

CHAPTER 25

STREETS AND SIDEWALKS

- 25.01 Deposits on Streets
- 25.02 Cleaning Sidewalks and Alleys
- 25.03 Fires in Streets
- 25.04 Vehicles Spilling Materials
- 25.05 Barbed Wire Fences
- 25.06 Building Numbering
- 25.07 Obstruction of City Personnel
- 25.08 Injuring Improvement in Streets, Etc.
- 25.09 Blockaded Streets
 - 25.09.1 Blockading Levee Park Drive
- 25.10 Constructing Private Driveways
- 25.11 Opening in Sidewalks
- 25.12 Rain Water over Sidewalks
- 25.13 Snow and/or Ice on Sidewalks
- 25.14 Construction of Sidewalks, Curbs and Gutters
 - (a) Plans and Specifications
 - (b) Contractors Licenses
 - (c) Bond of Licensee
 - (d) Insurance of Licensee
 - (e) Permits
 - (f) Storage of Equipment and Materials; Guards and Lights; Restoration of Streets
 - (g) Tampering with Lights or Barricades
 - (h) Construction by Property Owner
- 25.15 Obstructing Use of Streets or Sidewalks
- 25.16 Goods or Merchandise on Sidewalks
- 25.17 Erection of Buildings on or over Streets
- 25.18 Building Materials in Streets
- 25.19 Persons Obstructing Sidewalks

- 25.20 Excavations in Paved Streets - Repealed
- 25.21 Signs over Streets
 - (a) Special Legislation
 - (b) Posts or Poles in Streets
 - (c) Erection over Sidewalk, Street or Alley
 - (d) Removal
 - (e) Flags and Banners
- 25.22 Trees
 - (a) Purpose of Regulation
 - (b) Definitions
 - (c) Planting of Bushes and Trees in Street
 - (d) Injuring Trees on Public Property
- 25.23 Trees Overhanging Streets
- 25.24 Removal of Trees in Certain Areas
- 25.25 Boulevard Surfacing, Grading and Landscaping
- 25.26 Vacation of Streets and Public Grounds
 - (a) Written Petition
 - (b) Public Hearing; Notice
 - (c) Investigation of Proposed Vacation
 - (d) Notice of Completion of Proceedings
 - (e) Definition of Affected Property Owner
- 25.27 Repair and Maintenance of Sidewalks

STREETS AND SIDEWALKS

25.01 DEPOSITS ON STREETS. No person shall throw, drop, deposit or leave any dead carcass, carrion, fish, entrails, filth or any nauseous, offensive or unwholesome substance or matter upon any public street, sidewalk, alley or other public ground in the city.

25.02 CLEANING SIDEWALKS AND ALLEYS. It shall be the duty of the occupant or, in case there is no occupant, then the owner of any lot or parcel of land in the city abutting on any alley or sidewalk, to keep such sidewalk and also to keep such alley to the center thereof free from all filth, unwholesome substances or matter, manure, straw, brush or rubbish of any sort. No such occupant or owner, as the case may be, shall permit any filth, unwholesome substance or matter, manure, straw, brush or rubbish of any sort to be and remain upon any sidewalk adjacent to the lot or parcel of land occupied or owned by him or between the line of such lot or parcel and the center of any alley adjacent thereto for more than 24 hours after receiving notice from the city manager or his designated representative to remove the same.

25.03 FIRES IN STREETS. No person shall burn or set fire to any materials or rubbish in any street, sidewalk, alley or ground.

25.04 VEHICLES SPILLING MATERIALS. No vehicle shall be driven or moved on any street within the city unless such vehicle is so constructed or loaded as to prevent any of its load from dropping, sifting leaking or otherwise escaping therefrom; except, that sand may be dropped for the purpose of securing traction or water or other substances may be sprinkled on a roadway in cleaning or maintaining a street.

25.05 BARBED WIRE FENCES. No person shall erect or suffer to be erected any barbed wire fence, or attach or suffer to be attached any barbed wire to any post, fence or tree upon or along any public street or alley in the city.

