

**CHAPTER 7**  
**STREET, PARK, PUBLIC PROPERTY AND IMPROVEMENTS**

**Section 700 -- Right-of-Way**

**700.01 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 Section of this Code relating to right-of-way permits and administration. This Section 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 Section, persons excavating and obstructing the rights-of-way will bear financial responsibility for their work. Finally, this Section provides for recovery of out-of-pocket and projected costs from persons using the public rights-of-way.

This Section shall be interpreted consistently with 1997 Session Laws, Chapter 123, substantially codified in 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 Section shall also be interpreted consistent with Minnesota Rules 7819.0050 – 7819.9950 where possible. To the extent any provision of this Section 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 Section 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.

**700.02 Election to Manage the Public Right-of-Way.** In accordance with the authority granted to the City under state and federal statutory, administrative, and common law, the City hereby elects pursuant to this Section to manage rights-of-way within its jurisdiction.

**700.03 Definitions.** The definitions included in Minnesota Statute §237.162, Minnesota Rules 7819.0100 Subparts 1 through 23, and Minnesota Rules 7560.0100 Subparts 1 through 12 are hereby adopted by reference and are incorporated into this Section as if set out in full.

**700.04 Permit Requirement.**

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

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

**Subd. 2 Permit Extensions.** No person may excavate or obstruct the right-of-way beyond the date or dates specified in the permit unless such person (i) 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 Minnesota Rule 7819.1000 Subpart 3, and notwithstanding Subdivision 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 Section shall be conspicuously displayed or otherwise available at all times at the indicated work site, and shall be available for inspection by the Zoning Administrator.

**700.05 Permit Applications.** Application for a permit shall contain, and will be considered complete only upon compliance with the requirements of the following provisions:

**Subd. 1** Submission of a completed permit application form, including all required attachments, scaled drawings showing the location and area of the proposed project and the location of all known existing and proposed facilities, and the following information:

- A. Each permittee's name, Gopher One-Call registration certificate number, address, and email address, if applicable, and telephone and facsimile numbers.
- B. The name, address and e-mail 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 application.
- C. A certificate of insurance or self-insurance:
  1. Verifying that an insurance policy has been issued to the permittee by an insurance company licensed to do business in the State of Minnesota, or that the permittee is self insured. The policy must provide coverage equal or greater than the limits of municipal liability as stated in Minnesota Statutes, Chapter 466, as it may be amended from time to time;
  2. Verifying that the permittee 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 permittee, its officers, agents, employees and permittees, and (ii) placement and use of facilities and equipment in the right-of-way by the permittee, 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 Zoning Administrator be notified thirty (30) days in advance of cancellation of the policy or material modification of a coverage term;

5. Indicating comprehensive liability coverage, automobile liability coverage, workers compensation, and umbrella coverage in amounts established by the Zoning Administrator in amounts sufficient to protect the City and the public and to carry out the purposes and policies of this Section.
  6. The City may require a copy of the actual insurance policies.
  7. If the person is a corporation, a copy of the certificate required to be filed under Minnesota Statute §300.06 as recorded and certified to by 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 applicable state or federal agency, where the person is lawfully required to have such certificate from said commission or other state or federal agency.
- D. Any permittee, except a public utility corporation or a bonded plumber, shall file with the Zoning Administrator a corporate surety bond, cash deposit or certified check in the amount of \$5,000.00 conditioned that the permittee shall:
1. Perform work in connection with the excavation in accordance with applicable ordinances and regulations;
  2. Indemnify the City and hold it harmless from all damage caused in the execution of such work; and
  3. Pay all costs and damages suffered by the City by reason of the failure of the permittee to observe the terms of applicable ordinances and regulations or because of negligence in the execution of the work;

The bond shall be approved by the City attorney.

**Subd. 2 Permit Fees.**

- A. Permit fees are established in Section 305.05. Payment of money due the city for:
1. permit fees, estimated restoration costs, and other management costs,
  2. 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;
  4. franchise fees or other charges, if applicable.
- B. No right-of-way permit shall be issued without payment of permit fees. The City may allow the applicant to pay such fees within thirty (30) days of billing.
- C. Permit fees that were paid for a permit that the Zoning Administrator has revoked for a breach as stated in Section 700.14 are not refundable.
- D. 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.

- E. All permit fees shall be established consistent with the provisions of Minnesota Rule 7819.100.
- F. No fee shall be required for any excavation or obstruction made pursuant to a permit for City sewer and water construction or public utilities.
- G. The City Council may waive the right-of-way permit fees.

**700.06 Issuance of permit; conditions.**

**Subd. 1 Permit Issuance.** If the applicant has satisfied the requirements of this Section, the Zoning Administrator shall issue a permit.

