug stores, cafes, restaurants and hotels where food is prepared and served for consumption on the premises and shall permit the sale of such liquor for consumption on the premises only.

c. "Off-Sale" licenses shall be granted to permit the sale of retail and wholesale of such liquor in the original packages for removal from and consumption off the premises only.

Subd. 2. Application for License. All applications for any license to sell 3.2% Malt Liquor shall be made on forms to be supplied by the City setting forth the name of the person asking for such license, his age, his citizenship, references as to his character, the location where such business is to be carried on, whether such application is for "on-sales" or "off-sales" in the business in connection with which the proposed license will operate, whether applicant is owner and operator of such business, the time such applicant has been in that business at that place, and such other information as the City Council may require from time to time. It shall be unlawful to make any false statement in any application.

Subd. 3. Fees. All applications for licenses shall be accompanied by a receipt from the Clerk/Treasurer for the required annual fee for such licenses. All such fees shall be paid in to the general fund of the City. Upon rejection of any application for a license, the Clerk/Treasurer shall refund the amount paid. Annual license fees are set by the City pursuant to the City's license fee schedule. All licenses shall expire on the last day of December in each year.

Subd. 4. Granting of Licenses. The City Council shall cause an investigation to be made of all facts set forth in the application. An opportunity shall be given to any person to be heard for or against the granting of any license. After such investigation, the City Council shall grant or refuse any such application in its discretion. All licensed premises shall have the license therefore posed in a conspicuous place at all times.

Subd. 5. Condition of Licenses.

a. All licenses granted hereunder shall be granted subject to the following conditions, and all other conditions of this chapter, and subject to all other ordinances of the City applicable thereto.

b. No license shall be granted to any person under twenty-one (21) years of age.

c. No license shall be granted for sale on any premises where a license has been convicted of the violation of this chapter or where any license hereunder has been revoked for cause for at least one (1) year after the said conviction or revocation.

d. No sale of any 3.2% Malt Liquor shall be made to any person under guardianship, nor to any person under the legal age as determined by the laws of the State of Minnesota, nor to any intemperate person or habitual drunkard.

e. All licensed premises shall be open to any police or health officer or other properly designated officer or employee of the City at any time during which the place so licensed is open to the public for business.

f. No gambling, nor any gambling devices prohibited by law, nor the drinking of intoxicating liquor shall be permitted on any licensed premises.

g. All licenses granted under this ordinance shall be issued to the applicant only and shall be issued for the premises described in the application. Such license shall not be transferred to another place without the approval of the City Council.

h. No license shall be granted to any manufacturer of 3.2% Malt Liquor not to anyone in control of any place of manufacture of 3.2% Malt Liquor. No equipment or fixture in any licensed place shall be owned in whole or in part by any such manufacturer, or person in such control.

i. No license shall be granted within 50 feet of any public school or other school or of any church.

j. Licenses shall be granted only to persons who are citizens of the United States and residents of the City of Silver Lake and to persons of good moral character.

Subd. 6.           Temporary 3.2% Malt Liquor License.

(A) A club or charitable, religious or non-profit organization shall qualify for a temporary on-sale 3.2% Malt Liquor license. It is required that any club or charitable, religious or non-profit organization applying for a temporary 3.2% malt liquor license must have a Silver Lake address.

(B) A temporary license if submit to the terms set by the City. The Council may, but at no time shall, it be under any obligation whatsoever to, grant a temporary 3.2% malt liquor license on premises owned or controlled by the city. This type of license may be conditioned, qualified or restricted as the Council sees fit.

Subd. 7.           Hours of Operation (**AMENDED BY SUBD. 9 ON 6/14/2014 ORDINANCE 80**)

(A) 3.2% Malt Liquor; On-Sale. No sale of 3.2% Malt Liquor for consumption on a licensed premises may be made:

- a. Between the hours of 1:00 a.m. and 8:00 a.m. on Saturday and Sunday;
- b. Between the hours of 12:00 a.m. (midnight) and 8:00 a.m. Monday through Friday.

(B) All customers shall leave the premises by 12:30 a.m. Monday through Friday and 1:30 a.m. Saturday and Sunday.

Subd. 8.           Partition, Box or Screen Permitted, as Limited Herein. All windows in the front of any such place shall be of clear glass, and the view of the whole interior shall be unobstructed by screens, curtains or partitions. There shall be no partition box, stall, screen, curtain or other device which shall obstruct the view of any part of said room from the general observation of persons in said room; provided, however, that partitions, subdivisions or panels not higher than forty-eight (48) inches for the floor shall not be considered as in conflict with the foregoing.

Subd. 9.           Revocation. Any license granted hereunder may be revoked by the City Council without notice to the grantee in such cases within the judgment of the City Council where immediate action is required for the protection and safety of the public, but in those events, a hearing must be had within ten (10) days and the licensee shall be notified of said hearing and notified of his right to be heard and to present evidence in opposition to the revocation. In all other events, the City Council must first set for hearing a proposed revocation and must notify the licensee at least ten (10) days prior to the date for hearing. The notice to the licensee must inform the licensee that the purpose of the hearing is to determine whether to revoke his license, and further inform him that he is entitled to be heard, and to present testimony at the hearing. Any violation of any of the provisions or conditions of this Ordinance or any falsification of any statement in the application for the license shall be grounds for revocation. In the event of revocation, no portion of the license fee paid into the City Treasury shall be returned.

Subd. 10.          Prohibited Sale. Nothing hereunder shall permit the manufacture, sale, or transportation of, or taking or receiving, or soliciting, any liquor of a greater alcoholic content than three and two-tenths by weight except for medicinal, pharmaceutical, or scientific purposes, and any such act is hereby made unlawful. Any violation of any of the provisions of this ordinance upon any premises licensed hereunder which result in a conviction in a court of law, shall be grounds for immediate revocation of the license in accord with Subd. 9. Revocation. The violator shall not be granted a license in the City for a period of one (1) year from the date of said revocation.

Section 3.          Regulation of On-Sale Intoxicating Liquors. (*Amended 7/7/08 Ord. 70*)

Subd. 1.           On-Sale Intoxicating Liquor License Required

(A) It is unlawful for any person, directly or indirectly, on any pretense or by any device, to sell, barter, keep for sale or otherwise dispose of intoxicating liquor as part of a commercial transaction, without a license from the City.

(B) No retail on-sale intoxicating liquor license may be issued to:

- a. A person under 21 years of age,

- b. A person who has had an intoxicating liquor or 3.2 malt liquor license revoked with five years of license application, or to any person who at the time of the violation owns any interest in the corporation, partnership or association business,
- c. A person of not good moral character and repute, or
- d. A person who has a direct or indirect interest in a manufacturer, brewer or wholesaler.

(C) The City may issue an on sale intoxication liquor license to the following establishments located within its jurisdiction (1) hotels, (2) restaurants, and (3) clubs or congressionally chartered veterans organizations with the approval of the commissioner provided that the organization has been in existence for at least three years and liquor sales will only be to members and bona fide guests.

- a. Club. "Club" is an incorporated organization organized under the laws of the state for civic, fraternal, social, or business purposes, for intellectual improvement, or for the promotion of sports, or a congressionally chartered veterans' organization, which:
  - i. Has more than 30 members;
  - ii. Has owned or rented a building or space in a building for more than one year that is suitable and adequate for the accommodation of its members;
  - iii. Is directed by a board of directors, executive committee, or other similar body chosen by the members at a meeting held for that purpose. No member, officer, agent, or employee shall receive any profit from the distribution or sale of beverages to the members of the club, or their guests, beyond a reasonable salary or wages fixed and voted each year by the governing body.
- b. Hotel. "Hotel" is an establishment where food and lodging are regularly furnished to transients and which has:
  - i. A dining room serving the general public at tables and having facilities for seating at least 30 guests at one time; and
  - ii. Guest rooms in the amount of 10.
- c. Restaurant. "Restaurant" is an establishment, other than a hotel, under the control of a single proprietor or manager, where at least 70% of Gross Sales are derived from the sale of food, the meals are regularly prepared on the premises and served at tables to the general public, and having a minimum seating capacity of at least 50 for guests as prescribed by the appropriate license issuing authority.

Subd. 2. Temporary On-Sale Intoxicating Liquor License

(A) A club or charitable, religious or nonprofit organization may be issued a one day temporary on-sale intoxication liquor license for the sale of Intoxicating Liquor. It is required that any club or charitable, religious or non-profit organization applying for a temporary on-sale intoxication liquor license must have a Silver Lake address

(B) A temporary license is subject to the terms set by the City. The Council may, but at no time shall, it be under any obligation whatsoever to, grant a temporary Intoxicating liquor license on premises owned or controlled by the city. This type of license may be conditioned, qualified or restricted as the Council sees fit.

Subd. 3. Retail License Fees and Insurance

(A) The annual license fees for an On-Sale Intoxicating Liquor License are set by the City issuing the license.

(B) Liability Insurance. No retail license may be issued, maintained or renewed unless the applicant demonstrates proof of financial responsibility. The minimum requirement for proof of financial

responsibility shall be a certificate that there is in effect for the license period insurance policy or pool providing the following minimum coverages: at least \$50,000.00 of coverage because of bodily injury to any one person in any one occurrence, \$100,000.00 because of bodily injury to two or more persons in any one occurrence, \$10,000.00 because of injury to or destruction of property of others in any one occurrence, \$50,000.00 for loss of means of support of any one person in any one occurrence and \$100,000.00 for loss of means of support of two or more persons in any one occurrence. The applicant shall comply with the provisions of Minn. Stat. §340A.409 relating to the liability insurance policies.

Subd. 4. Application for On-Sale Intoxicating Liquor License

- (A) In addition to the information which may be required by the State Liquor Control Commissioner's form, the application for the license shall be on a form provided by and contain such information as required by the City Council.
- (B) If the application is by a natural, it shall be signed and sworn to by such person; if by a corporation, by an officer thereof, if by a partnership, by one of the partners; if by an unincorporated association, by the manager or managing officer thereof. If the applicant is a partnership, the application, license and bond (or insurance policy) shall be made and issued in the name of all partners.

Subd. 4a. Transferability of License.

Licenses are non-transferable under any circumstance.

Subd. 5. Renewal Applications

- (A) Applications for the renewal of an existing on-sale intoxicating liquor license shall be made at least 90 days prior to the date of the expiration of the license, and shall contain such information as required by the City Council.
- (B) With the application for renewal, the applicant shall file with the City Clerk a statement made by a certified public accountant that shows the total gross liquor sales and the total food sales of the restaurant for the twelve month period immediately preceding the date for filing the renewal application. The restaurant must show that at least 70% of the gross sales of the business is derived from the sale of food. A foreign corporation shall file a current Certificate of Authority.

Subd. 6. License Revocation or Suspension

- (A) Any license granted herein may be revoked or suspended by the City Council without notice to the grantee in such cases within the judgment of the City Council where immediate action is required for the protection and safety of the public. In those events a hearing must be held within ten days and the licensee shall be notified of said hearing and notified of his right to be heard and to present evidence and opposition to the revocation or suspension. In all other events the City Council must first schedule a hearing regarding a proposed revocation of suspension and must notify the licensee at least ten days prior to the date of the hearing. The notice to the licensee must inform the licensee that the purpose of the hearing is to determine whether to revoke or suspend his or her license and further inform him or her that he or she is entitled to be heard and to present testimony at the hearing. Any violation of any of the provisions or conditions of this ordinance or where there has been a falsification of any statement in the application for the license shall be grounds for revocation. In the event of revocation, no portion of the license fee paid to the City shall be returned.

Subd. 7. Inspections. Every licensee shall allow any peace officer, health officer, or properly designated officer or employee of the City to enter, inspect, and search the premises of the licensee during business hours without a warrant.

Subd. 8. Employer Responsibility. Any sale of an alcoholic beverage in or from any premises licensed under this chapter by any employee authorized to make that sale in or from that place is the act of the employer as well as of the person actually making the sale; and every employer is liable to all of the penalties, except criminal, provided by law for that sale, equally with the person actually making the sale.

Subd. 9. Hours of Operation (**Amended 6/16/14. Ord. 80**)

(A) Intoxication Liquor; On-Sale. No sale of intoxicating liquor for consumption on the license premises may be made:

- a. Between the hours of 1:00 a.m. and 8:00 a.m. on Friday and Saturday;
- b. Between the hours of 12:00 a.m. (midnight) and 8:00 a.m. Sunday through Thursday.

(B) All customers shall leave the premises by 12:30 a.m. Monday through Friday and 1:30 a.m. Saturday and Sunday.

Subd. 10. Penalty. Any person violating any provision of this ordinance is guilty of a misdemeanor offense and shall be punished by a fine not to exceed \$1,000.00 and/or jail not to exceed 90 days.

Section 4. Municipal Liquor Dispensary (Amended by Ordinance 94 6/17/19)

Subd. 1. Dispensary Established.

(A) A City liquor dispensary is hereby established to be operated within the City for the sale of liquor potable as a beverage and containing more than 3.2% of alcohol by weight, both for consumption at such dispensary and on such premises by the drink and in sealed or closed receptacles or containers for removal from the premises except as otherwise provided in the Silver Lake City Code. No persons shall sell, barter, or otherwise dispose of intoxicating liquor, nor shall a sale be made by anyone outside of said dispensary or by anyone not employed in and by said dispensary, nor shall any person or persons mix or prepare liquor for consumption in any public place of business or consume liquor in such places outside of the dispensary. No liquor shall be sold or consumed on a public highway or in an automobile.

(B) Location and operation. The said dispensary shall be located at such place as the City Council shall determine by motion and may be either leased or owned by the City, as the City Council shall determine. It shall be in charge of a person known as the operator, who shall be selected by the City Council and shall be paid such compensation, as the City Council shall determine. Said operator shall have full charge of the operation of such dispensary, and shall have the authority to purchase such supplies as are necessary and employ such additional help as he or she may need at a rate of compensation to be approved by the City Council and pursuant to the rules determined by the City Council and in conformity with the law. All employees including the operator shall hold their positions at the pleasure of the City Council. No person under the age of 18 shall be employed in the City dispensary.

(C) Dispensary fund created. A liquor dispensary fund is hereby created in which all revenues received from the operation of the dispensary shall be paid, and from which all operating expenses shall be paid, provided the initial cost of rent, fixtures, and necessary inventory may be paid for out of the general fund of the City, but such amounts shall be reimbursed to the said general fund out of the first moneys coming into the liquor dispensary fund not needed for carrying on the said business. Any surplus accumulating in this fund may be transferred to the general fund by resolution of the Council and expended for any municipal purpose.

(D) Hours of operation. The City dispensary shall at all times observe the following restriction upon the hours of operation.

No sale of intoxication liquor shall be made:

- a. Between the hours of 12:00 a.m. and 8:00 a.m. Monday through Friday;
- b. Between the hours of 1:00 a.m. and 8:00 a.m. on Saturday and Sunday

All customers must vacate the premises no later than 12:30 a.m. Monday through Friday and no later than 1:30 a.m. on Saturday and Sunday.

“Off-Sale” hours shall be in accordance with the Minnesota Statute and as determined by the City Council.

(E) Conditions of operation and restrictions on consumption. No gambling shall be permitted unless authorized by the State of MN and approved by the City Council.

No liquor shall be sold for any purpose to a person who is in an intoxicated condition.

No liquor shall be sold to any person in violation of any Minnesota Statute. No person under the age of 21 years of age shall be served any alcoholic beverage.

No person shall be permitted to loaf or loiter about the dispensary habitually.

No premises shall be leased for a dispensary upon which taxes, assessments or other legal public levies are delinquent and unpaid.

(F) Enforcement. It shall be the duty of law enforcement to enforce the provisions of this chapter and to prepare and perform the necessary processes therefore.