Any barbed wire fence standing on or along any public street or alley in the city or any barbed wire, when the same is attached to any post, fence or tree standing on or along any public street or alley in the city, shall be deemed a common or public nuisance and the city manager may cause such fence and such wire to be summarily abated by the removal or destruction thereof. Notwithstanding the foregoing, barbed wire may be used provided the lowest strand is not less than 6 feet above the ground.

25.06 BUILDING NUMBERING. (a) The following system of building numbering upon the streets in the city is hereby adopted:

(1) There shall be allotted to each block, length or distance corresponding thereto, 50 numbers, and one number shall be deemed to cover 20 feet, more or less, lineal front distance.

(2) All numbers within the 50 allotted to each block or distance corresponding thereto, as aforesaid, and not absorbed consecutively by the subdivision provided for, are to be discarded.

(3) The subdivision of lots laid out in special or irregular widths shall conform, as near as possible, to the general plan.

(4) On streets adjoining land not laid off in blocks a lineal distance not exceeding the size of ordinary blocks shall be covered by the numbers hereinbefore allotted to each block, and surplus numbers discarded as aforesaid.

(5) All streets running easterly and westerly shall be divided by Center Street, and the numbers on such streets shall commence with 50 and 51 on Center Street, and run therefrom easterly and westerly respectively.

(6) All streets running southerly and northerly shall be divided by Front Street or extension of line corresponding thereto, and the numbers of such streets shall commence with 50 and 51, and run therefrom southerly and northerly respectively.

(7) On all streets running easterly and westerly the even numbers shall be on the northerly side, and the odd numbers shall be on the southerly side of such streets.

(8) On all streets running southerly and northerly the even numbers shall be on the easterly side, and the odd numbers shall be on the westerly side of such streets.

(b) The city engineer shall prepare a suitable register showing, in a systematic manner, the numbers properly applicable to each block under this section and furnish to any owner, occupant or agent such information as will enable such person to procure, and display upon premises in question, the correct numbers.

(c) Approved numbers or addresses shall be placed on all new and existing buildings in such a position as to be plainly visible and legible from the street or road fronting the property. Said numbers or addresses shall be no less than four (4) inches in height and contrast with their backgrounds.

(1) If the building is located more than seventy-five (75) feet from the street or road fronting said property, the approved number or address shall be at the driveway or main entry to the property. The bottom of the number or address shall be at least three (3) feet above the ground.

Ord. No. 2950 11/21/88.

25.07 OBSTRUCTION OF CITY PERSONNEL. No person shall hinder or obstruct the city manager or any employee of the city in lawfully making any improvement in any public street, road or alley, or on any public ground in the city.

25.08 INJURING IMPROVEMENT IN STREETS, ETC. No person shall, without proper authority, tear up, break or injure any pavement, crosswalk, sidewalk or other improvement in any public street, road, alley or ground in the city.

25.09 BLOCKADED STREETS. When deemed necessary by the city manager or his designated representative or the city engineer, any public street, alley, bridge, sidewalk or public ground or building may be blockaded, barricaded, fenced off or closed while in the state of construction, repair, betterment or condemnation and that, while any public street, alley, bridge, sidewalk or public ground or building is blocked, barricaded, fenced off or closed, it shall be unlawful for any person to enter upon or cause any vehicle to be ridden or driven upon or any animal to be driven or led upon such property without written permission from the city manager or his designated representative or the city engineer.

25.09.1 BLOCKADING LEVEE PARK DRIVE. The city manager or his designated representative may close Levee Park Drive to vehicular traffic during the winter months, the period beginning and ending at his discretion. No person shall operate any vehicle on Levee Park Drive when it is so barricaded. Ord. No. 2684 09/06/83.

25.10 CONSTRUCTING PRIVATE DRIVEWAYS. All private driveways hereafter constructed through or across public streets in the city shall lay and be at right angles with the public street with which they connect.

25.11 OPENING IN SIDEWALKS. The owner of any building in the city having a stairway leading from an adjoining public sidewalk to the cellar or basement of such building, shall guard such stairway with a substantial railing not less than three feet high, and the entrance to such stairway shall be at right angles to the street from which entry is made. Any person who shall make any permanent opening in any public sidewalk for the purpose of letting light into any basement or cellar, or for any other purpose, shall guard the same with a substantial railing not less than three feet high, or with a substantial

iron gate or other strong and substantial cover, but no such railing shall occupy more than one and one-half feet of the sidewalk, measuring from the inner line thereof.

