

CHAPTER III: STREET, PARK, PUBLIC PROPERTY, AND IMPROVEMENTS

PART I. STREET EXCAVATIONS

301.01. PERMIT REQUIRED: No person, except an unauthorized city employee or a contractor performing work under a contract with city, shall make any excavation in a street, alley, sidewalk, or public ground without first having secured a permit therefor from the City Clerk. The fee for such permit shall be determined on a case by case, but no fee shall be required for an excavation made pursuant to a permit for sewer or water construction.

301.02. APPLICATION AND REGULATIONS: The city clerk shall prepare the necessary application forms and permits required under section 301.01. He/she shall also prepare such rules and regulations with respect to excavations found necessary to protect the public from injury, prevent damage to public or private property, and minimize interference with the public use of streets, alleys, sidewalks, and public grounds. Any person making an excavation covered by this section shall comply with such rules and regulations.

301.03. BOND: Any permittee except a public utility corporation or a bonded plumber shall file with the city clerk a performance bond or payment in an amount set by state statute, conditioned that the permittee will, as a minimum:

1. Perform work in connection with the excavation in accordance with applicable ordinances and resolutions;
2. Indemnify the city and hold it harmless from all damage caused in the execution of such work;
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 because of negligence in the execution of the work.

The City Council reserves the right to impose further conditions upon the permittee, said conditions shall be agreed to by permittee before the permit is issued.

The bond shall be approved as to form legality by the city attorney. Any permittee except a public utility corporation shall furnish proof that the permittee has in existence and insurance policy protecting him from liability to the public, including the city, to any amount equal to the maximum claim the city might be required to pay under Minnesota Statutes, Chapter 466.

301.04. GENERAL REGULATIONS FOR EXCAVATIONS: Street openings shall be made in a manner that will cause the least inconvenience to the public. Provisions shall be made for the passage of water along the 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. Pipes or mains exposed to freezing temperatures shall be protected so as to prevent freezing. Open excavations shall be guarded with substantial barriers and marked with appropriate flags and at night with appropriate lights or flashing devices. 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.

301.05. REFILLING EXCAVATIONS: Every street excavation shall be refilled and compacted as soon as possible after the work is completed and paving, sidewalks, and appurtenances shall be replaced in at least

as good condition as before the excavation to the satisfaction of the street superintendent. All dirt and debris shall be removed immediately. Any person who fails to comply with these requirements within 24 hours after notice from the city shall be liable to the city for the full cost incurred by the city in remedying the defect and restoring the street, sidewalk, alley, or public ground to its proper condition.

301.06. MAP OF SUBSURFACE INSTALLATIONS: The city clerk shall maintain a map showing the location of all utility and other installations made beneath the surface of any public street, grounds, or right of way, the information on the map shall be sufficiently complete and accurate to permit any one making an excavation in a public place having an underground installation to avoid damage to any existing underground installation and to locate properly any new underground facilities and shall be recorded on the map as soon as practicable upon the issuance of an excavation permit or the completion of a contract for the installation of city underground installations.

PART II. ASSESSABLE CURRENT SERVICES: OBLIGATION OF PROPERTY OWNERS AND OCCUPANTS.

302.01. DEFINITION: The term "current service" as used in this ordinance means one or more of the following: snow, ice, or rubbish removal from sidewalks; weed elimination from street grass plots adjacent to sidewalks or from private property; removal or elimination of public health or safety hazards from private property, excluding any hazardous building included in Minnesota Statutes, Sections 463.15 to 463.26; installation or repair of water service lines; street sprinkling, street flushing, light street oiling, or other dust treatment of streets; repair of sidewalks, and alleys; trimming and care of trees and removal of unsound and insect-infected trees from the public streets or private property; and the operation of a street lighting system.