Subd. 2. Penalty. Any person violating any provision of this ordinance is guilty of a misdemeanor offense and shall be punished by a fine not to exceed \$1,000.00 and/or jail of 90 days.

## Section 5.

The City Council may issue club on-sale licenses in accord with the laws of the State of Minnesota. The determination as to whether to issue said club licenses shall be within the discretion of the City Council.

## Section 6. Penalty.

Any person violating any provisions of this Chapter 11 of the Ordinances of the City of Silver Lake, Minnesota, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than \$1,000.00 or to imprisonment for ninety (90) days, or both.

## CHAPTER 12

### AN ORDINANCE LICENSING AND REGULATING THE SALE AND CONSUMPTION OF LIQUOR IN CLUBS PURSUANT TO M.S.A. 340.11, SUBDIVISION 11, REPEALING INCONSISTENT ORDINANCES, AND PROVIDING A PENALTY FOR VIOLATION.

#### Section 1. Provisions Of State Law Adopted.

The provisions of Minnesota Statutes, Chapter 340, relating to the definition of terms, licensing, consumption, sales, conditions of bonds of licensees, hours of sale, and all other matters pertaining to the retail sale, distribution, and consumption of intoxicating liquor insofar as they are applicable to club licenses authorizing the sale of liquor for consumption on the licensed premises only, are adopted and made a part of this chapter as if set out in full.

#### Section 2. Application Of License.

Subd. 1. Form. Every club, as herein defined, requesting a club license pursuant to M.S.A. 340.11, Subdivision 11, from the City shall, through its proper officers, file with the City Clerk/Treasurer, a verified application setting forth all information necessary to show whether or not the club qualifies for a license within the meaning of this chapter, together with all additional information as may be required by the City Council. In addition to containing this information, the application shall be in the form prescribed by the Commissioner of Public Safety. No person shall make a false statement in an application.

Subd. 2. Bond. Each application for a license shall be accompanied by a surety bond, or, in lieu thereof, cash or United States Government bonds of equivalent market value as provided in Minnesota Statutes, Section 340.12. The surety bond or other security shall be in the sum of \$3,000.00.

Subd. 3. Liability Insurance. Prior to the issuance of a club license, the applicant shall file with the City Clerk/Treasurer a certificate that there is in effect an insurance policy or pool providing the following minimum coverages:

- \* \$50,000.00 because of bodily injury to any one person in any one occurrence, and, subject to the limit for one person, in the amount of
- \* \$100,000.00 because of bodily injury to two or more persons in any one occurrence, and, in the amount of \$10,000.00 because of injury to or destruction of property of others in any one occurrence.

The applicant shall comply with the provisions of Minnesota Statutes Section 340.12 relating to liability insurance policies.

Subd. 5. Approval of Security. The security offered under Subdivisions 2 and 3 shall be approved by the City Council and the Commissioner of Public Safety. Surety bonds and liability insurance policies shall be approved as to form by the City Attorney. Operation of a licensed club without having on file with the City at all times effective security as required in subdivisions 2 and 3 is a cause for revocation of the license.

#### Section 3. License Fee.

Subd. 1. Amount. The annual fee for a club license is \$300.00.

Subd. 2. Payment. Each application for a club license shall be accompanied by a receipt for the City Clerk/Treasurer for payment in full of the license fee. All fees shall be paid into the general fund. If an application for a license is rejected, the City Clerk/Treasurer shall refund the amount paid.

Subd. 3. Term: Pro Rata Fee. Each license shall be issued for a period of one year except that if the application is made during the license year, a license may be issued for the remainder for the year for a pro rata fee, with any unexpired fraction of a month being counted as one month. Every license shall expire on the last day of December.

Subd. 4. Refunds. No refund of any fee shall be made except as authorized by statute.

Section 4. Granting Of Licenses.

Subd. 1. Investigation and Issuance. The City Council shall investigate all facts set out in the application. Opportunity shall be given to any person to be heard for or against the granting of the license. After the investigation and hearing, the Council shall, in its discretion, grant or refuse the application. No club license shall become effective until it, together with the security furnished by the applicant, has been approved by the Commissioner of Public Safety.

Subd. 2. Distance from School or Church. No license shall be granted for a building within 50 feet of any school or within 50 feet of any church.

Subd. 3. Delinquent Taxes and Charges. No license shall be granted or renewed for operation on any premises on which taxes, assessments, or other financial claims of the City are delinquent and unpaid.

Section 5. Conditions Of License.

Subd. 1. In General. Every license is subject to the conditions in the following subdivisions and all other provisions of this Chapter and of any other applicable Chapter, state law or regulation.

Subd. 2. Licensee's Responsibility. Every licensee is responsible for the conduct of this place of business and the conditions of sobriety and order in it. The act of any employee on the licensed premises authorized to sell intoxicating liquor there is deemed the act of the licensee as well, and the licensee shall be liable to all penalties provided by this ordinance and the law equally with the employee.

Subd. 3. License Not Transferable. The license shall not be transferable as the premises without the approval of the City Council.

Subd. 4. Sale Restricted to Members and Guests. The sale of intoxicating liquor under a club license is restricted to members of the licensed club and bona fide guests of members, which guests arrive on and depart from the licensed premises with the member. A member may invite only 2 persons as his guests at the licensee's club within any 24-hour period. Non-members invited by a member in excess of the number permitted to be invited as guests of a member within a 24-hour period are not bona fide guests.

Subd. 5. Inspections. Every licensee shall allow any peace officer, health officer, or properly designated officer or employee of the city to enter, inspect and search the premises of the licensee during business hours without warrant.

Subd. 6. Display During Prohibited Hours. No license shall permit the display of intoxicating or non-intoxicating liquor to the public during hours when the sale of liquor is prohibited.

Section 6. Penalty.

Any person violating any provision of this ordinance is guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than \$500 or imprisonment in the county jail for not more than ninety (90) days, plus the cost of prosecution in any case.

## CHAPTER 13

### LICENSING AND REGULATING VARIOUS ACTIVITIES AND CONDITIONS

Section 1. Licensing Of Certain Activities.

Subd. 1. No person, persons or organization shall exhibit or display any circus, caravan, carnival, concert, curiosity or show of any kind in the City of Silver Lake without first obtaining a license from the City Council. Such license fees shall be as follows:

a. \$15.00 per day.

b. If the City Council shall determine that the exhibition or show is primarily for charitable purposes, the City Council may waive the requirement of the payment of the fees. The City Council may determine that the show or exhibition is of an improper or indecent nature and may, therefore, refuse the issuance of a license.

Subd. 2. No person, persons or organization within the incorporated limits of the City of Silver Lake shall keep or provide for public use any billiard table, pool table, pigeon hold table, bowling alley, shooting gallery, juke box, pin ball machine, bowling machine or any other device or game for skill only without first obtaining therefor a license from the City Council. The fee to be charged for the license required herein shall be established by resolution of the Council and may be charged from time to time. A copy of the resolution in force at any particular time establishing the fees shall be on file with the City Clerk and available for public examination.

Section 2. Regulation And Licensing Of Live Music.

Subd. 1. It shall be unlawful for anyone to display, play or produce music for the use of live musicians, said display being to the public within the City of Silver Lake, without first obtaining a permit or license from the City Council.

Subd. 2. The City Council is hereby given authority to grant a permit or license in accord herewith for the use of "live music" in public places; for the purposes of this section private clubs shall be considered as public places. Said permit shall specify the particular place where the "live music" is to be displayed or produced and the hours during with the "live music" may be displayed or produced. The hours will be limited to hours after 2:00 p.m. and prior to 1:00 a.m.

Subd. 3. "Live Music" is music produced by live musicians as opposed to mechanical reproduction, etc.

Subd. 4. The City Council has authority hereunder to grant or withdraw licenses at its discretion. Nothing in this Ordinance will be construed to grant permission under the terms of the Ordinance to conduct public dances, nor to permit the maintenance of a nuisance in connection with the display or production of the "live music". The license fee shall be \$25.00 annual on a calendar year basis.

Section 3. Bingo And Conduct Of Gambling. (*REPEALED February 6, 1995 #27*)

Section 4. Conduct of Gambling. (*REPEALED February 6, 1995 #27*)

Section 5. Penalties.

Subd. 1. Criminal Penalty.

Violation of any provision of this Chapter shall be a misdemeanor. A person convicted of violating any provisions of this Ordinance shall be subject to a fine of not more than \$500.00 or imprisonment for a term not to exceed ninety (90) days or both, plus in either case the costs of prosecution.

Subd. 2. Suspension and Revocation.

a. Any license may be suspended or revoked for any violation of this Chapter. A license shall not be suspended or revoked until the procedural requirements of paragraph b have been complied with, provided that in cases where probable cause exists as to violation, the City may temporarily suspend upon service of notice of the hearing provided for in Paragraph b. Such temporary suspension shall not extend for more than two (2) weeks.

b. Procedure. A license shall not be revoked under paragraph a until notice and an opportunity for a hearing have first been given to the licensee. The notice shall be personally served and shall state the Chapter provisions reasonable believed to be violated. The notice shall also state that the licensee may demand a hearing on the matter, in which case the license will not be suspended until after the hearing is held. If the licensee requests a hearing, one shall be held on the matter by the City Council at least one (1) week after the date on which the request is made. If, as a result of the hearing, the City Council finds that a violation exists, the City Council may suspend or terminate the license.

Section 6. Regulation Of Peddlers, Solicitors And Transient Merchants. *(Amended Ord 97 12/16/19)*

Subd. 1. License of Registration Required.

It is unlawful for any peddler, solicitor or transient merchant to engage in such business within the City of Silver Lake without first obtaining a license or registration there for in compliance with the provisions of this Section.

Subd. 2. Definitions.

Except as may otherwise be provided or clearly implied by context, all terms shall be given their commonly accepted definitions. For the purpose of this ordinance, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

(A) Non-Commercial Door-to-Door Advocate. A person who goes door-to-door for the primary purpose of disseminating religious, political, social, or other ideological beliefs. For purpose of this ordinance, the term door-to-door advocate shall fall under the term solicitor and include door-to-door canvassing and pamphleteering intended for non-commercial purposes.

(B) Peddler. A person who goes from house-to-house, door-to-door, business-to-business, street-to-street, or any other type of place-to-place movement, for the purpose of offering for sale, displaying for exposing for sale, selling or attempting to sell, and delivering immediately upon sale, the goods, wares, products, merchandise, or other personnel property that the person is carrying or otherwise transporting. For purpose of this ordinance, the term peddler shall have the same common meaning as the term hawker.

(C) Person. Any natural individual, group, organization, corporation, partnership, or similar association.

(D) Regular Business Day. Any day during which the city hall is normally open for the purpose of conducting public business. Holidays defined by state law shall not be considered regular business days.

(E) Solicitor. A person who goes from house-to-house, door-to-door, business-to-business, street-to-street, or any other type of place-to-place movement, for the purpose of obtaining or attempting to obtain orders for goods, wares, products, merchandise, other personal property, or services of which he or she may be carrying or transporting samples, or that may be described in a catalog or by other means, and for which delivery or performance shall occur at a later time. The absence of samples or catalogs shall not remove a person from the scope of this

provision if the actual purpose of the person's activity is to obtain or attempt to obtain orders as discussed above. For purposes of this ordinance, the term solicitor shall have the same meaning as the term canvasser. Such definition includes any person, who, for themselves, or for another person, firm or corporation hires, leases, uses or occupies any building, motor vehicle, trailer, structure, tent, railroad box car, boat, lodging house, apartment, shop or other place within the City for the primary purpose of exhibiting samples or taking orders for future delivery.

(F) Transient Merchant. A person who temporarily sets up business out of a vehicle, trailer, boxcar, tent, other portable shelter, or empty store front for the purpose of exposing or displaying for sale, selling or attempting to sell, and delivering goods, wares, products, merchandise, or other personal property and who does not remain in any one location for more than fourteen (14) consecutive days. The person, firm or corporation so engaged is relieved from complying with the provisions of this Section by associating temporarily with any local dealer, trader, merchant, or auctioneer or by conducting such transient business in connection with, as a part of, or in the name of any local dealer, trader, merchant or auctioneer.

Subd. 3. Exceptions to Definitions.

For the purpose of this Section, the terms Peddler, Solicitor, and Transient Merchant shall not apply to:

(A) Non-commercial door-to-door advocates. Nothing within this ordinance shall be interpreted to prohibit or restrict non-commercial door-to-door advocates. Person engaging in non-commercial door-to-door advocacy shall not be required to register as a solicitor.

(B) Any person selling or attempting to sell at wholesale any goods, wares, products, merchandise, or other personal property to a retail seller of the items being sold by the wholesaler.

(C) Any person who makes initial contacts with other people for the purpose of establishing or trying to establish a regular customer delivery route for the delivery of perishable food and dairy products, such as baked goods or milk.

(D) Any person making deliveries of perishable food and dairy products to the customers on his or her established delivery route.

(E) Any person making deliveries of newspapers, newsletters, or other similar publications on an established customer delivery route, when attempting to establish a regular delivery route, or when publications are delivered to the community at large.

(F) Any person conducting the type of sale commonly known as garage sales, rummage sales, or estate sales.

(G) Any person participating in an organized multi-person bazaar or flea market.

(H) Any person conducting an auction as a properly licensed auctioneer.

(I) Any officer of the court conducting a court-ordered sale.

(J) Children under the age of eighteen (18) years, provided such solicitations are for the benefit of a non-profit athletic, religious, social or educational organization to which such children belong, and provided further, that the use of such children in conducting such solicitations is not for the sole purpose of obtaining this exemption.

Exemption from these definitions shall not, for the scope of this Section, excuse any person from complying with any other applicable statutory provision or requirement provided by another city ordinance.

Subd. 4. Licensing Exemptions.

(A) County license required. No person shall conduct business as a peddler, solicitor, or transient merchant within the city limits without first having obtained the appropriate license from the county as may be required by Minnesota Statutes Chapter 329 as it may be amended from time to time, if the county issues a license for the activity.

(B) City license required. Except as otherwise provided for by this ordinance, no person shall conduct business within this jurisdiction as a peddler or a transient merchant without first obtaining a city license. Solicitors need not be licensed, but are required to register with the city pursuant to Subdivision 8.

(C) Application. An application for a city license to conduct business as a peddler or transient merchant shall be made at least fourteen (14) regular business days before the applicant desires to begin conducting a business operation within the city. Application for a license shall be made on a form approved by the City Council and available from the office of the city clerk. All applications shall be signed by the applicant. All applications shall include the following information:

- (1) The applicant's full legal name.
- (2) Any and all other names under which the applicant has or does conduct business, or to which the applicant will officially answer to.
- (3) A physical description of the applicant (hair color, eye color, height, weight, any distinguishing marks or features, and the like). Including a recent photograph of the applicant which picture shall be approximately 2" x 2" showing the head and shoulders of the applicant in a clear and distinguishing manner.
- (4) Full address of applicant's permanent residence.
- (5) Telephone number of applicant's permanent residence.
- (6) Full legal name of any and all business operations owned, managed, or operated by applicant, or for which the applicant is an employee or an agent.
- (7) Full address of applicant's regular place of business, if any exists.
- (8) Any and all business-related telephone numbers of the applicant, including cellular phones and facsimile (fax) machines.
- (9) The type of business for which the applicant is applying for a license.
- (10) Whether the applicant is applying for an annual or daily license.
- (11) The dates during which the applicant intends to conduct business. If the applicant is applying for a daily license, the number of days he or she will be conducting business within the city, with a maximum of fourteen (14) consecutive days.
- (12) Any and all addresses and telephone numbers where the applicant can be reached while conducting business within the city, including the location where a transient merchant intends to set up his or her business.
- (13) A statement as to whether or not the applicant has been convicted with the last five (5) years of any felony, gross misdemeanor or misdemeanor for violating any state or federal statute or any local ordinance, other than minor traffic offenses.