25.12 RAIN WATER OVER SIDEWALKS. No person shall construct, place or maintain any pipe leading from the eaves of any building, in such a position that the water discharged thereby may flow upon or over any public sidewalk.

25.13 SNOW AND/OR ICE ON SIDEWALKS. (a) The owner of any building or lot in the city abutting on or adjoining any public sidewalk shall, within the first twelve (12) hours of daytime after the ceasing to fall of any snow, remove or cause the removal of the snow and/or ice from such sidewalk and shall cause sand and/or chemicals to be sprinkled on the sidewalk where there is snow or ice that cannot be removed and shall remove or cause the removal of such snow or ice within twenty-four (24) hours thereafter.

The owner of any building that is a one or two-family dwelling in the city abutting on or adjoining any public sidewalk shall, within twenty-four (24) hours after the ceasing to fall of any snow, remove or cause the removal of the snow and/or ice from such sidewalk and shall cause sand and/or chemicals to be sprinkled on the sidewalk where there is snow or ice that cannot be removed and shall remove or cause the removal of such snow or ice within twenty-four (24) hours thereafter.

(b) No person shall deposit or cause to be deposited upon a public street or place any snow and/or ice removed from private property.

(c) In the event the owner of any land in the city abutting or adjoining any public sidewalk fails to remove or cause the removal of the snow and/or ice from such sidewalk, the city manager or his designated representative is authorized to cause the removal of such snow and/or ice at the expense of the owner. The city manager may provide that the work shall be done by city personnel or by an independent contractor.

(d) Prior to removal of the snow, the city manager or his designated representative shall cause notice to be served upon the owner. Such notice shall be in writing, shall state that a violation has occurred, and that the city intends to remove or cause the removal of the snow at the expense of the owner within 24 hours after service of the notice. The notice shall be either served upon the owner of the property personally or sent by regular mail to the last known address of the owner of the property. A notice tag shall also be affixed to the door of any building situated on the property.

(e) If the snow and/or ice is not removed within the time provided by the notice, the city manager or his designated representative shall cause the removal of such snow.

(f) Promptly upon completion of the work of snow and/or ice removal, the city manager or his designated representative shall serve upon the owner by regular mail an itemized statement of the reasonable value of the labor and materials expended, or the special charges incurred by a contractor for the removal of the snow; such statement to include a \$40.00 administrative fee, together with a demand for payment in full within 30 days thereafter.

(g) If the owner fails to pay, the city manager shall cause the charges as shown on such statement to be assessed against the land in the manner provided by Minnesota Statutes, Sections 429.061, 429.071 and 429.101. Ord. No. 2838 10/10/86.

25.14 CONSTRUCTION OF SIDEWALKS, CURBS AND GUTTERS. (a) Plans and Specifications. All curbing, gutters, sidewalks and driveways shall be set in accordance with plans and specifications of the city engineer and as directed by him.

(b) Contractors License. No sidewalk, curb or gutter shall be constructed on any public street, road or way within the city, except by a person licensed to perform such work.

Any person desiring a license to construct a sidewalk, curb or gutter in the city shall make application in writing therefore to the city engineer and furnish the city engineer satisfactory evidence that such applicant is properly trained and skilled in the doing of the work for which a license is desired and is qualified to receive a license. The city engineer may thereupon grant such license upon compliance with the requirements contained in this section. The application shall contain, before being entitled to consideration by the city engineer, the following information:

- (1) The full name, residence and address of the applicant and, if a firm, of every member thereof.
- (2) The kind of material to be used in the construction and, if stone, the quarry from which it is to be obtained.
- (3) The training and experience of the applicant and the class of work proposed to be done.

Such license shall expire on April 30 of the year following the date of issuance.