302.02. SNOW, DIRT, ICE, AND RUBBISH: Subdivision 1. DUTY OF OWNERS AND OCCUPANTS: The owner and the occupant of any property adjacent to a public sidewalk shall use diligence to keep such walk safe for pedestrians. No such owner or occupant shall allow snow, ice, dirt, or rubbish to remain on the walk longer than 12 hours after its deposit thereon.

Subd. 2. REMOVAL BY CITY: The street commissioner/superintendent shall remove from all public sidewalks all snow, ice, dirt or rubbish as soon as possible beginning 12 hours after any such matter has been deposited thereon or after the snow has ceased to fall. He shall keep a record showing the cost of such removal adjacent to each separate lot and parcel and shall deliver such information to the city clerk.

302.03. WEED ELIMINATION: Subdivision 1. WEEDS AS A NUISANCE: Any weeds, whether noxious as defined by law or not, growing upon any lot or parcel of land outside the traveled portion of any street or alley in the City of Henderson to a greater height than 6 - 8 inches or which have gone or about to go to seed are a nuisance on such property and on land outside the traveled portion of the street abutting on such property.

Subd. 2. NOTICE: On or before June 1 each year and at such other times as ordered by resolution of the council, the city clerk shall publish once in the official newspaper a notice directing owners and occupants of property within the city to destroy all weeds declared by Subdivision 1 to be nuisance and stating that if not so destroyed by the street commissioner at the expense of the owner and that if not paid, the charge for such work will be made a special assessment against the property owner concerned.

Subd. 3. REMOVAL BY CITY: If the owner occupant of any property fails to comply with the notice within ten days after its publication, the street commissioner shall cut and remove such weeds. He

shall keep a record showing the cost of such work attributable to each separate lot and parcel and shall deliver such information to the city clerk.

302.04. PUBLIC HEALTH AND SAFETY HAZARDS: When the city removes or eliminates public health or safety hazards from private property under city ordinance, the administrative office responsible for doing the work shall keep record of the cost of such removal or elimination to the city clerk. This section does not apply to hazardous building law, Minnesota Statutes Sections 463.15 to 463.26

302.05. INSTALLATION AND REPAIR OF WATER SERVICE LINES: Whenever the city installs or repairs water service lines serving private property under Chapter IV of this code, the utility superintendent shall keep a record of the total cost of the installation or repair against the property and deliver such information to the city clerk annually as to each parcel of property on which the cost has not been paid.

302.06. REPAIR OF SIDEWALKS AND ALLEYS: Subdivisions 1. DUTY OF OWNER: The owner of any property within the city abutting a public sidewalk or alley shall keep the sidewalk in repair and safe for pedestrians. Repairs shall be made in accordance with the standard specifications approved by the council.

Subd. 2. INSPECTION: NOTICE: The street commissioner shall make such inspections as are necessary to determine that public sidewalks and alleys within the city are kept in repair and safe for pedestrians or vehicles. If he finds that any sidewalk or alley abutting on private property is unsafe and in need of repairs, he shall cause a notice to be served, by registered or certified mail or by personal service, upon the record owner of the property and the occupant, if the owner does not reside within the city or cannot be found therein, ordering such owner to have the sidewalk or alley repaired and made safe within 10 days and stating that if the owner fails to do so, the street commissioner will do so on behalf of the city, that the expense thereof must be paid by the owner, and that if unpaid it will be made a special assessment against the property concerned.

Subd. 3. REPAIR BY CITY: If the sidewalk or alley is not repaired within 10 days after receipt of the notice, the street commissioner shall report the facts to the council and the council shall by resolution order the street commissioner to repair the sidewalk or alley and make it safe or order the work done by contract in accordance with the law. The street commissioner shall keep a record of the total cost of the repair attributable to each lot or parcel of property and report such information to the city clerk.

302.07. STREET IMPROVEMENTS: Subdivision 1. PROPOSED PROJECTS: The council shall each year determine through its capital improvements plan by resolution, motion, or administrative authorization which streets and alleys shall be oiled, replaced, repaired, etc., during the year including the type of work to be done and the amount of capital to be spent.