(14) A list of the three (3) most recent locations where the applicant has conducted business as a peddler or transient merchant.

(15) Proof of any required county license.

(16) Written permission of the property owner or the property owner's agent for any location to be used by a transient merchant.

(17) A general description of the items to be sold or services to be provided.

(18) Any and all additional information as may be deemed necessary by the City Council.

(19) The applicant's driver's license number or other acceptable form of identification.

(20) The license plate number, registration information, vehicle identification number (VIN) and physical description for any vehicle to be used in conjunction with the licensed business operation.

(D) Fee. All applications for a license under this Section shall be accompanied by the fee established in the city licensing fee schedule as it may be amended from time to time.

(E) Procedure. Upon receipt of the application and payment of the license fee, the city clerk will, within two (2) regular business days, determine if the application is complete. An application will be considered complete if all required information is provided. If the city clerk determines that the application is incomplete, the city clerk must inform the applicant of the required, necessary information that is missing. If the application is complete, the city clerk must order any investigation, including background checks, necessary to verify the information provided with the application. Within ten (10) regular business days of receiving a complete application the city clerk must issue the license unless grounds exist for denying the license application under Subdivision 5, in which case the clerk must deny the request for a city peddler or transient merchant license. If the city clerk denies the license application, the applicant must be notified in writing of the decision, the reason for denial and the applicant's right to appeal the denial by requesting, within twenty (20) days of receiving notice of rejection, a public hearing before the City Council. The City Council shall hear the appeal with twenty (20) days of the date of the request for a hearing. The decision of the City Council following the public hearing can be appealed by petitioning the Minnesota Court of Appeals for a writ of certiorari.

(F) Duration. An annual license granted under this ordinance shall be valid for one calendar year from the date of issuance. All other licenses granted to peddlers and transient merchants under this ordinance shall be valid only during the time period indicated on the license.

(G) License exemptions.

(1) No license shall be required for any person to sell or attempt to sell, or to take or attempt to take orders for, any product grown, produced, cultivated, or raised on any farm.

(2) No license shall be required for any person going from house-to-house, door-to-door, business-to-business, street-to-street, or any other type of place-to-place movement for the primary purpose of exercising that person's state or federal constitutional rights such as the freedom of speech, freedom of the press, freedom of religion, and the like. This exemption will not apply if the person's exercise of constitutional rights is merely incidental to what would properly be considered a commercial activity.

Subd. 5. License Ineligibility.

The following shall be grounds for denying a peddler or transient merchant license:

(A) The failure of an applicant to obtain and demonstrate proof of having obtained any required county license.

(B) The failure of an applicant to truthfully provide any information requested by the city as part of the application process.

(C) The failure of an applicant to sign the license application.

(D) The failure of an applicant to pay the required fee at the time of application.

(E) A conviction with the past five (5) years of the date of application for any violation of any federal or state statute or regulation, or of any local ordinance, which adversely reflects upon the person's ability to conduct the business for which the license is being sought in a professional, honest and legal manner. Such violations shall include, but are not limited to, burglary, theft, larceny, swindling, fraud, unlawful business practices, and any form of actual or threatened physical harm against another person.

(F) The revocation within the past five (5) years of any license issued to an applicant for the purpose of conducting business as a peddler, solicitor, or transient merchant.

(G) When an applicant has a bad business reputation. Evidence of a bad business reputation shall include, but is not limited to, the existence of more than three (3) complaints against an applicant with the Better Business Bureau, the Office of the Minnesota Attorney General or other state attorney general's office, or other similar business or consumer rights office or agency, with the preceding twelve (12) months, or three (3) complaints filed with the city against an applicant within the preceding five (5) years.

Subd. 6. License Suspension and Revocation.

(A) Generally. Any license issued under this Section may be suspended or revoked at the discretion of the City Council for violation of any of the following:

(1) Subsequent knowledge by the city of fraud, misrepresentation or incorrect statements provided by an applicant on the application form.

(2) Fraud, misrepresentation or false statements made during the course of the licensed activity.

(3) Subsequent conviction of any offense to which the granting of the license could have been denied under Subdivision 5.

(4) Engaging in any prohibited activity as provided under Subdivision 9 of this ordinance.

(5) Violation of any other provision of this ordinance.

(B) Multiple persons under one license. The suspension or revocation of any license issued for the purpose of authorizing multiple persons to conduct business as peddlers or transient merchants on behalf of the licensee shall serve as a suspension or revocation of each authorized person's authority to conduct business as a peddler or transient merchant on behalf of the licensee whose license is suspended or revoked.

(C) Notice. Prior to revoking or suspending any license issued under this Section, the city shall provide a license holder with written notice of the alleged violations and inform the licensee of his or her right to a hearing on the alleged violation. Notice shall be delivered in person or by mail to the permanent residential address listed on the license application, or if no residential address is listed, to the business address provided on the license application.

(D) Public Hearing. Upon receiving the notice provided in part (C) of this subdivision, the licensee shall have the right to request a public hearing. If no request for a hearing is received by the city clerk within ten (10) days following the service of the notice, the city may proceed with the suspension or revocation. For the purpose of a mailed notice, service shall be considered complete as of the date the notice is placed in the mail. If a public hearing is requested within the stated time frame, a hearing shall be scheduled within twenty (20) days from the date of the request for the public hearing. Within three (3) regular business days of the hearing, the City Council shall notify the licensee of its decision.

(E) Emergency. If, in the discretion of the City Council, imminent harm to the health or safety of the public may occur because of the actions of a peddler or transient merchant licensed under this ordinance, the City Council may immediately suspend the person's license and provide notice of the right to hold a subsequent public hearing as prescribed in part (C) of this subdivision.

(F) Appeal. Any person whose license is suspended or revoked under this subdivision shall have the right to appeal that decision in court.

(G) Reapplication. No licensee whose license has been revoked shall make further application until at least six (6) months have elapsed since the previous revocation.

Subd. 7. License Transferability.

No license issued under this Section shall be transferred to any person other than the person to whom the license was issued.

Subd. 8. Registration.

(A) All solicitors and any person exempt from the licensing requirements of this ordinance under Subdivision 4 shall be required to register with the city prior to engaging in those activities. Registration shall be made on the same form required for a license application, but no fee shall be required. Immediately upon completion of the registration form, the city clerk shall issue to the registrant a certificate of registration as proof of the registration. Certificates of registration shall be non-transferrable.

(B) Individuals that will be engaging in non-commercial door-to-door advocacy shall not be required to register.

Subd. 9. Prohibited Activities.

No peddler, solicitor, transient merchant, non-commercial door-to-door advocate, or other person engaged in other similar activities shall conduct business in any of the following manner:

(A) Calling attention to his or her business or the items to be sold by means of blowing any horn or whistle, ringing any bell, crying out, or by any other noise, so as to be unreasonably audible within an enclosed structure.

(B) Obstructing the free flow of traffic, either vehicular or pedestrian, on any street, sidewalk, alleyway, or other public right-of-way.

(C) Conducting business in a way as to create a threat to the health, safety, and welfare of any specific individual or the general public.

(D) Conducting business before 8 a.m. or after 9 p.m.

(E) Failing to provide proof of license, or registration, and identification when requested.

(F) Using the license or registration of another person.

(G) Alleging false or misleading statements about the products or services being sold, including untrue statements of endorsement. No peddler, solicitor, or transient merchant shall claim to have the endorsement of the city solely based on the city having issued a license or certificate of registration to that person.

(H) Remaining on the property of another when requested to leave.

(I) Otherwise operating their business in any manner that a reasonable person would find obscene, threatening, intimidating or abusive.

Subd. 10. Exclusion by Placard.

Unless specifically invited by the property owner or tenant, no peddler, solicitor, transient merchant, non-commercial door-to-door advocate, or other person engaged in other similar activities shall enter onto the property of another for the purpose of conducting business as a peddler, solicitor, transient merchant, non-commercial door-to-door advocate, or similar activity when the property is marked with a sign or placard:

(1) At least four inches long.

(2) At least four inches wide.

(3) With print of at least 48 point in size.

(4) Stating "No Peddlers, Solicitors or Transient Merchants," "Peddlers, Solicitors, and Transient Merchants Prohibited," or other comparable statement.

No person other than the property owner or tenant shall remove, deface, or otherwise tamper with any sign or placard under this Section.

Subd. 11. Penalty.

Any individual found in violation of any provision of this ordinance, shall be a guilty of a misdemeanor.

Subd. 12. Severability.

If any provision of this ordinance is found to be invalid for any reason by a court of competent jurisdiction, the validity of the remaining provisions shall not be affected.

Section 8. Regulation and Control of Open Burning. (Passed as Ord. 13, March 1, 1993)

Subd. 1. Open Burning Prohibited with Exceptions

No open burning of any materials whatsoever shall be permitted within the City of Silver Lake except as specifically authorized by this section. The following are specific exceptions:

- a. Open fires used solely for the preparation of food and contained by reasonable means, including barbecue grills, outdoor fireplace facilities and similar devices.
- b. Fires set for installation and training of public and industrial fire fighting personnel.
- c. Fires used for the elimination of fire hazards or the elimination of hazardous buildings which cannot be removed or abated by any other practical means.

Subd. 2. Permits Required

Any fires which fall under exceptions (b) and (c) above stated shall only be set only after first obtaining a permit from the Chief of the Silver Lake Fire Department after written application therefore. The application shall specifically set forth the specifics of the fire to be set, including the address and location of any building or other fire hazard to be razed and the name, address and telephone number of the owner, the means to be employed to control the fire, and shall be signed by the person requesting the same. In the case of the exception (c), the owner of the property shall provide to the City a hold harmless and indemnity agreement in such a form as prescribed by the Clerk, and shall hold the City harmless and indemnifying the City from any loss it may incur by reason of the use of the fire to eliminate or raze any structures of fire hazard.

## CHAPTER 14

### LAND USE REGULATION

*(Amended July 5, 1994 under Zoning Ordinance)*

## CHAPTER 15

### REGULATION OF PUBLIC WORKS AND IMPROVEMENTS

Section 1. Streets.

Subd. 1. Permit required.

No person shall make any excavation in any street, sidewalk, alley, public way or public ground without first having procured a permit therefore from the street commissioner. The fee for such permit shall be \$25.00. It shall be the duty of the street commissioner to:

- a. Determine the need for the excavation.
- b. Determine the method to be used in making the excavation so as to occasion the least possible inconvenience to the public.
- c. Inspect the excavation to insure the work being done as directed.
- d. Revoke the permit issued if the work does not proceed as directed.

Section 2. Streets And Avenues Named And Numbered.

Subd. 1. The City Council of the City of Silver Lake has had a consolidated plat of the City prepared, accepted and approved May 1, 1950, in which the Streets and Avenues are named according to the plan, the Avenues running North and South and the Streets running East and West. A copy of this plat is on file with the County Recorder for McLeod County and a copy is held by the City Clerk/Treasurer of the City Council available for public inspection. From the date of publication of this ordinance, as a part of the consolidated Code of Ordinances of the City of Silver Lake, the streets and avenues in said City shall be known by the names inscribed on said plat and not otherwise.

Subd. 2. The City Council has considered it to the public good and welfare to have a uniform numbering system of all buildings suitable for occupancy, either as residential or commercial property and facing or having access from the public streets in the City of Silver Lake, Minnesota. The City Council has determined that uniformity in the appearance of numbers to be used is in the best interest of the City of Silver Lake, Minnesota.

All owners of all property having buildings thereon both residential and commercial which are accessible from or face upon a public street of the City of Silver Lake, Minnesota, shall place upon the building in a conspicuous location so as to be able to be read from the street, a number of the following dimension:

2 1/2 inches wide x 3 3/4 inches high

A number will be assigned to each city lot suitable to accommodate such a building by the City Clerk in a uniform numbering system, so as to readily locate the property by street and location.

Failure to comply with this ordinance within thirty (30) days of notification by the City of Silver Lake, Minnesota, of non-compliance with the ordinance to the owner of the premises shall be a misdemeanor and punishable by a maximum of \$300.00.

Section 3. Streets, Sidewalks, And Alleys. (*Amended 4/4/2022 Ordinance No 99*)

Subd. 1. All streets, sidewalks and alleys now laid out and in public use, or which may be hereafter laid out in the City of Silver Lake, shall be under the control of the Public Works Supervisor of said City, subject to direction of the City Council thereof.

Subd. 2. It is hereby made the duty of the Public Works Supervisor of the City of Silver Lake to enforce and cause to be enforced all the ordinances, rules, by-laws and regulations of said City relative to streets, sidewalks and alleys.

Subd. 3. All streets and alleys of the City of Silver Lake, with the additions thereto, as they now appear on record in the County Recorder's Office in and for McLeod County, Minnesota, are hereby made, declared, and constituted the lawful highways, streets and alleys of the City of Silver Lake.

Subd. 4. No sidewalks shall hereafter be built within the limits of the City of Silver Lake except as in this ordinance prescribed, and under the direction of the City Council, shall be of cement or some material accepted by the City Council as equivalent thereto.

Subd. 5. The Public Works Supervisor of the City of Silver Lake, shall, under the direction of the City Council thereof, require and cause all sidewalks now existing in said City to be made as uniform a grade and width as possible.

Subd. 6. No person or persons shall deposit, leave, or place any rubbish, snow, grass clippings, leaves or any other debris on any of the streets, gutters, alleys, or public grounds of the City of Silver Lake.

Subd. 7. No person or persons shall pile, deposit or place, or cause or permit to be piled, deposited, or placed, any rubbish, wood, merchandise, snow, grass clippings, leaves or other impediment or obstruction of any kind, upon or over any sidewalk, crossing, street, or alley in the City of Silver Lake, so as to interfere with the free and convenient use of the same by all pedestrians or passengers.

Subd. 8. No person or persons shall move or cause to be moved upon or over any sidewalk or drive, or cause to be driven any motor vehicle thereon, unless it be in crossing the same to go into an alley, yard or place where no other crossing or means of access is provided.

Subd. 9. It is unlawful for any person not acting under a contract with the city to dump snow or ice on public property. Snow and ice build declared a nuisance if left after 24 hours.

Subd. 10. That no person or persons shall allow any cellar door, grating or fastening to rise above the surface of the sidewalk upon the same, in the City of Silver Lake.

Subd. 11. That no person or persons shall fill up, dam, open or otherwise alter, obstruct, or change the free course of water upon any of the streets, gutters, alleys, ditches, sewers or water courses in the City of Silver Lake, without first obtaining the written permission of the Public Works Supervisor thereof.

Subd. 12. That the streets in said City hereinafter mentioned shall be designated as "Through Highways" as that term is construed under the Uniform Highway Act of the State of Minnesota, Sec. 169.04, and subject to the terms, conditions, restrictions, and penalties embodied in said Act.

a. That the street in said City of Silver Lake, known as "Main" Street, shall be designated a "Through Highway" through its length from and including its intersection with Grove Avenue (County Road "B") to and including its intersection with Oliver Avenue.

b. That approved "Stop" signs shall be erected at the entrance to said designated "Through Highway" from all intersecting streets, avenues, and roadways, and whenever such signs have been so erected, the driver of every vehicle on any highway intersecting such "Through Highway" shall bring such vehicle to a complete stop before crossing or entering upon such "Through Highway" except when an automatic signal device or a traffic officer gives the signal to proceed.

c. Any persons violating the provisions of this Section shall be prosecuted in the same manner as all criminal offenses are prosecuted and upon conviction shall pay a fine of not less than one (1) dollar nor more than seven hundred (700) dollars, together with all costs of prosecution or shall be confined in the county jail not to exceed ninety (90) days.