**Subd. 2 Conditions.** The Zoning Administrator 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 Minnesota Statutes §9216D.01-.09 (Gopher One Call Excavation Notice System) and Minnesota Rules Section 7560.

**Subd. 3 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 Minnesota Statutes, Section 216D and Minnesota Rules Section 7560, and shall require potholing or open cutting over existing underground utilities before excavating, as determined by the City.

**700.07 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 unseasonable or unreasonable under Section 700.14.

**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 having to correct 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 Minnesota Rules 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 patching, and restoration according to the standards and with the materials specified by the City and shall comply with Minnesota Rule 7819.1100.

**Subd. 4 Duty to correct defects.** The permittee shall correct defects in patching, or restoration performed by permittee or its agents. Permittee upon notification from the Zoning Administrator, correct all restoration work to the extent necessary, using the method required by the Zoning Administrator. Said work shall be completed within five (5) calendar days of the receipt of the notice from the Zoning Administrator, not including days during which work cannot be done because of unforeseen circumstances or days when work is prohibited as unseasonable or unreasonable under Section 700.14.

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

**Subd. 6 General.** Street openings will be made in a manner that shall cause the least inconvenience to the public. Provision shall be made for the passage of water along any existing gutters and at least one-half of the traveled portion of the street shall be left open and in good condition for the safe passage of vehicles. Open excavations shall be guarded with substantial barrier and marked with red flags and at night with red lights or flashing devices. Pipes or mains exposed to freezing temperatures shall be protected so as to prevent freezing. Any person responsible for exposing a City main or pipe so that it might be damaged by freezing shall be liable to the City for all damages caused by such freezing and all damages sustained by others by such freezing for which the City may be liable.

#### **700.08 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.

**700.09 Denial of permit.** The City may deny a permit for failure to meet the requirements and conditions of this Section or if the City determines that the denial is necessary to protect the health, safety, and welfare, or when necessary to protect the right-of-way and its current use.

**700.10 Installation Requirements.** The excavation, backfilling, patching, and restoration, and all other work performed in the right-of-way shall be done in conformance with Minnesota Rules 7819.1100 and other applicable local requirements, in so far as they are not inconsistent with the Minnesota Statutes § 237.162 and 237.163.

**700.11 Inspection.**

**Subd. 1 Notice of Completion.** When the work under any permit hereunder is completed, the permittee shall furnish a completion certificate in accordance Minnesota Rules 7819.1300.

**Subd. 2 Site Inspection.** Permittee shall make the work-site available to City personnel 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 Zoning Administrator.**

- A. At the time of inspection, the Zoning Administrator 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 Zoning Administrator 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 Zoning Administrator that the violation has been corrected. If such proof has not been presented within the required time, the Zoning Administrator may revoke the permit pursuant to Section 700.14.

**700.12 Work Done Without a permit.**

**Subd. 1 Emergency Situations.** Each person with facilities in the right-of-way shall immediately notify the City of any event regarding its facilities that it considers being an emergency. Excavators' notification to Gopher State One Call regarding an emergency situation does not fulfill this requirement. The owner of the facilities may proceed to take whatever actions are necessary to respond to the emergency. Within two business days after the occurrence of the emergency, the owner shall apply for the right-of-way permit, pay the fees associated therewith, and fulfill the rest of the requirements necessary to bring itself into compliance with this Section for the actions it took in response to the emergency.

If the City becomes aware of an emergency regarding facilities, the City will attempt to contact the local representative of each facility owner 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 person whose facilities occasioned the emergency.

If the City becomes aware of an emergency regarding City water and sewer or public utility, the City may proceed to take whatever actions are necessary to respond to the emergency. The party doing the work shall be bonded and ensured pursuant to 700.05. Within two business days after the occurrence of the emergency, the City shall apply for the right-of-way permit and fulfill the rest of the requirements necessary to bring itself into compliance with this Section for the actions it took in response to 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 this 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 Section.

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

**700.14 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 permittees control; or
- E. The failure to correct, in a timely manner, work that does not conform to a condition indicated on an order issued pursuant to Section 700.17.

**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 might be cause for revocation of the permit. A substantial breach, as stated above, will allow the City, at its discretion, to place additional or revised conditions on the permit to mitigate and remedy the breach.

**Subd. 3 Response to Notice of Breach.** Within twenty-four (24) hours of receiving notification of the breach, permittee shall provide the City with a plan, acceptable to the City, which will cure the breach.

Permittee's failure to so contact the City, or the permittee's failure to submit an acceptable plan, or permittee's failure to reasonably implement the approved plan, shall be cause for immediate revocation of the permit.