Subd. 2. HEARING: ORDER: Hearing requirements as described in this ordinance and as per state statute shall be followed when required or if deemed appropriate by the city council.

PART III. LOCAL IMPROVEMENT POLICY

1. CAPITAL IMPROVEMENTS: Any and all capital improvements to the city shall be in accordance

with the comprehensive city plan, capital improvements plan, and the city budget.

2. PAYMENT OF ASSESSMENTS: Any assessment levied by the City may be paid either in full or

partially at any time before November 15 of each calendar year to the City Clerk/Administer. Such assessment payments may be made in dollar increments of \$50.00, up to the full amount of the outstanding assessment. Payments shall be accepted after November 15 of each year but may only be applied to outstanding assessments not already certified for payment to the County Auditor for payment with the next years' taxes.

PART IV. USE OF THE LEVEE WITHIN THE CITY OF HENDERSON.

304.01. USE OF LEVEE: No person shall be permitted to use any portion of the Levee surrounding and within the City of Henderson, for any purpose, without the prior consent of the City Council, unless said use is a permitted use as designated herein.

304.02. PERMITTED USES: The following uses are permitted to the extent that they are not prohibited by any other ordinance and done in designated are

- A. Walking, hiking, horseback riding, bicycling, and snowmobile riding;
- B. Ingress and egress by adjoining landowners for purposes of hauling and/or transporting farm machinery and other equipment and for other personal use;
- C. Any of the above enumerated uses shall be exercised in a reasonable fashion. Reasonableness to be governed by factors including, but not limited to, weather conditions, time of day or night, visibility, etc.

304.03. VIOLATION: Any violation of this ordinance shall constitute a misdemeanor.

PART V. USE OF RECREATIONAL TRAIL

305.01. USE OF TRAIL: No person shall be permitted to use any portion of the Henderson Trail System within and surrounding the City of Henderson for any purpose, without the prior consent of the city council, unless said use is a permitted use as designated herein.

305.02. PERMITTED USES: The following uses are permitted uses in designated areas:

- A. Walking, hiking, horseback riding, bicycling, and snowmobile riding where authorized.
- B. Ingress and egress by adjoining landowners.
- C. Any of the above enumerated uses shall be exercised in a reasonable fashion. Reasonableness to be governed by factors, including, but not limited to, weather, conditions, time of day or night, visibility, etc.

305.03. VIOLATIONS: Any violations of this ordinance shall constitute a misdemeanor.

PART VI. CITY PARKS.

306.01 HOURS: Subdivision 1. City parks will be open each day of the year from 7 A.M. to 10:00 P.M. except by permit.

Subd. 2. After 10:00 P.M. and until 7:00 A.M. no person shall enter or remain within a city park unless he/she is a member of a registered camping party or has obtained the consent of the city.

306.02. PERSONAL CONDUCT: No person shall use a public address system, amplifier, or power equipment, or otherwise make noise with volume tending reasonable to arouse alarm, anger or resentment in other park users, without prior permission of appropriate city official.

306.03. PUBLIC SAFETY - HUNTING: Subdivision 1. While in a city park, it is unlawful to:

- A. Possess explosives of any kind;
- B. Possess a firearm, including an air gun, unless the firearm is unloaded both in barrel and magazine, and completely contained in a gun case expressly made of that purpose, which is fully enclosed by being zipped, snapped, buckled, tied or otherwise fastened, or unless unloaded and contained in the trunk of a car with the trunk door closed;
- C. Possess a bow and arrows, unless either unstrung or completely contained in a case or contained in the trunk of a car with the trunk door closed.
- D. Use or display any other type of weapon including but not limited to sling shots, switchblade knives, and traps.

Subd. 2. No person shall, either directly or indirectly, hunt, trap, molest, harass, pursue, capture or kill any of the wildlife species with the city parks.