Subd. 13. The City Council may, either upon its own motion by a four-fifths vote of the Council or upon being presented with a petition of the owners of 35% of the frontage of the real property abutting the street and approved by a majority vote of the council, construct or rebuild any sidewalk in a public street or way after first holding a public hearing on the proposed improvement following publication in the official newspaper of two weeks' notice stating the time and place of the hearing; the general nature of the improvement; and the area proposed to be assessed for the improvement. Should any of the abutting owners desire to construct the sidewalk abutting their own property, such construction shall comply with the regulations and specifications established by the City Council and shall be subject to inspection and approval by the Public Works Supervisor.

Subd. 14. Should existing sidewalks in any part of the City require repair, the City Council shall, upon a determination by a majority of the council of the necessity for protection of the public health, require the owners of the real property abutting such sidewalk to repair the same by serving a copy of the resolution requiring such repair on said owner by handing to and leaving with said owner, if he be a resident of the City, a copy of the resolution and if he is not a resident of the City by publishing the resolution once in the official newspaper of the City. Following such service or publication of the resolution, the owner shall be allowed forty (40) days within which to make said repairs and if the repairs are not completed within that time, the City Council shall have the repairs completed and the cost of such repairs assessed against the abutting property owners.

Subd. 15. Any excavation as allowed pursuant to this section shall be done in a reasonable and safe manner and at such time as the excavation is completed the area surrounding the work completed shall be compaction tested and returned to the condition that it was in prior to the excavation and in all events, it shall match the compaction testing of the adjoining area.

Subd. 16. Any person violating the provisions of this ordinance shall be guilty of a misdemeanor and shall upon conviction thereof be punished by a fine of not to exceed \$300.00 or by imprisonment of not to exceed ninety (90) days. (See Uniform Misdemeanor Violation Penalties in General Regulations Sections and appropriate state statute.)

SECTION 4. REGULATION OF WATER AND SEWER SYSTEMS *(Amended 3/19/2018, Ord. 89)*

Subd. 1. Water and Sewer Department. There is hereby established a water and sewer department, which shall be under the supervision of the City Council of the City of Silver Lake, Minnesota. The department shall be responsible for the management, maintenance, care, and operation of the water works and sanitary sewage system of the City of Silver Lake, Minnesota.

Subd. 2. Use Of Water Or Sewer System Restricted. No person shall make or use any water or sewer service installation connected to the city water or sewer system except pursuant to application and permit as provided in this chapter.

Subd. 3. Application for Service. *(Amended July 5, 2023)*

a. Procedure. Application for a water or sewer service shall be made to the City Clerk/Treasurer on forms prescribed by the City Council and furnished by the City. By his or her signature, the applicant shall agree to conform to this section, and to rules and regulations that are established by the City as conditions for the use of water.

b. Fees or Deposit. Application for a service connection shall be made by the owner of the property to be served or by his or her agent. The applicant shall, at the time of making the application, pay to the City the amount of fees or deposit required for the installation of the service connection.

Subd. 4. Charges for Service Connections.

a. Permits and fees. No connection shall be made to the City water or sewer system without a permit received from the City Clerk/Treasurer. The permit fees shall be outlined in the City's fee schedule.

b. Connection fees. When a connection requires installation of a service line from the main to the property line, the applicant shall bear the cost of making the necessary connections, tapes, and installation of pipe and appurtenances to provide service to the property and necessary street repairs.

c. Base fees. Base fees shall be charged to any property that has a water meter installed and connected to the City water system. If a second dwelling unit is permitted to connect to the water and sewer of the main dwelling via a Conditional Use Permit, a second Base fee for both water and sewer will be charged to the property. Said base fees shall be outlined on the City's fee schedule.

d. Water meter cost. At such time as a water connection is made to the City water system, the owner shall purchase a meter approved by the City and shall have said meter installed. The City shall provide the meter to the owner at the cost billed to the City, with any appropriate allowance for the cost of freight, etc. No meter shall be installed upon any water system in the City of Silver Lake, Minnesota, or water system connected to the water system of the City of Silver Lake, Minnesota, unless prior approval is obtained from the City Clerk/Treasurer.

e. Certification. No permit shall be issued to connect with any water or sanitary sewer main unless the City Clerk/Treasurer certifies to the truth of one of the following or payment as required in Paragraph "f" is made.

i. That the lot or tract to be served has been assessed for the cost of construction of the main with which the connection is made or the proceedings for levying such assessment have been or will be commenced in due course; or

ii. That the cost of construction of the main has been paid by the developer or builder platting the lot or tract; or

iii. That, if neither of the foregoing is true, a sum equal to the portion of the cost of constructing the main which would be assessable against the lot or parcel has been paid to the City.

f. Additional connection fees. If no such certificate can be issued, the applicant shall pay an additional connection fee equal to the portion of the cost of construction of the main upon the same basis as any assessment previously levied against other property for the main. The determination shall be made by the City Clerk/Treasurer. If no such assessment has been levied, the assessable cost shall be determined upon the basis of the uniform charge which may have been or will be charged for similar connection with the main. The amount shall be determined on the basis of the total assessable cost of the main allocated on the basis of frontage. Where the assessable cost cannot be determined, the charge shall be determined by the City Council at the time of connection.

Subd. 5. Accounting, billing, and collecting.

- a. Accounts in name of owner. All accounts shall be in the name of the owner. The owner shall be liable for water supplied to his property, whether he or she is occupying the property or not, and any charges unpaid shall be a lien upon the property. The owner may request that the bill be sent directly to the occupant of the property. In the event the bill becomes delinquent, the City Clerk/Treasurer may advise the owner and the occupant of said delinquency in accord with this section.
- b. Bill for service. Water and sewer charges shall be billed together. Bills shall be mailed to the customer on a monthly basis and shall specify the water consumed and the sewer and water charges in accordance with the rates set out in this section.
- c. Delinquent Accounts. *(Amended August 24, 1997)* All charges for water and sewer shall be billed on a monthly basis and on the date specified by the City for the respective account. Failure to pay on or before the specified due date shall result in extra administrative fee as outlined in the City's fee schedule. Failure to pay within 30 days after the specified due date may result in a determination to discontinue services subject to paragraph "d" of this section. In any case, where satisfactory arrangements for payment have not been made, the water department may, after the procedural requirement of paragraph "d" has been complied with, discontinue service to the delinquent customer by shutting off the water at the stop box. When water service to any premises has been discontinued, base fees as set pursuant to the City's fee schedule shall continue to be charged so long as a water meter is connected to the City's water system. Water service may not be restored except upon payment of all delinquent bills plus a penalty fee and a service fee for water turn off and on. Said penalty and services fees shall be outlined on the City's fee schedule. In cases where the service has been discontinued with payments not forthcoming, the Administrator's office shall prepare an assessment role each year providing for assessments of the delinquent accounts against the properties served. The assessment role shall be delivered to the Council for adoption on or before the Council's general meeting for the month of October of each year for collection along with taxes.
- d. Procedure for shutoff of service. *(Amended August 24, 1997)* Water service shall not be discontinued under paragraph "c" or for a violation of rules and regulations affecting utility service, until notice and an opportunity for a hearing have first been given the occupant of the premises involved. The notice shall be personally served, sent by registered mail or by an official letter. The notice shall state that if payment is not made before a day stated in the notice but not more than ten (10) working days after the date on which the notice is given, the water supply to the premises will be shut off. The notice shall also state that the customer may, before such date, demand a hearing on the matter, in which case the supply will not be shut off until after the hearing is held. If the customer requests a hearing before the date specified, a hearing shall be held on the matter by the City Council at the next regularly scheduled council meeting. If as a result of the hearing, the City Council finds that the amount claimed to be owing is actually due and unpaid and that there is no legal reason why the water supply of the delinquent customer may not be shut off in accordance with this section, the City may shut off the supply. An additional administrative fee as outlined in the City's fee schedule may be charged before the water supply is continued.

Subd. 6. Water systems.

a. General water regulations. (*Amended July 5, 2023*)

i. Discontinuance of service. The City may discontinue service to any water consumer without notice for necessary repairs, or upon notice for non-payment of charges, or violation of rules and regulations affecting utility service.

ii. Supply from one service. No more than one house or building shall be supplied from one service connection unless allowed under a Conditional Use Permit and will be subject to inspection by Public Works. If service to a second dwelling is allowed from the main service under a Conditional Use Permit, that service will be subject to additional Base fees as noted under Subd. 3-c.

iii. Turning on water, tapping mains. No person except an authorized City employee shall turn on any water supply at the stop box or tap any distributing main or pipe of the water system supply or insert a stop cock or other appurtenance therein without a City permit.

iv. Repair of leaks. The consumer or owner shall be responsible for the installation and maintenance of the service pipe from the main into the building served. Such service pipes shall be all reasonable times subject to inspection by duly authorized officials of the City, and if repairs are ordered by the City, they must be made within twenty-four (24) hours of such notice, and if said repairs are not made, within said period, the City may turn the water off.

v. Use of fire hydrants. No person other than an authorized City employee shall operate a fire hydrant or interfere in any way with the City water system without first obtaining authority to do so from the City Clerk/Treasurer.

vi. Private water supply. No water pipe of the City water supply system shall be connected with any pump, well, or tank that is connected with any other source of water supply. When such connection is found, the Water Department shall notify the owner to sever the connection and if this is not done immediately, the city shall turn off the water supply forthwith. Before any new connection to the City system is permitted, the department shall ascertain that no cross connection will exist when the new connection is made.

vii. Restricted hours. Whenever the City Council determines that a shortage of water supply threatens the City, it may, by resolution, limit the times and hours during which City water may be used for sprinkling, irrigation, car washing, air conditioning, or other specified uses. After publication of the resolution or two (2) days after the mailing of the resolution to each customer, no person shall use or permit water to be used in violation of the resolution and any customer who does so shall be charged \$100 for each day of violation and the charge shall be added to his or her next water bill. If the emergency requires immediate compliance with terms of the resolution, the City Council may provide for delivery of a copy of the resolution shall be subject to the charge provided above. Continued violation shall be cause for discontinuance of water service.

viii. Permitting use by others. No person shall permit City water to be used for any purpose except upon his or her own premises except in an emergency and then only if written permission is first obtained for the City Clerk/Treasurer. Anyone wishing to obtain water from a hydrant for construction purposes shall make an application to the City Clerk/Treasurer for such services.

b. Meters.

i. Meters required. Except for the extinguishment of fires, no person other than an authorized City employee shall use water from the City water supply system or permit water to be drawn therefrom unless the water passes through a meter approved by the City. No person shall connect, disconnect, take apart, or in any such manner change or interfere with any such meter or its use. Said meters shall remain intact and in the same condition as installed pursuant to this section.

- ii. Water meter setting. Every water meter shall be installed in accordance with the following provisions.
- iii. Type of Meter Required. Each water consumer shall at their own expense install a remote reading meter of a type approved by the Water Department. The installation shall comply with the directions and requirements of the Water Department. Each water consumer shall pay to the City of Silver Lake, upon receipt of a statement therefore, the cost of the remote reading water meter outlined in the City's fee schedule.
- iv. The installation of the remote reading meters shall be completed within ninety (90) days after notification from the City.

1. The service pipe from the water main to the meter shall be brought through the floor in a vertical position where the pipe enters the building. The stop and waste valve shall be twelve (12) inches above the floor.
2. The bottom of the meter shall be between six (6) and twelve (12) inches above the finished floor line. The meter shall be set not more than twelve (12) inches horizontally from the inside line of the basement wall unless a different position is approved by the Water Department. A suitable bracket shall be provided to support the meter in a proper vertical position and prevent noise from vibrating.
3. Each meter installed shall have a stop and waste valve on the street side of the meter. In no case shall more than twelve (12) inches of pipe be 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 water meter.
4. The water pipe connecting with the main shall not exceed two (2) feet under the basement floor from the inside of the basement wall to the water meter connection.
5. Meter setting devices for 5/8 inch, 3/4 inch, and 1-inch meters shall be of copper pipe or tubing from the terminus of the service pipe up to and including the stop and waste value on the building site.

- v. Complaints: meter testing. When a consumer complains that the bill for any past service period is excessive, the City shall have the meter re-read on request. If the consumer remains unsatisfied, he or she may, on written request, have the meter tested. If the test shows an error in the City's favor exceeding five percent of the water consumed, an accurate meter shall be installed, and the bill shall be adjusted accordingly. The cost of the meter shall be paid by the consumer, at the cost figure as provided in Section 4, Subd. 4d of this Chapter. Such adjustment shall not exceed back more than one service period from the date of the written request.

- c. Plumbing regulations.

- i. Service pipes. Every service pipe shall be laid with sufficient bend to allow not less than one (1) foot of extra length and in such manner as to prevent rupture by settlement. The service pipe shall be placed not less than seven (7) feet below the surface and be so arranged as to prevent rupture by freezing. A shut-off or other stop cock with waste value of the size and strength required shall be placed close to the inside wall of the building and be well protected from freezing. Copper tubing shall be used for all services of two (2) inches or less. Joints on copper tubing shall be as few as possible and not more than one joint shall be used for a service up to seventy (70) feet in length. Each joint shall be left uncovered until inspected by the City. Every service over two (2) inches shall be of cast iron. Connections with the mains for domestic supply shall be at least 3/4 of an inch.

- d. Water rates.

- i. Rate schedule. Each water use shall pay for water used. The rates to be paid shall be set by the City Council by resolution from time to time and shall be payable on a monthly basis.

SUBD. 7: POINT-OF-SALE CERTIFICATION OF SANITARY SEWER SERVICE COMPLIANCE (*Added July 2022*)

Effective January 1, 2023, no property owner with a connection to the City sanitary sewer shall sell, transfer or assign, or contract to sell the property without providing a copy from the city indicating compliance with the city's statutory sewer regulations, including regulations regarding the discharge of clear water.

1. Prior to closing, unless the property owner already has a completed sewer service inspection, the seller must obtain and submit a completed SEWER SERVICE COMPLIANCE INSPECTION form to the City. If a property owner has an approved compliance form which is less than Five (5) years old, a new sump pump inspection isn't required.
2. Upon receipt of a properly executed application for Sewer Service Compliance Inspection, the Public Works Supervisor shall determine whether the private service line is in compliance with City guidelines. The sanitary service shall be deemed to be in compliance with City guidelines for sanitary services if the sanitary line is in proper working order, as demonstrated by televising the sanitary service to the City's sanitary sewer line. In the event of multi-family residential, scaled commercial or industrial developments, this includes all private lines and potential sources of infiltration and inundation on the parcel. Also, there shall be no sump pumps, roof drains, or other non-domestic sewer connection to the sanitary line. The applicant shall be responsible for the cost of and scheduling of the inspection.
3. The City shall maintain a list of suggested Contractors provided by the Public Works Supervisor to perform the Sewer Service Compliance Inspection form.
4. In the event that the transaction takes place when the ground is frozen or the seller cannot make the appropriate corrections, the proposed purchaser may take occupancy of the dwelling or structure prior to the approval of a Sewer Service Compliance Inspection form, by filing an executed written agreement by the seller and prospective purchaser. The prospective purchaser shall have one (1) year from the date of closing to complete the necessary corrective action. In order to obtain approval of a pending Sewer Service Compliance Inspection form, an escrow shall be established at 1.5 times the estimated cost to complete the corrective action with the City or with the title company conducting the closing.
5. A Sewer Service Compliance Inspection issued under this ordinance shall be effective for five (5) years.
6. For structures constructed in the past ten (10) years, the Public Works Supervisor may, at his or her discretion, approve the Sewer Service Compliance Inspection form without requiring televising the service line. A walk-through inspection will still be required.
7. Any property owner who fails to obtain a Sewer Service Compliance Inspection shall be subject to a civil penalty as determined by the City Council from time to time. Each month a property owner is in violation of this ordinance shall be deemed a separate offense.