(c) Bond of Licensee. No license shall be issued under this section until the applicant shall have executed and filed with the city engineer a bond to the city in the sum of \$10,000 for the use of the city and for the use of all persons contracting with such licensee for sidewalks, curb and gutter construction, executed by the applicant and a corporate surety or two sufficient sureties, and approved by the city attorney conditioned that the licensee will do the work subject to the supervision and approval of the city engineer and as required by the provisions of this code and other ordinances of the city, and will indemnify and hold harmless the city against any damages or loss which may arise or in any way directly or indirectly be suffered by the city by reason of any occurrence while the work is going on and before acceptance thereof by the city engineer, caused by any negligence or misconduct on the part of such licensee, his servants or employees in doing the same, that he replace and restore the street and its grass plots which may be disturbed in doing of any such work to as good a state and condition as he found it in, that he will keep and maintain in good and proper order proper guards by day and red lights by night, that he will conform in all respects to the laws of the city and of the state relative to the streets, sidewalks, curbs and gutters as may in each instance be applicable to his work and that he will pay all fines and penalties that may be imposed on him by law. Ord. 3525 05/06/02.

The bond shall authorize that any person contracting with the licensee for the construction of sidewalks, curbs and gutters and who has been damaged by reason of the failure of the licensee to construct the same in accordance with specifications issued by and under the supervision of the city engineer shall have a cause of action against the principal or the sureties enforceable in the courts of the state having jurisdiction of the parties. No cause of action against the surety hereunder shall be commenced later than one year immediately following the date of the issuance of the permit for such construction.

(d) Insurance of Licensee. The licensee shall at licensee's expense maintain in effect liability insurance with limits not less than the maximum liability limits for a municipality as provided in Minnesota Statutes Section 466.04; the City of Winona shall be a named insured. The licensee's insurance policy and certificate shall not be cancelled or its conditions altered in any manner without Ten (10) days prior written notice to the City Manager of Winona. The insuring company shall deliver to the City Clerk certificates of all insurance required, signed by an authorized representative and stating that all provisions of the specified requirements are satisfied.

(e) Permits. No work shall be begun on the construction of any sidewalk, curb or gutter until the licensee shall have first obtained a permit therefor from the city engineer. Such permit shall state the location of the work, the length and width of the walk, curb or gutter, the material of which to be constructed and the time when to be constructed. The city engineer shall keep a permanent record of all permits so granted, of all grade stakes set by him and of all inspections of the work.

(f) Storage of Equipment and Materials; Guards and Lights; Restoration of Streets. Every licensee under this section shall place and keep all necessary material, tools, machinery and appliances used in his work on a public street or way only as the city manager or his designated representative may permit and direct. He shall keep and maintain in good order proper barricades by day and by night at all material, machinery and appliances locations and at the sites of all unfinished work to prevent injury or accident therefrom and shall replace and restore the street and its grass plots which may be disturbed in the doing of such work to as good a state and condition as he found it in. When a location or site is insufficiently lighted at night by other means, the licensee shall provide adequate lighting. All rules and regulations of the city pertaining to the construction of sidewalks, curbs or gutters and the placing and guarding of materials on streets shall apply to such licensee with full force and effect.

(g) Tampering with Lights or Barricades. No person shall extinguish or remove any light or move or remove any barricade placed on or near excavations in streets or in areas where sidewalks are being constructed or repaired.

(h) Construction by Property Owner. The owner of real property the city desiring to construct his own sidewalk, curb or gutter without the aid of a licensed contractor may be allowed to do so upon the written permit of the city engineer, if deemed competent by him. All regulations and provisions of this section applicable thereto shall have the same force and effect as if such work were done by a licensed contractor.

The owner shall also authorize the city, in the event said work is not completed and approved by the City Engineer within the time period specified on the permit, to contract for the work to be done. The city manager shall submit to the city council the itemized accounting of the costs incurred and a recommendation that the city council by resolution authorize that an assessment be levied upon such lot or land in accordance with Minnesota Statutes, Chapter 429. Ord. No. 2974 05/15/89.
Ord. No. 3097 10/21/91.

25.15 OBSTRUCTING USE OF STREETS OR SIDEWALKS. No person shall place, leave or keep on any public street, road, alley, sidewalk or other public ground in the city any article, substance or material which may obstruct the free use of such street, road, alley, sidewalk or ground, except as provided in Section 25.16 and except as provided in Chapter 25A. Ord. No. 2495 07/16/79.