306.04. ENVIRONMENTAL PROTECTION: The environment is for the enjoyment of all. Therefore, no person shall disturb, destroy, injure, damage, molest, or remove any city property, including but not limited to wild flowers or vegetation of any kind, dead or alive, ruins, wildlife, geological formations, signs or facilities. Collections for scientific and educational purposes may be made with the written consent of the city council.

306.05. FIRES AND REFUSE: Subdivision 1. It is unlawful to build a fire that creates a hazard or danger to the area or to others. There shall be no bonfires. Campfires are permitted only in designated areas.

Subd. 2. The Henderson Fire Chief or park superintendent may limit or ban fires when it is determined that a fire emergency exists. Such declaration will be posted conspicuously at the entrance of the affected area.

Subd. 3. Minnesota Statutes forbidding littering are incorporated herein by reference.

Subd. 4. Where refuse receptacles are provided, they shall only be used for refuse generated at the area. Refuse is to be removed from the areas where receptacles are not provided.

306.06. CAMPING: Subdivision 1. There shall be no camping or overnights in any city public area without a permit.

Subd. 2. PERMIT: No person shall camp or remain overnight in any city public area without first registering by obtaining a camping permit. Such camping permits may be obtained upon application to the Henderson Police Department or at the Henderson City Office.

Subd. 3. It shall be unlawful for any person to install or affix in a permanent manner in any camping facility, equipment, or structure.

Subd. 4. The placement of tent stakes or anchors in the ground for the erection of tents is permitted. Digging or excavating is prohibited.

Subd. 5. In camping areas, the hours between 10:00 P.M. and 8:00 A.M. are for outdoor solitude and it shall be unlawful to make noise at a level above that of a quiet conversation.

306.07. MOTOR VEHICLES: Subdivision 1. No vehicle shall be parked in other than the designated parking spaces, or in such a manner as to obstruct the avenue of ingress or egress to the areas, except for the purpose of unloading equipment.

Subd. 2. Motor vehicles may be operated only upon the native roads and parking areas, and may be parked only in such designated areas. They may not be driven on roads that are posted, chained, graded, or where such motor vehicles are prohibited.

Subd. 3. Motor vehicles shall not be operated in excess of ten miles per hour, nor in a negligent, reckless or careless manner.

306.08. PETS; LIVESTOCK: Subdivision 1. Pets are permitted, provided no person shall allow a cat, dog or other pet animal to enter any building; or permit any dog, cat or other pet animal to be unrestrained. Such animal shall be personally attended, and shall not deprive or disrupt the enjoyment or use of any area by other persons.

Subd. 2. No person shall permit livestock in any city park with the express prior written permission of the Henderson Police Department.

306.09. PROTECTION FROM PEDDLING AND SOLICITING: It is unlawful for any person to engage in or solicit business of any nature, whatsoever, from visitors, without the prior written consent of the Henderson Police Department.

306.10. SLIDING HILL: Subdivision 1. In any area designated as a sliding hill by the city, policies as hereby authorized to be adopted by this section shall apply and govern operation.

Subd. 2. Winter weeks the sliding hill is open to the public each year will be determined by the amount of snowfall and weather conditions. Said opening date shall be decided by the appropriate city officials. Public notice will be provided by signs posted at the site, notice in the newspaper, or a combination thereof.

Subd. 3. The sliding hill is not open to the public for any use or at any season or time other than those stated in the above-authorized policy.

Subd. 4. Any person found in violation of this section may be banned from the area as per the policy adopted for operation

306.11. PENALTIES: Subdivision 1. Any person violating all or a part of this ordinance shall be guilty of a misdemeanor.

Subd. 2. Any member of the Henderson Police Department may revoke the privileges allowed under this part of the ordinance if any person or persons is/are found to be in violation of this ordinance.

PART VII. FAIR HOUSING.