**SECTION 5. SANITARY SEWER SYSTEM (Amended Sept 18<sup>th</sup>, 1989 #3.6)**

SUBD. 1. DEFINITIONS. As used in this Section, unless otherwise stated in specific context, the following words and terms shall have the meanings stated:

- A. "Approving Authority" shall mean the City Council of the City of Silver Lake, or its duly authorized board, agent, or representative.
- B. "BOD" (Biochemical oxygen demand) shall mean the quantity of oxygen expressed in parts per million by weight, utilized in the biochemical oxidation of organic matter under standard laboratory conditions in five (5) days

at 20 degree C. The laboratory determinations shall be made in accordance with procedures set forth in "Standard Methods".

C. "Building drain" shall mean that part of the lowest horizontal piping of a drainage system which receives waste from inside the building and conveys it to the building sewer, beginning five (5) feet (1.5 meters) outside the inner face of the building wall.

D. "Building sewer" shall mean the extension from the building drain to the public sewer or other place of disposal. (Also called house connection.)

E. "City" shall mean the area within the corporate boundaries of the City of Silver Lake, as presently established or as amended by legal actions at a future time. The term "City" may also be used to refer to the City of Silver Lake, Minnesota or any authorized person acting in its behalf.

F. "COD" (Chemical oxygen demand) shall mean the oxygen equivalent of that portion of the organic and inorganic matter in a sample of wastewater, expressed in parts per million by weight, that can be oxidized by a strong chemical oxidizing agent. The laboratory determinations shall be made in accordance with procedures set forth in "Standard Methods".

G. "Collection system" shall mean the system of sewers and appurtenances for the collection, transportation and pumping of domestic wastewater and industrial wastes.

H. "Combined sewer" shall mean a sewer intended to receive both wastewater and storm or surface water. The City has no combined sewers.

I. "Compatible pollutant" shall mean biochemical oxygen demand, suspended solids, pH, and fecal coliform bacteria, plus additional pollutants identified in the City NPDES permit, if the City treatment works is capable of removing such pollutants, and in fact does remove such pollutants to a substantial degree. Examples of such additional pollutions may include: chemical oxygen demand, total organic carbon, phosphorus, phosphorus compounds, nitrogen, and/or nitrogen compounds.

J. "Connection" shall mean each connection to the collection system.

K. "Construction cost" shall mean the total cost incurred in the construction of sewerage works, consisting of but not limited to the sums spent for the following purposes:

1. Actual sums paid for construction of wastewater treatment facilities and for land acquisition.
2. Actual engineering fees paid for preliminary engineering studies, plans and specifications, services during construction, construction staking, operation and maintenance manuals and initial operator training.
3. Actual sums paid for soils investigations, wastewater sampling, and materials testing required for such construction.
4. Actual fees and wages paid for legal, administrative, and fiscal services required by construction of wastewater treatment facilities.
5. Actual interest paid on the total amount financed by debt obligation for construction of wastewater treatment facilities.

L. "Debt Service Charge" shall mean the total charge levied on users for purposes of paying construction costs (principal and associated interest) of obligations incurred to finance acquisition and/or construction of sewerage works.

M. “Domestic Wastewater” shall mean water-borne wastes normally discharged into the sanitary conveniences of dwellings (including apartment houses and hotel), office buildings, factories and institutions, free of storm and surface water, and industrial wastes.

N. “Easement” shall mean an acquired legal right for the specific use of land owned by others.

O. “Floatable Oil” is oil, fat, or grease in a physical state such that it will separate by gravity from wastewater by treatment in an approved pretreatment facility. A wastewater shall be considered free of Floatable fat if it is properly pretreated and the wastewater does not interfere with the collection system.

P. “Garbage” shall mean the animal and vegetable waste resulting from handling, preparation, cooking and services of foods.

Q. “Incompatible pollutant” shall mean any pollutant which is not a compatible pollutant.

R. “Industrial Wastes”, as distinct from domestic or sanitary wastes, shall mean the wastewater from industrial processes, trade, or business.

S. “Infiltration” shall mean the water entering the sanitary sewer system and service connections from the ground, through such means as, but not limited to, defective pipes, pipe joints, connections, or manhole walls. Infiltration does not include, and is distinguished from, inflow.

T. “Infiltration/Inflow” shall mean the total quantity of water from both infiltration and inflow without distinguishing the source.

U. “Inflow” shall mean the water discharged into the sanitary sewer system from such sources as, but not limited to, roof leaders, cellar, yard, and area drains, foundation drains, cooling water discharges, drains from springs and swampy areas, manhole covers, cross connections to storm sewers, catch basins, storm waters, surface run-off, street wash waters, or drainage. Inflow does not include, and is distinguished from infiltration.

V. “Major Contributing Industry” shall mean an industrial user of the City Treatment Works that: (a) has an equivalent wastewater flow of 50,000 gallons or more per average work day; (b) has a wastewater flow greater than five percent of the flow carried by the City System receiving the wastewater; (c) has in its wastewater a toxic pollutant in toxic amounts as defined in standards issued under Section 307 (a) of PL-p2-500; or (d) is found by the Permit to the City Treatment Works receiving the wastewater, to have significant impact, either singly or in combination with other contributing industries, on the City Treatment Works or upon the quality of effluent from the City Treatment Works.

W. “May” is permissive (see “shall”, Subd. 1. MM.).

X. “Natural outlet” shall mean any storm sewer or surface water which overflows into a watercourse, pond, ditch, lake, or other body of surface or groundwater.

Y. “Normal strength domestic wastewater” (NDSW) shall mean normal strength wastewater for the City in which the average concentration of suspended materials and 5-day BOD is established at not greater than 300 parts per million by weight suspended materials and 320 parts per million by weight BOD. The COD of normal domestic wastewater shall not exceed 740 parts per million. Such wastewater does not include infiltration and/or inflow, and it is composed of domestic wastewater.

Z. “NPDES Permit” shall mean the National Pollutant Discharge Elimination System Permit held by the City. This permit, which establishes limits on quality and quantity of discharges from the City treatment works, was issued by the State and Federal governments in accordance with the provisions of the Federal Water Pollution Control Act, as amended, (33 U.S.C. 1251, et, seq.; the “Act”, Sections 402 and 405).

AA. "Operation and maintenance cost" shall mean annual expenditures made by the City in the operation and maintenance of its sewerage works, consisting of but not limited to the sums spent for each of the following purposes:

1. Wages and salaries of all operating, maintenance, administrative, and supervisory personnel, together with all premiums paid on such wages and salaries (State of Minnesota workmen's compensation coverage, for example),
2. Actual sums paid for electricity for light and power used for wastewater collection and treatment facilities,
3. Actual sums paid for chemicals, fuel and other operating supplies,
4. Actual sums paid for repairs to and maintenance of wastewater collection and treatment facilities and the equipment associated therewith,
5. Actual sums paid as premiums for hazard insurance carried on sewerage works,
6. Actual sums paid as premiums for insurance providing coverage against liability imposed by law for the injury to persons and/or property (including death) of any person or persons resulting from the use and maintenance of said sewerage works,
7. Actual sums paid for replacement of equipment within the useful life of the wastewater treatment facilities, for example the cost to replace an electric motor or pump that fails, or a broken part in a pump, and
8. Actual sums set aside in a sinking fund established to provide a future capital amount for replacement of sewerage works equipment.

BB. "Parts per million" shall mean a weight-to-weight ratio; the parts per million value multiplied by the factor 8.345 shall be equivalent to pounds per million gallons of water. Parts per million and milligrams per liter (mg/l) shall be synonymous terms.

CC. "Person" shall mean any individual, firm, company, association, society, corporation, municipal corporation, governmental unit, or group.

DD. "pH" shall mean the logarithm of the reciprocal of the hydrogen ion concentration. The concentration is the weight of hydrogen ions, in grams per liter of solution. Neutral water, for example, has a pH value of 7 and a hydrogen ion concentration of 0.000,000,1 grams/liter, or 10<sup>-7</sup> grams per liter.

EE. "Properly shredded garbage" shall mean the wastes from the preparation, cooking, and dispensing of food that have been shredded to such a degree that prevailing in public sewers, with no particle greater than 1/2 inch (1.27 centimeters) in any dimension.

FF. "Public sewer" shall mean a common sewer controlled by a governmental agency or public utility.

GG. "Replacement" shall mean expenditures for obtaining and installing equipment, accessories, or appurtenances which are necessary during the design life or useful life, whichever is longer, of the sewerage works to maintain the capacity and performance for which the facilities were designed and constructed. As noted in Subd. 1. AA-7, the term "operation and maintenance cost" includes replacement costs.

HH. "Sanitary sewer" shall mean a sewer that carries liquid and water carried wastes from residences, commercial buildings, industrial plants, and institutions together with minor quantities of ground, storm, and surface waters (infiltration/inflow) that are not admitted intentionally.

II. "Sewage" is the spent water of a community. The preferred term is "wastewater", Sub. 1. ZZ. (Sometimes referred to as "Sanitary Waste".)

JJ. "Sewer" shall mean a pipe or conduit that carries wastewater or drainage water.

KK. "Sewer Service Charge" shall mean the total charge levied on users for sewer service. Sewer service charge is the sum of "user charge" and "debt service charge".

LL. "Sewerage works" shall mean all facilities for collecting, pumping, treating and disposing of wastewater and industrial wastes.

MM. "Shall" is mandatory (see "May", Subd. 11 W.).

NN. "Slug" shall mean any discharge of water or wastewater which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration or flows during normal operation and shall adversely affect the collection system and/or performance of the wastewater treatment works.

OO. "Standards method" shall mean the examination and analytical procedures set forth in the latest Edition at the time of the analysis of "Standard Methods for the Examination of Water and Wastewater" as prepared, approved and published jointly by the American Public Health Association, the Water Pollution Control Federation, and the American Water Works Association. Such "standard methods" shall also conform to Federal Register Reprint 40 CFR 136, "Guidelines Establishing Test Procedures for Analysis of Pollutants (Oct. 16, 1973).

PP. "Storm drain" (sometimes termed "storm sewer") shall mean a drain or sewer for conveying water, groundwater, subsurface water, or unpolluted water from any source.

QQ. "Storm water runoff" shall mean that portion of the rainfall that it drained into the storm sewers or storm drains.

RR. "Sump pump" shall mean a pump for disposing of storm drainage.

SS. "Superintendent" shall mean the superintendent of wastewater facilities of the City, or his authorized deputy, agent, or representative.

TT. "Suspended solids" or "Total Suspended Solids" or "TSS" shall mean total suspended matter that either floats on the surface of, or is in suspension in, water, wastewater, or other liquids, and that is removable by laboratory filtering as prescribed in "Standard Methods for the Examination of Water and Wastewater" and referred to as non filterable residue.

UU. "Unit" of water is 1,000 gallons

VV. "User" shall mean any person who discharges, causes, or permits the discharge of wastewater into the City's sanitary sewer system.

WW. "User Charge" shall mean a charge levied on users to recover each user's proportionate cost of operation, maintenance, and replacement of sewerage works, pursuant to Section 204(b) of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 et seq.).

XX. "User Class" shall be the division of the users by wastewater characteristic or discharge similarities (example; residential, commercial, industrial, institutional, and governmental)

1. "Commercial User" shall mean any establishment listed in the Office of Management and Budget "Standard Industrial Classification Manual" (1972 edition) involved in a commercial enterprise, business or service which, based on a determination by the City, discharges primarily segregated domestic wastewater or wastewater from sanitary conveniences.

2. “Governmental User” shall mean any Federal, State, or local government user of the wastewater treatment facilities.
3. “Industrial User” shall mean any non-governmental user of the publicly owned treatment facilities identified in the 1972 Standard Industrial Classification Manual (SICM), Office of Management and Budget as amended and supplemented under the following divisions:

Division A Agriculture, Forestry, and Fishing;  
Division B Mining;  
Division D Manufacturing;  
Division E Transportation, Communication, Electric, Gas, and Sanitary Services;  
Division I Services

An industrial user is also defined as a user who discharges to the City sanitary sewer system any liquid wastes resulting from the processes employed in industry or manufacturing, or in the development of any natural resource.

4. “Institutional User” shall mean any establishment listed in the “SICM” involved in a social, charitable, religious, or education function which, base on a determination by the City, discharges primarily segregated domestic wastewater or wastewater from sanitary conveniences.
5. “Residential User” shall mean a user of the treatment facilities whose premises or building is used primarily as a residence for one or more persons, including dwelling units such as detached, semi-detached, and row houses, mobile homes, garden and standard apartments or permanent multi-family dwellings. (Transit lodging, considered commercial in nature, is not included.)

YY. “Unpolluted water” is water of quality equal to or better than the effluent criteria in effect or water that would not cause violation of receiving water quality standards and would not be benefited by discharge to the sanitary sewers and wastewater treatment facilities provided.

ZZ. “Wastewater” shall mean the spent water of a community. From the standpoint of source, it may be a combination of the liquid and water carried wastes from residences, commercial buildings, industrial plants, and institutions, together with any groundwater, surface water, and storm water that may be present.

AAA. “Wastewater facilities” shall mean the structures, equipment, and processes required to collect, carry away, and treat domestic and industrial wastes and dispose of the effluent.

BBB. “Wastewater treatment facilities” shall mean an arrangement of devices and structures for treating wastewater, industrial wastes, and sludge. Sometimes used as synonymous with “waste treatment plant” or “wastewater treatment plant” or “water pollution control plant”.

CCC. “Watercourse” shall mean a natural or artificial channel for the passage of water either continuously or intermittently.

#### SUBD. 2. USE OF PUBLIC SEWERS REQUIRED.

- A. It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the City, or in any area under jurisdiction, any human or animal excrement, garbage or objectionable waste.
- B. It shall be unlawful to discharge to any natural outlet within the City, or in any area under City jurisdiction, any wastewater or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this Ordinance.
- C. 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 wastewater.

- D. The owner(s) of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes, situated within the City and abutting on that part of any street, alley, or right-of-way in which there is now located or may in the future be located a public sanitary sewer of the City, is hereby required at the owner(s)' expense to install suitable toilet facilities and service connection to the public sewer in accordance with the provisions of this Ordinance, within ninety (90) days after date of mailing or delivery of official notice to do so. The notice shall be so given to the owner or occupant in writing by the Clerk-Treasurer on order of the City Council.
- E. In the event an owner or occupant shall fail to comply with written notice given under Section 5, Subd. 2. D of this Ordinance, the City shall by resolution direct that toilet facilities and service connection be made with the water and sewer system and shall assess the cost thereof against the benefited property. After installation and connection have been completed pursuant to Council Resolution, the City Clerk-Treasurer shall serve a written notice of the assessment upon the owner directing him to pay the assessment to the City Clerk-Treasurer within ten (10) days, the City Clerk-Treasurer shall certify the amount to the County Auditor for collection in the same manner as other special assessments. The City Council may, by resolution, spread the assessment over a three (3) year period. Such assessment shall be a lien against said property. Such assessment, when levied, shall bear interest at the rate determined by the City Council. The rights of the City shall be in addition to any remedial or enforcement provisions of this Ordinance.

#### SUBD. 3. PRIVATE WASTEWATER DISPOSAL.

- A. Where a public sanitary sewer is not available under the provisions of Section 5, Subd. 2. D, the building sewer shall be connected to a private wastewater disposal system complying with the provisions of the State of Minnesota's onsite sewer ordinance (Minnesota Rule, Chapter 7080).
- B. The owner(s) shall operate and maintain the private wastewater disposal facilities in a sanitary manner at all times, at no expense to the City.
- C. No statement contained in this section shall be construed to interfere with any additional requirements that may be imposed by the City or the State of Minnesota.
- D. At such time as a public sewer becomes available to a property serviced by a private wastewater disposal system, a direct connection shall be made to the public sewer within ninety (90) days in compliance with the ordinance, and private wastewater disposal systems shall be cleaned of sludge. The bottom shall be broken to permit drainage, and the tank or pit filled with suitable material/.