No person shall park or leave standing any motor vehicle, trailer, boat or other personal property which is "for sale" on the northerly side of Lake Boulevard from the west right-of-way line of Trunk Highway 43 to a point 2400 feet westerly of the west line of Sugar Loaf Road and from the east right-of-way line of Huff Street to a point 3325 feet easterly thereof." Ord. No. 3617 8/16/04

25.16 GOODS OR MERCHANDISE ON SIDEWALKS. No person shall place any goods or merchandise for sale or exhibition upon any sidewalk, suspend any goods over the same for show or deposit thereon or cause or suffer to be deposited thereon any cask, barrel, case or other package, except as provided in this section and except as provided in Chapter 25A. Ord. No. 2495 07/16/79.

It shall be lawful for any person to place, on three feet in width of the outer edge of the sidewalk in front of his premises, for a period not exceeding 5 hours, any goods or merchandise which he may be in the act of receiving or delivering.

25.17 ERECTION OF BUILDINGS ON OR OVER STREETS. No person shall erect or maintain any building in such a position that the same shall stand, in whole or in part, upon any public street, road, alley or sidewalk in the city, or so constructed that any part of the building proper shall project into or over such street, road, alley or sidewalk, subject to the provisions of the Building Code.

25.18 BUILDING MATERIALS IN STREETS. The city manager or his designated representative is authorized to grant a permit in writing to any person to deposit and keep materials for building in any public street., road or alley for a space of time not exceeding six successive months, but such permit shall not excuse the obstruction or occupation with such material of more than one-third in

width of the roadway of any street or the placing of such material in such a way as to impede the free flow of water in the side gutters.

Every person to whom a permit may be granted, as provided in this section, to place and keep building material in any street or alley, shall cause all such material and the rubbish resulting therefrom to be removed from such street or alley at the expiration of the time limited in the permit, unless the time shall for good cause be extended by the city manager or his designated representative. Every person depositing and keeping any building material in any street or alley under a permit from the city manager or his designated representative shall, during every night while the same shall there remain, keep one or more lighted lanterns so placed that such material may be easily seen by persons passing along such street, road or alley.

25.19 PERSONS OBSTRUCTING SIDEWALKS. It shall be unlawful for persons to gather in crowds or groups, or for any person to stand singly, on any public street or sidewalk in the city in such a manner as to obstruct free passage thereon or to annoy other persons passing along the same. The chief of police or any policeman is authorized to disperse any crowd or group, or to cause the removal of any person, violating the last foregoing provision, and to summarily arrest any person in case of refusal on the part of such person to obey any reasonable direction given by such officer for the purpose of cleaning the way or preventing annoyance to passersby on any public street or sidewalk. The officer making any such arrest shall, within 24 hours after the arrest is made, enter the proper complaint in the municipal court against the person so arrested.

25.20 EXCAVATIONS IN PAVED STREETS – Repealed Ord. 3433 11/15/99

25.21 SIGNS OVER STREETS. (a) Special Legislation. This section shall not apply to billboards or to canopies or signs for which specific ordinances have heretofore been or may hereafter be passed.

(b) Posts or Poles in Streets. No sign attached to, hung or supported from any building shall be attached to or supported by posts or poles set in or upon a public street, alley or sidewalk. No sign consisting of a post, or of poles or of a post supporting any sign of any kind or nature shall be erected or maintained on a public sidewalk, street or alley.

(c) Erection over Sidewalk, Street or Alley. No person shall erect or maintain any sign, any part of which sign shall extend into or upon or project over any public sidewalk, street or alley in the city at a distance of less than 7 1/2 feet from or above the surface of any such public sidewalk, street or alley.

No person shall erect or maintain any sign of any kind or nature, any part of which sign shall be within 7 1/2 feet from or above the surface of any public sidewalk, street or alley in the city, and which sign shall also be within 7 feet of a perpendicular line from the boundary of such sidewalk, street or alley.

This section shall not apply to signs which are placed flat against building walls, parallel with the inside line of the public sidewalk, street or alley and which do not extend outwardly a distance in excess of 2 inches over any such public sidewalk, street or alley.