**Subd. 4 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.

#### **700.15 Mapping Data.**

**Subd. 1 Information Required.** Each permittee shall provide mapping information required by the City in accordance with Minnesota Rules 7819.4000 and 7819.4100. Within ninety (90) days following completion of any work pursuant to a permit, the permittee shall provide the Zoning Administrator 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 in a format consistent with the city's electronic mapping system, when practical or as a condition imposed by the Zoning Administrator. Failure to provide maps and drawings pursuant to this subsection shall subject the permittee to the delay penalties established in accordance with Section 700.04 and may affect the grant of any future permits for right-of-way excavation or obstruction.

**Subd. 2 Service Laterals.** All permits issued for the installation or repair of service laterals, other than minor repairs as defined in Minnesota Rules 7560.0150 Subpart 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 City reasonably requires it. Permittees or their subcontractors shall submit to the City evidence 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 December 31, 2005, shall be a condition of any City approval necessary for 1) payments to contractors working on a public improvement project including those under Minnesota Statutes §429, and 2) City approval of performance under development agreements, or other subdivision or site plan approval under Minnesota Statutes §462. The City shall reasonably determine the appropriate method of providing such information. 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 for future permits to the offending permittee or its subcontractors.

#### **700.16 Location of Facilities.**

**Subd. 1 Location.** Placement, location, and relocation of facilities must comply with the act, with other applicable law, and with Minnesota Rules 7819.3100, 7819.5000 and 7819.5100, to the extent the rules do not limit authority otherwise available to cities.

**Subd. 2 Corridors.** The City may assign specific corridors within the right-of-way, or any particular segment thereof as may be necessary, for each type of facilities that is, or, pursuant to current technology, the City expects will someday be located within the right-of-way. All excavation, obstruction, or other permits issued by the City involving the installation or replacement of facilities shall designate the proper corridor for the facilities at issue.

**Subd. 3 Limitation of Space.** To protect health, safety, and welfare, or when necessary to protect the right-of-way and its current use, the Zoning Administrator shall have the power to prohibit, or the Zoning Administrator 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.

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

**700.18 Right-of-Way Vacation. Reservation of right.** If the City vacates a right-of-way that contains facilities, the facility owner's rights in the vacated right-of-way are governed by Minnesota Rules 7819.3200.

**700.19 Indemnification and Liability.** By applying for and accepting a permit under this Section, a permittee agrees to defend and indemnify the City in accordance with the provisions of Minnesota Rule 7819.1250.

**700.20 Abandoned Facilities.** Any person who has abandoned facilities in any right-of-way shall remove them from that right-of-way if required in conjunction with other right-of-way repair, excavation, or construction, unless the City Council waives this requirement. Failure to remove abandoned facilities may affect the grant of any future permits to the person responsible for the abandoned facilities.

**700.21 Appeal.** A right-of-way user that: (1) has been denied registration; (2) has been denied a permit; (3) has had permit revoked; (4) believes that the fees imposed are invalid; or (5) disputes a determination of the City regarding Section 700.14, 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. A decision by the City Council affirming the denial, revocation, or fee imposition will be writing and supported by written findings establishing the reasonableness of the decision.

**700.22 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 necessary to protect the health, safety and welfare of the public.

**700.23 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.

Amended February 25, 2008

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## Section 705 - Parks and Playgrounds

### 705.01 Park Regulations

**Subd. 1 Hours.** The City parks shall be open to the public between 6:00 a.m. and 10:00 p.m. The City parks shall be closed between the hours of 10:00 p.m. and 6:00 a.m. It shall be a misdemeanor for any person to be in the City parks during the hours that they are closed.

**Subd. 2 Picking Plants Prohibited.** No person, other than an employee of the City, may pick or cut any wild or cultivated flower, or cut, break, or in any way injure or deface any tree, shrub or plant within any park, playground or public beach, or carry within or out of any park, playground, or public beach any wild flower, tree, shrub, plant, branch or soil.

**Subd. 3 Fires.** No person may start a fire in any park, playground, or public beach, except for a small fire made in a fireproof container, except for a small fire made in a fireproof container, in accordance with Section 710. Every person who starts a fire or uses a fire must completely extinguish the fire before leaving the park.

**Subd. 4 Charcoal Fires.** No person may deposit ashes from charcoal or any other fire in any park, playground, or public beach, except in containers provided for refuse and then only after ashes or coals are sufficiently cold to prevent damage.

**Subd. 5 Boat Parking/Keeping.** No person shall keep or park a boat in the river adjacent to a City park for more than twenty-four consecutive hours nor more than twenty-four hours in a forty-eight hour time period.