#### SUBD. 4. BUILDING SEWERS AND CONNECTIONS

- A. No unauthorized person(s) shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance without first obtaining a written permit from the City Council and otherwise complying with the provisions of this chapter.
- B. A permit for construction of the building sewer, and for connecting it to the public sewer, shall be obtained from the City Council; a bond in an amount appropriate to secure compliance with provisions of this section may be required by the Council.
- C. Before undertaking the construction work authorized by the permit, the plumber shall secure and maintain a policy of insurance against damages to the property or injury or death to persons. The policy shall indemnify and save harmless the City and its personnel against any claim, damages, or cause of action arising out of the work and from any expense defending the same. The property damage insurance shall be in the amount of at least \$50,000.00 and the public liability damage for injury or death shall be in the amount of at least \$250,000.00. Proof of insurance shall be filed with the City prior to construction work. If the Insurance coverage be inadequate in amount, the contractor shall himself indemnify and save harmless the City and its personnel in like manner.

- D. All costs and expenses incidental to the installation and connection of the building sewer shall be borne by the owner(s). The owner(s) shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.
- E. A separate and independent building sewer shall be provided for every building; unless written permission for an alternative is obtained from the City. The City does not and will not assume any obligation or responsibility for damage caused by or resulting from any such single connection aforementioned.
- F. Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the Approving Authority, to meet all requirements of this ordinance.
- G. The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing of the pipe, Jointing, testing, and backfilling the trench, shall all conform to the requirements of the building and plumbing code or other applicable rules and regulations of the City. Cast iron pipe shall be used for a building sewer laid within fifty (50) feet of any well per Public Health Department requirements.
- H. Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary wastewater carried by such building drain shall be lifted by an approved means and discharged to the building sewer.
- I. No person(s) shall make connection of roof downspouts, foundation drains, areaway drains, sump pumps, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.
- J. The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the City. All such connections shall be made gas tight and watertight and verified by proper testing. Any deviation from the prescribed procedures and materials must be approved by the Approving Authority before installation.
- K. The applicant for the building sewer permit shall notify the Approving Authority when the building sewer is ready for inspection and connection to the public sewer. The connection and testing shall be made under the supervision of the Approving Authority. No backfill shall be placed until the work has been inspected and approved.
- L. All Excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the Approving Authority.

SUBD. 5. USE OF THE PUBLIC SEWERS. *(Amended May 21, 1998 Ordinance 42)*

- A. No person(s) shall discharge water or cause to be discharged any unpolluted waters such as storm water, ground water, roof run off, subsurface drainage such as that from floor drains, sump pumps, cisterns, field tile or any other recognizable source or any type of private, commercial or industrial cooling water to any sanitary sewer.
  1. Before July 1, 1999 any person, firm or corporation having a roof drain system, surface drain system, footing tile, swimming pool, ground water drain system or sump pump now connected and/or discharging into the sanitary sewer system shall disconnect and/or remove the same. Any disconnects or opening into the sanitary sewer shall be closed or repaired in an effective, workmanlike manner, as approved by the public works supervisor.
  2. Dwellings and other buildings and structures which require because of the infiltration of water into basements, crawl spaces and the like, a sump pump system to discharge excess water shall have a permanently installed discharge line which shall not at any time discharge water into the sanitary sewer system. A permanent installation shall be one which provides for year around discharge capability to either

the outside of the dwelling, building or structure, or is connected to the City storm sewer . It shall consist of a rigid discharge line, without valves or quick connections for altering the path of discharge, and if connected to the City storm sewer shall include a check valve.

3. Sump pump lines as described in Subd. 5, part A-1, may be run into a street abutting the residence, with a opening made into the curb, provided that a permit is granted by the Approving Authority.
4. In certain locations or situation where surface water discharge would create a safety hazard during freezing weather, connection to the sanitary sewer line shall be permitted from November 1st to March 1st. No connection's to the sanitary sewer be permitted from March 1st to November 1st. The City Council may by motion, change any of these dates subject to exceptional circumstances.

B. Storm water other than that exempted under Subd. 5 A, and all other unpolluted drainage shall be discharged to such sewers as are specifically designated storm sewers or to a natural outlet approved by the Approving Authority and other regulatory agencies. Unpolluted industrial cooling water or process waters may be discharged, on approval of the Approving Authority and in accordance with the provisions of State and Federal Regulations, to a storm sewer, or natural outlet.

C. No person(s) shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:

1. Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid or gas.
2. Any waters containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any waste treatment process, constitute a hazard to humans or animals, create a public nuisance, result in a violation of State or Federal water quality standards, or create any hazard in the wastewater treatment plant or to the receiving waters. A toxic pollutant shall include but not be limited to any pollutant identified pursuant to Section 307(a) of the Clean Water Act.
3. Any waters or wastes having a pH lower than 5.0, or higher than 9.5, or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the wastewater facilities. Exceptions may be granted (by the Approving Authority) for short duration flows where it has been or can be shown that such high or low pH inflows or additions would not cause any significant wastewater facilities problems.
4. Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the wastewater facilities such as, but not limited to, bones, ashes, cinders, sand, mud straw, shavings, metal, glass, rags, feathers, tars, plastics, wood, underground garbage, whole blood, paunch manure, hair and fleshings, entrails, paper dishes, cups milk containers, etc., either whole or after passing through garbage grinders.
5. Any wastewaters or matter that would directly or indirectly result in a violation of the City's NPDES permit.

D. The following described substances, materials, waters or waste shall be limited in discharges to municipal systems to concentrations or quantities which will not violate design criteria or harm wither the sewers, wastewater treatment process or equipment, will not have an adverse effect on the receiving stream, or will not otherwise endanger lives, limb, public property, or constitute a nuisance. The Approving Authority may set limitations lower than the limitations established in the regulations below if in its opinion such more severe limitations are necessary to meet the above objectives. In forming the opinion as to the acceptability, the Approving Authority will give consideration to such factors as the quantity of the subject waste in relation to the flows and velocities in the sewers, materials of construction of the sewers, the wastewater treatment process employed, capacity of the wastewater treatment plant, degree of treatability of the waste in the wastewater treatment plant, and other pertinent factors. The limitations or restrictions on materials or characteristics of

waste or wastewater discharged to the sanitary sewer which shall not be violated without approval of the Approving Authority are as follows.

1. Wastewater having a temperature higher than 150° Fahrenheit (65° Celsius),
2. Wastewater containing more than 25 milligrams per liter of petroleum oil, nonbiodegradable cutting oils, or product of mineral oil origin, or containing products that may solidify or become viscous at temperatures between 32° F and 150°F (0°C and 65.6°C)
3. Wastewater from industrial plants containing floatable oil, fat, or grease, in excess of concentrations permitted by the Approving Authority,
4. Any garbage that has not been properly shredded (see Section 5, Subd. 1 EE.). Garbage grinders may be connected to sanitary sewers from homes, hotels, institutions, restaurants, hospitals, catering establishments, or similar places where garbage originates from the preparation of food in kitchens for the purpose of consumption on the premises, or consumption elsewhere as served by caterers,
5. Any waters or wastes containing iron, chromium, copper, zinc, and similar objectionable or toxic substances to such degree that any such material received in the composite wastewater at the wastewater treatment works exceeds the limits established by the Approving Authority for such materials.
6. Any waters or wastes containing odor-producing substances exceeding limits which may be established by the Approving Authority.
7. Any radioactive materials of such half-life or concentration as may exceed limits established by the Approving Authority, or applicable State and Federal Regulations.
8. Quantities of flow, concentrations or both, which constitute a "slug" as defined herein (See Section 5, Subd. 1. NN.),
9. Any water or wastes which, by interaction with other water or wastes in the public sewer system, release obnoxious gases, form suspended solids which interfere with the collection system, or create a condition deleterious to structures and treatment processes.
10. Any wastewater with objectionable color not removed in the treatment process, such as but not limited to dye wastes and vegetable tanning solutions.
11. Wastewater containing inert suspended solids (such as but not limited to Fullers earth, lime slurries, and lime residues), or of dissolved solids (such as but not limited to sodium chloride and sodium sulfate) in such quantities that would cause disruption with the wastewater disposal system.
12. Any waters or wastes containing BOD or suspended solids of such character and quantity that unusual attention or expense is required to handle such materials at the wastewater treatment works, except as may be permitted by specific written agreement subject to the provisions of Subd. 5.0. of this article.

E. If any waters or wastes are discharged or are proposed to be discharged to the public sewers, which waters contain the substances or process the characteristics enumerated in D of this Subdivision, and which in the judgement of the Approving Authority may have a deleterious effect upon the wastewater facilities, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Approving Authority may:

1. Reject the wastes
2. Require pretreatment to an acceptable condition for discharge to the public sewer, pursuant to Section 307(b) of the Clean Water Act as amended 33 U.S.C. 1251, et seq.

3. Require control over the quantities and rates of discharge, and/or
4. Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or service charges.

If the Approving Authority permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the Approving Authority and costs shall be borne at the user's expense.

- F. Grease, oil, and sand interceptors shall be provided when, in the opinion of the Approving Authority, they are necessary for the proper handling of liquid wastes containing floatable grease in excessive amounts, as specified in Section 5, Subd. 5. D-3, or any flammable wastes, sand, or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the Approving Authority, and shall be located as to be readily and easily accessible for cleaning and inspection. In the maintaining of these interceptors the owner(s) shall be responsible for the proper removal and disposal by appropriate means of the captured material and shall maintain records of the dates, and means of disposal, which are subject to review by the Approving Authority. Any removal and hauling of the collected materials not performed by the owner(s)' personnel must be performed by currently licensed waste disposal firms.
- G. Where pretreatment or flow-equalizing facilities are provided or required for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner(s) at his expense.
- H. When required by the Approving Authority, the owner of any property serviced by a building sewer carrying industrial or domestic wastewater shall install a suitable structure together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such structure, when required, shall be accessibly and safely loaded and shall be constructed in accordance with plans approved by the Approving Authority. The structure shall be installed by the owner (s) at his expense and shall be maintained by the owner(s) so as to be safe and accessible at all times.
- I. An industrial user may, at the discretion of the City, be required to provide laboratory measurements, tests or analyses of waters or wastes to illustrate compliance with this Ordinance and any special condition for discharge established by the City or regulatory agencies having jurisdiction over the discharge. The number, type, and frequency of sampling and laboratory analyses to be performed by the owner(s) shall be as stipulated by the City. The industry must supply a complete analysis of the constituents of the wastewater discharge to assure that compliance with Federal, State, and local standards are being met. The owner(s) shall report the results of measurements and laboratory analyses to the City at such times and in such manner as prescribed by the City. The owner(s) shall bear the expense of all measurements, analyses, and reporting required by the City. At such times as deemed necessary, the City reserves the right to take measurements and samples for analysis by an independent laboratory.
- J. All measurements, tests and analyses of the characteristics of waters and wastes to which reference is made in this ordinance shall be determined in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater," published by the American Public Health Association. Sampling methods, location, times, durations and frequencies are to be determined on an individual basis subject to approval by the Approving Authority.
- K. New connections to the sanitary sewer system shall be prohibited unless sufficient capacity is available in all downstream facilities, including, but not limited to, capacity for flow, BOD, and suspended solids, as determined by the City Council or its representatives.
- L. No person, unless authorized, shall uncover, make any connection with or opening into, use, alter, or disturb any sanitary or storm sewer within the City or any part of the City wastewater facilities.

- M. No sanitary or storm sewers shall be constructed in the City (except house or building service sewers) except by the City or by others in accordance with plans and specifications approved by a professional engineer. No such sewers shall be constructed or considered to be a part of the public sewer system unless accepted by the City.
- N. The size, slope, alignment, material of construction, methods to be used in excavation, placing of pipe, jointing, testing, backfilling, and other work connected with the construction of sewers shall conform to the requirements of the City.
- O. No statement contained in this section shall be construed as preventing any special agreement or arrangement between the City and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the City for treatment, when such City treatment can be provided in compliance with the NPDES permit and subject to payment therefore by the industrial concern and providing that national categorical pretreatment standards are not violated.
- P. A separate and independent building sewer shall be provided for every building; unless written permission for an alternative is obtained from the City. The City does not and will not assume any obligation or responsibility for damage caused by or resulting from any such single connection aforementioned.

**SUBD. 6. PROTECTION FROM DAMAGE.** No person(s) shall maliciously or willfully enter, break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance or equipment which is a part of the wastewater facilities or system. Any person(s) violating this provision shall be subject to immediate charge and arrest under the state provisions prohibiting disorderly conduct, criminal damage to property, or other applicable provisions.

**SUBD. 7. POWERS AND AUTHORITY OF INSPECTORS. (Amended May 21, 1998 Ordinance 42)**

- A. Duly authorized employees or representatives 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 pertinent to determine the nature of discharge into any public sewer or natural outlet in accordance with the provisions of this ordinance.
  - 1. In lieu of having the City inspect their property, any person or entity may furnish a certificate from a licensed plumber certifying that their property is in compliance with this ordinance.
  - 2. Any person refusing to allow their property to be inspected or refusing to furnish a plumber's certificate within fourteen (14) days of the date the duly authorized City employees or representatives are denied admittance to their property shall be subject to the surcharge hereafter provided for.
  - 3. At any future time, if the City has reason to suspect that an illegal connection may exist in a premises, the owner, by written notice shall comply with the provisions of Subd. 7, Part A-2 above.
- B. The Approving Authority or other duly authorized employees are authorized to obtain information concerning industrial processes which have a direct bearing on the kind and source of discharge to the wastewater collection system. The industry may withhold information considered confidential. The industry must establish that the revelation to the public of the information in question might result in an advantage to competitors.
- C. While performing the necessary work on private properties referred to in Subd. 7 A, above, duly authorized employees of the City shall observe safety rules applicable to the premises established by the company, and the company shall be held harmless for injury or death to City employees, and the City shall indemnify the company against loss or damage to its property by City employees and against claims and demands for personal injury, or property damage asserted against the company and growing out of gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions as required in Subd. 5 H.
- D. Duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all private properties through which the City holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the

wastewater facilities lying within said easement. All entry and subsequent work, if any, on said easement pertaining to the private property involved.

SUBD. 8. PENALTIES.

- A. Any person found to be violating any provision of this ordinance except Subd. 6 shall be served by the City with written notice stating the nature of the violation and providing a reasonable time limit for satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all such violations.
- B. Any person who shall continue any violation beyond the time limit provided for in Subd. 8 A, shall be guilty of a misdemeanor. Each day in which any such violation shall continue shall be deemed a separate offense,
- C. Any person violating any of the provisions of this ordinance shall become liable to the City for any expense, loss. Or damage occasioned the City by reason of such violation.