(d) Removal. Every sign erected or maintained contrary to this section shall be declared illegal and a public nuisance, and the owner of the property upon which such sign is constructed, maintained or affixed shall remove the sign or be subject to penalty. If such sign is not removed within a period of two days from the date of the mailing by the city engineer of the notice to the property owner at his last-known address to remove such sign, the city engineer shall remove the sign and the expense thereof shall first be paid out of the general fund of the city and thereafter the city shall recover the amount of expense from the property owner.

(e) Flags and Banners. This section does not prohibit any person from hanging over or across any street or sidewalk any flag or banner on any public holiday, nor prevent any society or organization from hanging its flag or banner in connection with the holding of any convention, meeting or public gathering of such society or organization; provided, however, that no flag or banner shall at any

time extend over any street or sidewalk so that it comes within 15 feet of the surface of the street or sidewalk.

25.22 TREES. (a) Purpose of Regulation. This section is enacted to promote public safety, comfort and general welfare, to conserve and protect property and property values and to authorize and regulate the planting, maintenance, removal and protection of shade and ornamental trees, shrubs and bushes on private and public property. Ord. No. 2942 09/06/88.

(b) Definitions. For the purposes of this section the following words and phrases shall have the meanings respectively ascribed to them in this section:

Bush or Shrub: A low-spreading woody plant with several permanent stems.

Tree: A woody perennial plant with one main stem or trunk having a diameter of at least 2 inches one foot above the ground and which is capable of attaining a height in excess of 10 feet above the ground.

Tree Superintendent: "Tree Superintendent" shall mean the tree superintendent or his authorized representative.

(c) Planting of Bushes and Trees in Street. (1) No person shall plant any bush or shrub in any public street, road or alley.

(2) No person shall plant any tree in any public street, road or alley without having first secured a permit therefor from the tree superintendent. Each permit shall be valid for a period of not more than 60 days.

(3) Unless otherwise authorized in writing by the tree superintendent, any tree so planted shall be of a kind approved by the tree superintendent, shall be planted not less than 45 feet from any other tree in such public street, road or alley, shall be planted in a location approved by the tree superintendent, shall have a ratio of two-thirds clear stem to one-third crown, which ratio shall be maintained until such time as a clear stem is 8 feet higher than the surrounding ground level.

(4) No person shall plant any of the following kinds of trees on any public property: conifers, cottonwood, box elder, willow, poplar, black locust, Chinese elm, American elm, catalpa, birch and any tree of the fast-growing and nondurable variety.

(5) No person shall plant a tree within 25 feet of a street intersection or within 10 feet of an alley, nor under a power line, without the express written consent of the tree superintendent.

(d) Injuring Trees on Public Property. (1) No person shall maliciously injure any trees growing on any public property. Ord. No. 2616 02/16/82. Ord. No. 2942 09/06/88.

(2) No person shall allow any wire or other foreign object to touch any tree growing on any public property without first having secured a permit therefor from the tree superintendent. No permit shall be granted except for good cause. Ord. No. 2942 09/06/88.

(3) No person shall impede the free passage of water and air to any tree growing on any public property. Ord. No. 2942 09/06/88.

(4) No person shall remove or cause to be removed any tree from any public property without having first secured a permit therefor from the tree superintendent. Each permit shall identify the tree(s) to be removed and shall be valid for a period of not more than 60 days. The permittee shall at permittee's expense maintain in effect liability insurance with limits not less than the maximum liability limits for a municipality as provided in Minnesota Statutes Section 466.04; the City of Winona shall be a named insured. The insurance policy and certificate shall not be cancelled or its conditions altered

in any manner without ten (10) days prior written notice to the City Manager of Winona. The insuring company shall deliver to the City Clerk certificates of all insurance required, signed by an authorized representative and stating that all provisions of the specified requirements are satisfied.

Ord. No. 2942 09/06/88.

(5) The owner or occupant of any private premises abutting on any public property may himself maintain and protect any tree standing on such public property, providing that in doing so he complies with the provisions of this section. Ord. No. 2942 09/06/88.

25.23 TREES OVERHANGING STREETS. The owner or occupant of any private property shall keep all trees standing on such private property so trimmed that no bough or branch thereof shall hang lower than 8 feet above the surface of a public sidewalk or 12 feet above the surface of the portion of the street or alley traveled by vehicles.