## Section 710 -- Fires and Open Burning

### 710.01 Definitions

**Subd. 1 Person.** As defined in Minnesota Statutes 1967, Section 116.06, Subd. 8.

**Subd. 2 Open Fire.** "Open Fire" or Open Burning means a fire burning in matter, whether concentrated or dispersed, which is not contained within a fully enclosed fire box, structure or vehicle, and from which the products of combustion are emitted directly to the open atmosphere without passing through a stack, duct, or chimney.

**Subd. 3 Camp Fire.** "Camp Fire" means a fire set for cooking, warming, or ceremonial purposes, which is not more than three (3) feet in diameter by three (3) feet high, and has had a ground five (5) feet from the base of the fire cleared of all combustible material.

**Subd. 4 Starter Fuels.** "Starter Fuels" mean dry, untreated, unpainted wood or charcoal fire starter. Paraffin candles and alcohol's are permitted as starter fuels and as aids to ignition only. Propane gas torches or other clean gas burning devices causing minimal pollution may be used to start an open fire.

**Subd. 5 Wood.** “Wood” means dry, clean fuel only such as twigs, branches, limbs, “Presto logs”, charcoal, cordwood or untreated dimensional lumber. “Wood” does not include wood that is green, with leaves or needles, rotten, wet, oil soaked, or treated with paint, glue or preservatives. Clean pallets may be used for recreation fires when cut into three foot lengths.

**Subd. 6 Recreational Fire.** Same definition as a “Camp Fire”.

**Subd. 7 Burning Permit.** A permit issued by the City Fire Warden authorizing fire exempt from the general provisions hereof, and setting conditions therefore.

**710.02 Open Burning Generally Prohibited.** From and after the effective date of this ordinance, except as herein otherwise provided, open burning shall be prohibited within the City of Taylors Falls.

**710.03 Exceptions and Exemptions.** Open burning of the types, subject to the conditions, as hereinafter stated, shall be exempt from the prohibition of Section 710.02 of this Ordinance:

**Subd. 1 Recreational Fires:**

A. Recreational Fire Site - Requirements.

An area of no more than a three (3) foot diameter circle (measured from the inside of the fire ring or border); completely surrounded by non-combustible and non-smoke or odor producing material, either of natural rock, cement, brick, tile or block of ferrous metal only and which area is depressed below ground, on the ground, or on a raised bed. Included are permanent outdoor wood burning fire places. Recreational fire sites shall not be located closer than fifty (50) feet to any structure. Burners are not a recreational fire site as defined herein.

B. Recreational Fire Burn - Requirements.

When a campfire is used for recreation purposed, it must be ignited with an approved starter fluid using dry, clean wood; producing little detectable smoke, odor or soot beyond the property line; conducted with an adult tending the fire at all times; extinguished completely before quitting the occasion; and respecting weather conditions, neighbors, burning bans, and air quality so that nuisance health or safety hazards will not be created. Mobile cooking devices such as manufactured hibachis, charcoal grills, wood smoker, and propane or natural gas devices, are not defined as camp or recreational fires.

**Subd. 2** Fires under managed supervision for which a burning permit has been obtained from the City Fire Warden and, where required by state law; from the Department of Natural Resources, but limited to the following:

1. Fires purposely set for the instruction and training of public and industrial fire fighting personnel.
2. Fires set for the elimination of a fire hazard which cannot be abated by any other practicable means.
3. Fires purposely set for forest and game management purposes.

4. The burning of trees, brush, grass and other vegetable matter in the clearing of land, the maintenance of street, road and highway right-of-way, and in accepted agricultural land management practices.

**Subd. 3** Fires under the managed supervision of a responsible adult when there are at least three inches of snow cover upon the ground.

**Subd. 4.** Exemption to conduct fires under this section does not excuse a person from the consequences, damages or injuries which may result therefrom nor does it exempt any person from regulations promulgated by the Minnesota Pollution Control Agency or any other governmental unit exercising jurisdiction in matters of pollution or fire hazard regulations.

**710.04 Rules Adopted by Reference.** Minnesota Statutes 88.02-88, 88-75, 88.76 and Minnesota Uniform Fire Code are hereby adopted by reference and made a part of this ordinance as if fully set forth at this point.

**710.05 Area of Enforcement.** This ordinance shall affect the area as set forth and on file with the Clerk-Treasurer of the City of Taylors Falls, which is incorporated in and made a part of this ordinance.

**710.06 Severability.** In any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of the ordinance.

**710.07 Penalty.** Any person violating the provisions of Section 710 of this code shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine not to exceed Seven Hundred Dollars (\$700.00) or by imprisonment in the county jail for not more than 90 days, or both.