SUBD. 9. SEWER SERVICE CHARGES. *(Amended May 21, 1998 Ordinance 42)*

- A. The billable volume of normal strength domestic waste will be calculated from the volume of metered water usage. For residential users, the bi-monthly billable flow shall be equal to bi-monthly metered water usage of the calendar year. For non-residential users discharging normal strength domestic wastewater, billable flow shall be equal to bi-monthly usage measured throughout the year. The bi-monthly service charge will include a user charge component (to meet all costs associated with operation, maintenance, and replacement of the wastewater collection and treatment facilities) and a debt retirement component (to meet facility construction costs,)
- B. As an equitable share of the expenses incurred by the City in the construction, administration, operation, maintenance and replacement of the sewerage works, each user discharging NDSW will pay to the City an amount based upon the following formula:

$$A = V(Fm) + C$$

Where:

A	Service to user, with units of \$/2 months
V	Average City unit cost of wastewater collection and treatment, with units of \$/1000 gallons of normal strength domestic wastewater.
F	Volume of water from user with units of 1000 gallons per billing period (according to the method set forth in Subd. 9A)
m	Ratio of wastewater flows to water flows in the City
C	Billing period administrative cost

Industrial Users that discharge above normal strength domestic wastewater shall be billed quarterly based upon the volume of wastewater, the pounds of BOD, and the pounds of suspended solids discharged. Bills shall be computed as follows:

$$\text{Service Charge} = f(\text{period flow}) + b(\text{lb BOD/billing period}) + SS(\text{lb SS/billing period}) + C$$

Where:

$$f = \text{Average City unit cost of wastewater treatment chargeable to flow, with units of } \$/1000 \text{ gallons}$$

b = Average City unit cost of wastewater treatment chargeable to BOD, with units of \$/lb of BOD

SS = Average City unit cost of wastewater treatment chargeable to suspended solids, with units of \$/lb suspended solids

C = billing period administrative cost

Billing period duration may be quarterly, bi-monthly or monthly and may be determined by the City Council by motion.

C. Average City unit costs shall be computed annually, and shall include a user charge attributed to operation, maintenance and replacement costs and debt service charge rate attributed to retirement of debt costs for construction. Costs shall be distributed in the manner demonstrated in the "Sewer Service Charge System, for Silver Lake, Minnesota" dated 1989.

Initial unit cost figures for the Service Charge will be established by City Council Resolution. Computations supporting unit cost figures (f, b, and SS) and service charges shall be revised annually as necessary. All users discharging normal strength domestic wastewater shall be billed a fixed rate per 1,000 gallons of metered water used.

Each user of the city sewer system that does not have a metered source of water must install an accurate water or wastewater flow metering device (at their user's expense) that will serve as a basis for estimating the volume of wastewater discharged, and determining the sewer service charge.

All users of city water that is not discharged to the city sanitary sewer system may install a separate water system and meter (one only in the same building as the main meter) to isolate and meter non-sewered water for which no sewer charge is required. If at any time after this independent system is installed, water from this system enters the Sanitary Sewer System, the user will be subject to penalties of Subd. 8 and shall be ordered to eliminate the independent system if this violation is continued.

A surcharge of One Hundred (\$100.00) Dollars per month is hereby imposed and added to every sewer billing mailed on and after July 1, 1999, to property owners who are not in compliance with this Ordinance. The surcharge shall be added every month through October, 199\_, until the property is in compliance. The surcharge shall continue to be levied monthly for the months of March through October (both inclusive) of every year, on properties not complying with this Ordinance. The City Council may grant waivers from the surcharges where strict enforcement may cause undue hardship unique to the property or where the property owner was scheduled for disconnection but cannot do so due to circumstances, such as availability of the plumber or inclement weather.

D. To insure the required financial surveillance, the City Clerk shall annually review the cash flows associated with providing wastewater treatment service for the city, and shall report the findings to the City Council at the regular May meeting of each year. Any inquiries and/or shortages of revenue caused by unforeseen changes in the cost revenue pattern of the wastewater treatment facilities shall be remedied immediately by a City Council resolution adjusting the unit cost figures. Adjusted unit figures shall be computed in accordance with the principals of this Subdivision.

E. Any additional costs caused by discharges to the treatment works of toxics or other incompatible wastes, including the cost of restoring wastewater treatment services, clean-up and restoration of the receiving waters and environs, and sludge disposal, shall be borne by the discharger(s) of said wastes at no expense to the City.

F. Each user shall pay Operation, Maintenance, and Replace costs in proportion to the user's proportionate contribution to wastewater flows and loadings to the treatment plant, with the minimum rate for loadings of BOD and TSS being the rate established for concentrations up to 300mg/l BOD and 250 mg/l TSS (i.e. NDSW).

Those "Industrial Users" discharging segregated "Normal Domestic Strength Wastewater" only, can be classified as "Commercial Users" for the purpose of rate determination.

- G. Wastewater service charges provided for in this ordinance shall be included as a separate item on the regular bill for water. Charges shall be paid at the same time that the water charges of the person come due. The City shall annually notify all users what portion of the service charge is necessary to meet the operation, maintenance, and replacement costs (user charge) and what portion is necessary to meet long term debt (debt service charge).
- H. Accounts that are not paid in full within thirty (30) days will be charged a late payment penalty as established by the City Council and will be subject to interest charges at a rate established by the City Council. In the event a user does not pay his account in full within ninety (90) days after billing, the City may undertake to have the water service to the property disconnected and may file a lien against the property. Billing and collection shall be executed as outlined in Section 4, Subd. 5 as amended.

#### SUBD. 10. SEWER SERVICE FUND

- A. The City of Silver Lake hereby establishes a "Sewer Service Fund" as an income fund to receive revenues generated by the Sewer Service Charge System, and all other income dedicated to the operation, maintenance, replacement and construction of the wastewater treatment work, including taxes, special charges, fees and assessments intended to retire construction debt.
- B. The City also establishes the following accounts as income and expenditure accounts within the Sewer Service Fund:
  - 1) Operation and Maintenance Account
  - 2) Equipment Replacement Account
  - 3) Debt Retirement Account
- C. All revenue generated by the Sewer Service Charge System, and all other income pertinent to the treatment system, includes taxes and special assessments dedicated to retire construction debt, shall be held by the Clerk separate and apart from all other funds of the City. Funds received by the Sewer Service Fund shall be transferred to the "Operation and Maintenance Account", the Equipment Replacement Account", and the "Debt Retirement Account" in accordance with State and Federal regulations and the provisions of this ordinance.
- D. Revenue generated by the Sewer Service Charge System sufficient to insure adequate replacement throughout the design of the useful life, whichever is longer, of the wastewater facility shall be held separate and apart in the "Equipment Replacement Account" and dedicated to affecting replacement costs. Interest income generated by the "Equipment Replacement Account" shall remain in the "Equipment Replacement Account".
- E. Revenue generated by the Sewer Service Charge System sufficient for operation and maintenance shall be held separate and apart in the "Operation and Maintenance Account".

#### SUBD. 11. EFFECTIVE DATE OF RATE SCHEDULES AND REGULATION.

The rate schedules and regulations of this Ordinance shall be effective as of January 1, 1990.

#### SUBD. 12. VALIDITY.

- A. All Ordinances or parts of Ordinances in conflict herewith are hereby repealed.
- B. The invalidity of any section, clause, sentence, or provision of this Ordinance shall not affect the validity of any other part of this Ordinance, which can be given effect without such invalid part or parts.

### SECTION 6. GARBAGE COLLECTION AND DISPOSAL (*Amended 9-9-92 #10*)

#### SUBD. 1 Definitions of terms with regard to this Section.

- A. Additional Collection Services All refuse collected in excess of the maximum volume allowed per single family residential unit.
- B. Commercial Establishment Any premises where commercial or industrial enterprise of any kind is carried on, and shall include clubs, churches and establishments of nonprofit organizations where food is prepared or served or goods are sold,
- C. Compost Organic material consisting of grass clippings, leaves and garden debris, but excluding items described as "yard waste". It shall not include garbage, human waste, refuse, rubbish or any combination and if combined, it shall be classified as the substance(s) so included.
- D. Construction Waste All items usually and customarily used in the course of the construction of building, including but not limited to bricks, plaster, wood, metal, roofing materials, pipes, cement, rocks, stone, tile, all debris from demolished houses, buildings and other structures, sand, dirt, gravel and all related items.
- E. Container A cylindrical receptacle made of metal or plastic used to contain refuse (commonly called a garbage can) and shall be a thirty gallon container unless adjusted to a larger size as provided for herein.
- F. Garbage Animal and vegetable waste, and other wastes or putrescible matter including but not limited to grease, wrappings, shells, grounds, bones, entrails, and similar materials resulting from the handling, preparation, cooking, service and consumption of food or related vegetable or animal substances.
- G. Garbage Collection Contractor Any person, firm or entity whom the City of Silver Lake may from time to time contract for the collection of any of refuse subject to this ordinance.
- H. Human Waste Any human or body waste, excretia or urine (except such items that may be attached to diapers, which shall be considered refuse),
- I. Light Commercial Establishment Any commercial establishment which elects to be treated as a residential unit. In the case of any premises being used as a triplex, fourplex, apartment, congregate housing or boarding house, each dwelling unit located upon the premises shall be treated as one single-family residential unit for all purposes of this definition.
- J. Multiple Family Units Any household where more than two families reside, particularly units which are divided into separate living units; for example triplexes, apartment buildings, congregate housing and boarding houses.
- K. Recyclables Any substance which is from time to time considered reusable by any form of recycling and for which the City of Silver Lake has established a recycling program, including but not limited to: Paper and newsprint, glass, plastic, aluminum cans, steel or tin cans, cardboard, or other material identified from time to time as capable of reuse by recycling, specifically excluding refuse, rubbish, garbage or compost.
- L. Refuse Solid wastes from residences and city offices or buildings that as a result of normal operation which includes garbage and rubbish, but excludes compost, yard waste, recyclables, construction waste, toxic and hazardous waste, and human waste. Refuse further excludes industrial, commercial and agricultural waste.
- M. Rubbish Inorganic solid waste including both combustible and noncombustible wastes such as wood, bedding, crockery, and other nonreusable waste. Rubbish also includes non-recyclable types of paper, glass, cardboard, and metal, but specifically excludes construction waste.
- N. Single Family Residential Unit Any premises or household consisting of a single family residing therein. Duplexes shall be considered two single-family residential units.

O. Toxic or Hazardous Waste Any waste that is defined by law, statute, ordinance or regulation as being hazardous or toxic and that requires special handling in its storage or disposition, or which is otherwise considered dangerous or harmful to human health or the environment. Such items shall include, but are not limited to: vehicle tires, gasoline, kerosene, fuel oil, benzene, lubricating oil, or similar petroleum products; solvents, paints, varnishes, thinners and similar or related products; acids and other corrosives, including vehicle batteries; toxic household cleaners and other chemicals; medical wastes and medical by-products such as blood, tissue, used bandages, syringes, compresses, bodily fluids or used surgical or treatment devices; toxic metals such as mercury including batteries; and any other item which may include as a part thereof any of the foregoing.

P. White or Hard Goods Large items, including refrigerators, stoves, dishwashers, washers and dryers, air conditioners, water heaters, carpeting and padding, mattresses, chairs, couches, tables and other such items which due to size require special handling, collection or disposal.

Q. Volume Base Refuse, garbage or rubbish collection, the maximum limit of any single family residential unit is permitted to dispose of under the basic set price.

R. Yard Waste Any vegetable substance resulting from tree or shrub clippings, stems, twigs, tree trunks, branches, Christmas trees, sod, and all other similar substances generated from yard maintenance or attendance, except those defined as "compost".

#### SUBD. 2. Restrictions

All construction waste, human waste, toxic or hazardous waste, compost and yard waste shall be disposed of as refuse. The inclusion of any such items shall be disposed of as refuse. The inclusion of any such items with refuse for collection as provided for herein is strictly prohibited and shall constitute a violation of this ordinance. White or hard goods, compost and other recyclables shall also be disposed of only as provided for in this ordinance and shall not be disposed of as refuse, except as permitted herein. All refuse accumulated in the City of Silver Lake shall be collected, conveyed and disposed of only in the manners provided in this ordinance.

#### SUBD. 3. Hauler Permit Requirements

No person, firm or other legal entity whatsoever is authorized to collect, haul, convey, remove any refuse, garbage, rubbish, toxic or hazardous waste, white or hard goods, yard waste, compost, recyclables or similar items on a commercial basis unless such a person, firm or entity has received from the City of Silver Lake a permit therefore. Bona fide construction contractors removing construction waste from construction sites shall not be required to obtain a permit, provided a valid building permit has been issued for construction upon the particular construction site the construction waste is removed from. All persons, firms or entities seeking a permit shall submit to the City Clerk of the City of Silver Lake and application that shall provide the following information:

- a. Name, full address with telephone number
- b. Description of the entity applying (individual, corporation, partnership, etc) and if not an individual the name and title of the principal operating officer of the enterprise.
- c. A description of the waste hauling activities to be engaged in by the person seeking the permit.
- d. Verification by the applicant of liability and workmen's compensation insurance from an insurance carrier authorized to do business in Minnesota.

All persons to whom a permit is issued shall comply with the following general regulations:

- a. Liability insurance in the sum of at least \$300,000 per person and \$500,000 per occurrence shall be maintained at all times by a responsible insurance carrier authorized to do business in the State of Minnesota.
- b. Workmen's compensation insurance shall be maintained at all times for all employees required to be covered by Minnesota State Statutes.

- c. No vehicle of transport shall be operated within the City of Silver Lake for the purpose of collecting any type of waste with a gross weight in excess of 20,000 pounds or weight upon any axle in excess of 6,500 pounds.
- d. The terms and provisions of this ordinance shall be complied with at all times, and all other city, county, state and federal ordinances, statutes, laws and regulations shall be strictly complied with.
- e. The City of Silver Lake retains the right to revoke any permit upon result of a breach of any provision of this ordinance.

#### SUBD. 4 City can enter into Contracts with Private Hauling Contractors

The City Council of the City of Silver Lake is authorized to contract with a garbage collection contractor for the hauling of refuse by written contract. The selection of a garbage collection contractor to serve as hauler shall be done in the manner permitted by state law. Within the limits of state law, the City Council shall have the power to enter into single or multiple contracts, if from time to time it appears appropriate to the City Council to do so. The City Council is permitted to agree to such terms in any such contract as it deems in the best interest of the City of Silver Lake, subject to the provisions of this ordinance.

#### SUBD. 5 Residents must use Contractor with a Permit

The owner of a commercial establishment may dispose of all waste of any type provided such disposal complies with all ordinances, statutes, laws and regulations regarding disposal of waste; and further provided that if they use the services of a commercial hauler, such commercial hauler has obtained a permit from the City of Silver Lake. The owner of a commercial establishment may elect to have a commercial establishment treated as a light commercial establishment and upon such an election the premises shall be subject to the provisions regarding single family residential unit for the disposal of refuse. All single family residential units (including light commercial) shall dispose of all refuse by use of the garbage collection contractor selected from time to time by the City of Silver Lake and according to all of the terms, provisions and conditions as provided for within this ordinance.

#### SUBD 6. Containers

All refuse accumulated on any premises within the City of Silver Lake shall be placed and maintained in containers, except that commercial establishments may use dumpsters or similar devices for the accumulation of refuse. In no case shall refuse be stored in open piles, open boxes, or by any other method which permits access by vermin, allows the escape of odors, or is unsightly. Containers shall be provided by the owner, tenant, lessee, or occupant of the premises. Containers shall be maintained in good, clean, neat and sanitary conditions at all times. Containers shall be equipped with handles, tight fitting covers, be water tight, and have a capacity of (30) gallons and the contents of any container shall not weigh more than (80) pounds. The qualifications as to size of the container and the weight capacity of the container may be altered by agreement between the party responsible for the maintaining of the container and the party authorized to collect refuse in the City of Silver Lake, subject to the review of the reasonableness thereof by the City Council. The City Council shall have the power by resolution to provide that containers provided by a contract hauler shall be used if the City should enter into a contract with a garbage collection contractor which contains a provision requiring the garbage collection contractor to provide containers.

#### SUBD. 7. Container Placement

Containers shall be placed for collection at one place on ground level on the property and conveniently accessible for the street or alley from which collection is made. The City Council may, by resolution, require any container to be relocated at a specific location and to provide for flexibility in consideration of any hauling contract and the particular type of container that may be provided by the garbage collection contractor.

#### SUBD. 8. Collection Scheduling.

The City Council shall from time to time establish the days and hours of collection of refuse and provide such notice of the same (or require the garbage collection contractor to do so) as the City Council deems reasonable notice to the residents of the City of Silver Lake.