The owner or occupant of any private property shall remove or cause to be removed any dead tree or dead or broken bough or branch on a tree standing on such private property and overhanging any public street, road or alley.

The tree superintendent is authorized and directed to summarily remove any tree or bough or branch of a tree standing on any private property and overhanging any public street, road or alley, when in his judgment the presence of such tree, bough or branch constitutes an imminent danger to persons or private or public property.

25.24 REMOVAL OF TREES IN CERTAIN AREAS. (a) Subject to other provisions of this chapter and Chapter 37, no person shall remove a tree from public property other than in accordance with the provisions of this section.

(b) If permitted in writing by the city manager or his designated representative, a person may remove a tree from the public areas of Prairie Island or Latsch Island, provided no person shall remove a live or standing tree or any part thereof. A person may remove a tree or part thereof only if the tree or part thereof is severed from the ground or the trunk of the tree is over halfway severed as a result of natural causes.

(c) A permit shall be for a period of not more than 30 days. The permit shall specify that the trees removed shall be for the personal use of the permittee. A permit shall be issued only to an individual over the age of 18 years. The permit may impose any reasonable condition on the permittee, including but not limited to, the days and times of day for cutting and removal, the number and type of trees to be removed, the particular area within the designated area, cleanup of debris, the method of cutting and the manner of cutting and removal. No person shall be given an exclusive permit for a particular area.

(d) The city manager or his designated representative may permit removal of a tree or part thereof in an area not herein designated if in his judgment the removal is necessary in the interests of public safety and welfare.

25.25 BOULEVARD SURFACING, GRADING, AND LANDSCAPING.

(a) *Purpose.* It is the purpose and intent of the City of Winona to allow property owners to plant and maintain the boulevard areas adjoining their property in a manner which enhances and improves the aesthetic appearance of city streets, avenues, and alleys.

(b) *Definitions.*

Boulevard shall mean the public right-of-way lying between the property line and sidewalk, and between the sidewalk and the roadway, or where no sidewalk exists, between the property line and the roadway.

Noxious Weed shall mean the annual, biennial and perennial plants which are deemed by the Commissioner of Agriculture to be injurious to public health, environment, public roads, crops, livestock and other property, as set forth in Minn. Rules 1505.0730, including but not limited to: Convolvulus Arvensis (Field Bindweed), Cannabis Sativa (Hemp), Rhus Radicans (Poison Ivy), Euphorbia Esula (leafy Spurge), Sonchus Arvensis (perennial Sow thistle), Cirsium Vulgare (Bull Thistle), Cirsium Arvense (Canada Thistle), Carduus Nutans (Musk Thistle) and Carduus Acanthoides (Plumeless Thistle), and Purple Loosestrife (Lythrum Salicaria, Virgatum, or any combination).

(c) *Boulevard Surfacing.* Exclusive of necessary public/private driveways and sidewalks, constructed in accordance with provisions of Section 25.14, no boulevard shall be surfaced with any concrete, bituminous, stone, brick or any other impervious material which would restrict the free passage of surface water into the ground.

(d) *Boulevard Grading.* No person shall undertake any activity which would serve to change the surface grade elevation of any boulevard, unless the activity is approved by the City Engineer and is necessary to carry out defined public purpose.

(e) *Plantings Required.* The owner or occupant of any private premises abutting on any public street, road, or alley shall plant grass in all earthen areas lying between the private premises and the vehicular traveled portion of such public street, road, or alley. Such grass areas shall be maintained in accordance with Section 32.03.

(f) *Plantings Permitted.* Notwithstanding the provisions of Section (e), a property owner in the City of Winona shall be permitted to plant, care for, and maintain gardens on the boulevards adjacent to their property, subject to the restrictions set forth below.

1. Plantings may not exceed thirty-six (36) inches in height at any point provided that this height shall be reduced to 24 inches within a radius of 30 feet of the curb line of any intersecting street and 12 inches within a radius of 6 feet from any fire hydrant.

2. Plantings must be maintained in such a way that there is no overhang or encroachment onto the sidewalk, curb or street area.

3. Plantings may include any annual, biennial, perennial flower, ornamental grass, and other plant which is not classified as a noxious weed or vegetable. All gardens shall be maintained in accordance with the provisions of Section 32.03. The planting of any tree or shrub shall only be permitted in accordance with the provisions of Section 25.22(c).

4. No garden shall be planted on the boulevard without written documentation that the property owner has contacted "Gopher State One Call" for utility locations 48 hours before digging, and has planned plantings which will not interfere with said utilities.

5. The property owner shall take all reasonable measures to ensure that denuded boulevard areas are exposed for the shortest period of time. The intent of this provision is to minimize the potential for erosion of soil and other materials onto adjacent public sidewalks or streets. The property owner shall be responsible for the cleaning of adjacent public streets or sidewalks of any debris or material resulting from the construction and maintenance of the garden.

6. The garden shall not employ any method, such as berms or planter structures which would serve to either increase or decrease boulevard ground elevations, from those which existed prior to garden construction.

7. No fence, raised planter box, trellis, statue, bollard, irrigation or lighting system, or any other structure shall be constructed or located on a boulevard by the property owner.

8. No herbicides or pesticides may be used in the maintenance of gardens under this section.

(g) *Compliance Requirements.* The Department of Community Development shall have the authority to inspect boulevards to determine compliance with this section.

(h) *Public Works and Utilities.* Notwithstanding the foregoing, all such boulevards remain public property and are subject to the right of the City and any utility to perform necessary work, to plant, trim and otherwise maintain trees, to access utilities and to store excess snow. In the event the City, or any utility doing work permitted pursuant to Chapter 66, interferes with boulevard plantings in the course of such work, it shall be responsible only to restore the boulevard to the original grassy state by use of black dirt and grass seed. In no event shall the City, or utility, be liable for any damage to, disruption or removal of plantings, either direct or indirect, as a result of employees, agents or contractors performing any installation, maintenance or repairs. Ord. No. 3450 05/01/00

25.26 VACATION OF STREETS AND PUBLIC GROUNDS. (a) Written Petition. No vacation of any street, alley, public ground or easement or part thereof shall be granted unless a written petition for vacation has been introduced before the city council by the owners of not less than a majority in frontage of the real property abutting on the street, alley, public ground or easement or part thereof; the petition shall set forth the facts, circumstances and reasons upon which it is based; the petition shall be accompanied by a sketch or plat showing what it is that is proposed to be vacated, together with sufficient other detail to clearly illustrate the effect on surrounding properties and on other public property.

(b) Public Hearing; Notice. After introduction of the petition, the clerk shall publish a notice of public hearing once in the official newspaper; the hearing shall be held not less than ten (10) days after such publication. The clerk shall also cause mailed notice to be given to all affected property owners at least ten (10) days before the public hearing. At the public hearing on the petition, affected property owners shall be given an opportunity to be heard upon the proposed vacation prior to action by the city council.

(c) Investigation of Proposed Vacation. Upon the filing with the city of a petition for vacation, the city manager shall cause an investigation to be made by the appropriate city officials to determine whether or not the proposed vacation will (1) work a hardship on affected property owners, (2) deprive such owners of a substantial right appurtenant to their property, and (3) be in the best interests of the public; written findings shall be filed with the city manager prior to the public hearing. The city manager shall submit the report with his recommendations to the city council.

(d) Notice of Completion of Proceedings. A notice of completion of such proceedings shall be filed with the proper county offices in accordance with law.

(e) Definition of Affected Property Owner. An affected property owner is an owner of real property adjoining the property proposed to be vacated or an owner of real property adjoining a street, alley or public ground, a portion of which is proposed to be vacated. Ord. No. 2514 11/05/79.

25.27 REPAIR AND MAINTENANCE OF SIDEWALKS. (a) The owner of any lot or parcel of land in the city abutting or adjoining on any public sidewalk shall keep such sidewalk in good repair as defined by the city engineer.

(b) In the event said owner fails to maintain such sidewalk in good repair as defined by the city engineer, the city manager or his designated representative is authorized to cause the repair of such sidewalk at the expense of the owner pursuant to Minnesota Statutes Section 429.061, 429.071 and 429.101. Ord. No. 2663 03/07/83.