**SUBD 9. Billing (Amended December 7, 1992 #12)**

The City Council may enter into a contract with a private hauler for the collection and disposal of garbage, refuse, waste and similar materials, and in such case such contract may provide for the hauler to bill collection fees directly to the owner. In such a case the City shall have no responsibility to levy or collect such fees. If a private contract calls for collection of fees by the private hauler, Subd's 9 and 10 of this ordinance shall not apply to such a private contractor's collections.

The City Clerk-Treasurer shall levy and collect all refuse collection fees by billing the owner of any property within the City. The City Clerk-Treasurer may upon the express written consent of an owner bill the resident or occupant of the property and in that case the City Clerk-Treasurer shall bill such resident or occupant. In no case however, shall such request by an owner absolve an owner from responsibility for the payment of for the charges of garbage and waste collection fees. The specific charge for collection for each unit of collection shall be set from time to time by resolution of the City Council and shall be charged even if the services are not used upon the premises. All charges shall be based upon volume, subject to a volume base, and the City Council shall impose charges for additional collection services all as mandated by state statute. The council may offer senior citizen discounts. Each single-family residential unit of collection shall be limited to a single collection point for one premise. In the case of any duplex or light commercial establishment that consists of multiple family residential units, each unit shall be considered separate for the purpose of collection and billing. No rate increase shall be effective until thirty (30) days next following publication of the new rates in the official newspaper. The City Clerk-Treasurer shall also give such other notices as the City Council may deem appropriate upon any rate being adjusted or changed.

**SUBD. 10. Delinquent Accounts.**

The billing for collection of the disposal of garbage and refuse within the City of Silver Lake will be made on a periodic basis for such term (monthly, quarterly, etc.) as the City Council shall from time to time determine by resolution, and any unpaid cost as of August 1<sup>st</sup> of each year may be assessed against the lot so served for which the charge is unpaid and the manner as provided for as a special assessment. Any payment, which is delinquent for more than thirty (30) days, shall include a penalty of 10% of the amount unpaid and shall bear interest at the rate of 8% per annum on the unpaid balance. Any billing unpaid after thirty (30)-days from the date the bill was sent by the City Clerk-Treasurer shall be considered an unpaid and delinquent bill. On August 1<sup>st</sup> of each year the City Clerk-Treasurer shall prepare an assessment roll and any delinquent and unpaid account, including the name and address of the owner and the amount unpaid. Written notice shall be given to the owner of each respective property by United States Mail at least two weeks prior to the regular September meeting of the City Council that the City intends to assess said sums as a special assessment to be certified to the County Auditor and levied against the land and collected in the manner of taxes. The City Clerk shall also give published notice in the official newspaper setting forth the City's intention to place such assessment, including a list of the property addresses and amounts delinquent, together with a statement of the City's intention of such assessment.

**SUBD. 11 Recycling Programs:**

The City Council shall have the power to establish and contract for recycling programs, subject to any state or federal regulations. The owner of each property within the City of Silver Lake shall make all due effort to recycle any recyclable material which the City may from time to time arrange for collection. Materials that the City arranges to have collected as recyclable shall be placed for collection at such times and places and manners as the City from time to time shall direct. In no case shall the City Council be required to provide for the recycling of recyclables for which the City is unable in its judgement to secure an adequate collection arrangement or a market within the financial capabilities of the community.

**SUBD. 12 Cleanup Programs or Cleanup Days**

The City Council may from time to time establish special cleanup programs for the disposition of compost material, yard waste, white or hard goods, but in no case is the use of such programs required although they are encouraged. The disposition of toxic and hazardous waste, white or hard goods, compost, recyclables, human waste, yard waste and construction waste, shall strictly comply with applicable city, county, state and federal ordinances, statutes, laws and regulations.

#### SUBD. 13 Repeal of Conflicting ordinances

All ordinances or portions thereof, which are in conflict with this ordinance, are expressly repealed.

#### SUBD. 14 Violations

Violation of this ordinance shall be considered a misdemeanor subject to the penalties imposed according to state statute for misdemeanor violations. Each day or act of violation shall be considered a separate offense.

### **Section 7. Right-of-way Management (Ordinance 101 Adopted 2-21-2023)**

#### **Sec. 7.01. Findings, Purpose, and 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.

Accordingly, the city hereby enacts this new chapter of this code relating to right-of-way permits and administration. This chapter imposes reasonable 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.

#### **Sec. 7.02. Election to Manage the Public Rights-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.

#### **Sec. 7.03. 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 Silver Lake, Minnesota. For purposes of section 1.29, city also means the City’s elected officials, officers, employees, and agents.

**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.

**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 a permit.

**Excavation Permit Fee.** Money paid to the city by an applicant to cover the costs as provided in Section 1.13.

**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 to Section 1.31 of 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 Section 1.13.

**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 sewer, 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 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.

**Sec. 7.04 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. The Director shall be appointed by the Mayor.

**Sec. 7.05. Utility Coordination Committee.**

The Utility Coordination Committee shall consist of the members of the Planning Commission in conjunction with the Public Works Supervisor.

**Sec. 7.06. 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 application information.

**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, Gopher One Call Law.

**Sec. 7.07. 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 and email address, if applicable, and telephone and facsimile numbers.
- (b) The name, address, and email address, if applicable, and telephone and facsimile numbers 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:
  - (1) 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;
  - (2) 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;

- (3) 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;
- (4) Requiring that the city be notified thirty (30) days in advance of cancellation of the policy or material modification of a coverage term; and
- (5) 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.
- (6) The city may require a copy of the actual insurance policies.
- (7) If the person is a corporation, a copy of the certificate is required to be filed under state law as recorded and certified to the secretary of state.
- (8) 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) Any other information deemed necessary by the City Engineer deemed necessary 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.

#### **Sec. 7.08. Reporting Obligations.**

**Subd. 1. Operations.** Each registrant shall, at the time of registration and by December 1 of each year, file a construction and major maintenance plan for underground facilities with the city. 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.

The plan shall include, but not be limited to, the following information:

- (a) The locations and the estimated beginning and ending dates of all projects to be commenced during the next calendar year (in this section, a "next-year project"); and
- (b) To the extent known, the tentative locations and estimated beginning and ending dates for all projects contemplated for the five years following the next calendar year (in this section, a "five-year project").

The term "project" in this section shall include both next-year projects and five-year projects.

By January 1 of each year, the city will have available for inspection in the city's office a composite list of all projects of which the city has been informed of the annual plans. All registrants are responsible for keeping themselves informed of the current status of this list.

Thereafter, by February 1, each registrant may change any project in its list of next year projects, and must notify the city and all other registrants of all such changes in said list. Notwithstanding the foregoing, a registrant may at any time join in a next-year project of another registrant listed by the other registrant.

**Subd. 2. Additional Next-Year Projects.** 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.

#### **Sec. 7.09. 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 the appropriate right-of-way permit from the city to do so.

- (a) *Excavation Permit.* An excavation 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 Permit.* An obstruction 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 Permit.* A small wireless facility 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 from time to time by City Council resolution.

**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.

#### **Sec. 7.10. *Permit Applications.***

Application for a permit is made to the city on forms approved by the City Engineer or the City Engineer's 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 City Engineer.
- (c)
  - (1) management costs; Payment of money due the city for: permit fees, estimated restoration costs, and other
  - (2) prior obstructions or excavations;
  - (3) 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; franchise fees or other charges, if applicable.
  - (4) Payment of disputed amounts due the city by
- (d) 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.

#### **Sec. 71.11. *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 City Engineer. 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 City Engineer 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) 1. A monthly fee for electrical service as follows:  
\$73 per radio node less than or equal to 100 maximum watts;  
2. \$182 per radio node over 100 maximum watts; or  
3. The actual costs of electricity, if the actual cost exceed the foregoing.

The standard collocation agreement shall be in addition to, and not in lieu of, the required small wireless facility permit, provided, however, that the applicant shall not be additionally required to obtain a license or franchise in

order to collocate. Issuance of a small wireless facility permit does not supersede, alter or affect any then-existing agreement between the city and applicant,

**Sec. 7.12 Action on Small Wireless Facility Permit Applications.**

**Subd. 1. Deadline for Action.** The city shall approve or deny a small wireless facility permit application within 90 days after filing of such application or within any timeline established by state law. The small wireless facility 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 small wireless facility 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 small wireless facility permit application 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 of 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.

**Sec. 7.13. Permit Fees.**

**Subd. 1. Excavation Permit Fee.** The city shall impose an excavation permit fee in an amount sufficient to recover the following costs:

- (a) the city management costs;
- (b) degradation costs, if applicable.

**Subd. 2. Obstruction Permit Fee.** The city shall impose an obstruction permit fee in an amount sufficient to recover the city management costs.

**Subd 3. Small Wireless Facility Permit Fee.** The city shall impose a small wireless facility permit fee 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 excavation permit, obstruction permit, or small cell permit shall be issued

without payment of all required fees. The city may allow applicant to pay such fees within thirty (30) days of billing.

**Subd. 5. Non-Refundable.** Permit fees that were paid for a permit that the city has revoked for a breach as stated in Section 1.23 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.

#### **Sec. 7.14. Right-of-way Patching and Restoration.**

**Subd. 1. Timing.** The work to be done under the excavation 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 Section 1.17.

**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 an excavation permit post a construction performance bond in accordance with the provisions of Minn. Rule 7819.3000.
- (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 Section 1.17.

**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 the permittee fails to pay as required, the city may exercise its rights under the construction performance bond.

#### **Sec. 7.15. Joint Applications.**

**Subd. 1. Joint application.** Registrants may jointly apply for permits to excavate or obstruct the right-of-way at the same place and time.

**Subd. 2. Shared fees.** Registrants who apply for permits for the same obstruction or excavation, which the city does not perform, may share in the payment of the obstruction or excavation permit fee. In order to obtain a joint permit, registrants must agree among themselves as to the portion each will pay and indicate the same on their applications.

**Subd. 3. *With city projects.*** Registrants who join in a scheduled obstruction or excavation performed by the city, whether or not it is a joint application by two or more registrants or a single application, are not required to pay the excavation or obstruction and degradation portions of the permit fee, but a permit would still be required.

#### **Sec. 7.16. 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.

#### **Sec. 7.17. 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.*** Except in an emergency, and with the approval of the city, no right-of-way obstruction or excavation may be done when seasonally prohibited or when conditions are unreasonable for such work.

**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.

#### **Sec. 7.18. Denial or Revocation 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. The city must notify the applicant or right-of-way user in writing within three business days of the decision to deny or revoke a permit. 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. The city must approve or deny the resubmitted application within 30 days after submission.

**Sec. 7.19. 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 Section 1.23 subd. 2 of this ordinance.

**Sec. 7.20. 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 city engineer.

**Subd. 2. *Site Inspection.*** The 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 Sec. 1.23.

**Sec. 7.21. 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.

**Sec. 7.22. Supplementary Notification.**

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

**Sec. 7.23. 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 Sec. 1.20.

**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 the 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. 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, the 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.

#### **Sec. 7.24. 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 Lateral.*** 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.

#### **Sec. 7.25. 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 city engineer, 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 in accordance with Section 102 of the City Code.

**Subd. 2. *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.

Any registrant who has facilities in the right-of-way in a position at variance with the corridors established by the city shall, no later than at the time of the next reconstruction or excavation of the area where the facilities are located, move the facilities to the assigned position within the right-of-way, unless this requirement is waived by the city for good cause shown, upon consideration of such factors as the remaining economic life of the facilities, public safety, customer service needs, and hardship to the registrant.

**Subd. 3. *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 usable condition.

**Subd. 4. *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.

#### **Sec. 7.26 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 and the best procedure for excavation.

#### **Sec. 7.27. 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 caused by that registrant's facilities.

**Sec. 7.28. 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.

**Sec. 7.29. 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.

**Sec. 7.30. 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.

**Sec. 7.31. 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 Section 1.24, subd. 2 of 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.

**Sec. 7.32 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.

**Sec. 7.33. 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.

**(Ordinance 102 Added 2-21-2023)**

**SECTION 8. Purpose of Undergrounding.**

The purpose of this section 102 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 102 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.

**SECTION 9. 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 and they must be locatable electronically. 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.

#### **SECTION 10. Undergrounding of Permanent Replacement, Relocated, or Reconstructed Facilities.**

If the city finds that one or more of the purposes set forth in section 102, subd. 1 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.

#### **SECTION 11. Exceptions to Undergrounding.**

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 planning commission, finds that:
  - 1. Underground placement is not technically feasible due to topographical, subsoil, or other existing conditions which significantly and adversely affect underground facilities placement; or
  - 2. Failure to promote the purposes of undergrounding. The right-of-way user clearly and convincingly demonstrates that none of the purposes under Section 102, subd. 1 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:
  - 1. During new construction of any project for a period not to exceed three (3) months.
  - 2. During an emergency in order to safeguard lives or property within the city.
  - 3. 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 102, 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.

#### **SECTION 12. 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.

### **CHAPTER 16**

#### **GENERAL PROVISIONS CONCERNING PROSECUTION AND PUNISHMENT OF VIOLATIONS**

(Amended by Ordinance 55 5/13/03)

**SECTION 1. Purpose and Intent**

**Purpose:** Administrative offense procedures established pursuant to the Section are intended to provide the public and the City of Silver Lake with an informal, cost effective, and expeditious alternative to traditional criminal charges for violations of certain City Code provisions. The procedures are intended to be voluntary on the part of those who have been charged with administrative offenses. At any time prior to the payment of the administrative penalty as is provided for thereafter, the individual may withdraw from participation in the procedures, in which event the City may bring criminal charges in accordance to law. Likewise, the City of Silver Lake in its discretion may choose not to initiate an administrative offense and may bring criminal charges in the first instance. In the event a party participates in the administrative offense procedures, but does not pay the monetary penalty, which may be imposed, the City of Silver Lake will seek to collect the costs of administrative offense procedures as part of a subsequent criminal sentence, in the event the party is charged and is adjudicated guilty of the criminal violation.

**SECTION 2. Administrative Offense Defined:**

An administrative offense is a violation of a provision of the City Code and is subject to the administrative penalties set forth in the schedule of offenses and penalties referred to in Section 8, entitled "Offenses and Penalties," hereinafter.

**SECTION 3. Notice:**

Any officer of the City of Silver Lake Police Department or any other person employed by the City, authorized in writing by the Mayor of Silver Lake, and having authority to enforce the City Code, shall upon determining that there has been a violation, notify the violator, or in the case of a vehicular violation, attach to the vehicle a notice of the violation. Said notice shall set forth the nature, date and time of the violation, the name of the official issuing the notice, and the amount of the scheduled penalty.

**SECTION 4. Payment:**

Once such notice is given, the alleged violator may, within fifteen (15) days of the time of issuance of the notice, pay the amount set forth on the schedule of penalties for the violation. The administrative penalty may be paid in person or by mail, and payment shall be deemed to be an admission of the violation.

**SECTION 5. Hearing:**

Any person contesting an administrative offense pursuant to this Section may, within fifteen (15) days of the time of issuance of the notice, be issued a State Citation requesting a hearing through McLeod County Court to determine if a violation has occurred.

**SECTION 6. Failure to Pay:**

In the event a party charged with an administrative offense fails to pay the penalty, a misdemeanor or petty misdemeanor charge may be brought against the alleged violator in accordance with applicable statutes.

**SECTION 7. Disposition of Penalties:**

All penalties collected pursuant to this Section shall be paid to the City of Silver Lake and deposited in the General Fund.

**SECTION 8. Offenses and Penalties:**

Offenses, which may be charged as administrative offenses and the penalties for such offenses, shall be established by resolution of the City Council from time to time. Copies of such resolution shall be maintained in the Office of the City Clerk Treasurer, Administrator.