307.01. DECLARATIONS OF FAIR HOUSING POLICY - STATUS WITH REGARD TO PUBLIC ASSISTANCE: Discrimination with regard to housing in the basis of race, sex, creed, religion, marital status, and disability adversely affects the health, welfare, peace, and safety of the community. Persons subject to such discrimination suffer depressed living conditions, and create conditions that endanger the public peace and order. The public policy of the City of Henderson is declared to be a foster equal opportunity for all to obtain decent, safe and sanitary housing without regard to their race, creed, color,

notional origin, marital status, sex and strictly in accord with their individual merits as human beings. It is also the policy of the city to protect all persons from all unfounded charges of discrimination.

307.02. DEFINITIONS: For their purpose of this ordinance the following terms, phrases, words and their deviations, shall have the meaning given herein unless the context otherwise indicates:

- A. Discriminate or discrimination includes segregate or separate.
- B. Disability means a mental or physical condition that constitutes a handicap. Nothing in this ordinance shall be constructed to prohibit any program, service, facility or privilege afforded to a person with a disability which is intended to habitat, rehabilitation or accommodate that person.
- C. Marital Status means the standing, state or condition of one as a single or married person

307.03. PROHIBITED ACTS IN REGARDS TO HOUSING: It shall be an unlawful discriminatory practice and a misdemeanor offense:

- A. For any person to discriminate on grounds of race, creed, religion, color, sex, marital status, status with regard to public assistance, national origin, age or disability, in the sale, lease, or rental of any housing unit or units.
- B. For any broker, agent, salesman or other person acting in behalf of another to so discriminate in the sale, lease, or rental of any housing unit or units belonging to such other person.
- C. For any person engaged in the business of financing the purchase, rehabilitation, remodeling or repair of housing units or in the business of selling insurance with respect to housing units to refuse to provide such financing or insurance or to discriminate with regard to the terms or conditions thereof by reason of the race, color, sex, religion, creed, national origin, marital status, status with regard to public location of the unit or units in areas of the City occupied by persons of a particular race, color, sex, religion, creed, national origin, marital status, status with regard to public assistance, age or disability; or to discriminate by treating differently any person, group of persons who desire to purchase, lease, acquire, construct, rehabilitate, repair or maintain real property in a specific urban area because of social, economic, or environmental conditions of the areas in the granting, withholding, extending, modifying or renewing, or in the rates, terms, conditions, or privileges of any such financial assistance or in the extension of services in connection therewith. The bona fide programs of federal, state or local governmental units or agencies, however, instructed or authorized to upgrade or improve in any manner a specific urban area shall not be seemed to be a violation of this section.
- D. For any person, having sold, leased, or rented a housing unit or units to any person, to discriminate with respect to facilities, services, or privileges of occupancy by reason of race, color, sex, creed, religion, national origin, age or disability, marital status, or state with regard to public assistance.
- E. For any person to make or publish any statement evidencing an intent to discriminate, on grounds of race, creed, religion, color, sex, national origin or ancestry, marital status, status with regard to public assistance, age disability, in the sale, lease, or rental of a housing unit or units.
- F. For any person to make any inquiry regarding race, color, sex, creed, religion, national origin, marital status, status with regard to public assistance, age or disability, or to keep any record or use and form of application, designed to elicit such information, in connection with the sale, lease, rental, or financing of a housing unit or units.
- G. For any person, for the purpose of inducing a real estate transaction from which he may benefit financially.

1. To represent that a change has occurred or will or may occur in the composition or the block, neighborhood, area in which the property is located, in respect of the race, color, sex, creed, religion, national origin, marital status, status with regard to public assistance, age, or disability of those living there; or
2. To represent that this change will or may result in the lowering of property values, an increase in crime, or antisocial behavior, or a decline in the quality of schools in the block, neighborhood or area concerned.

H. Nothing in this ordinance shall be constructed to require any person or group of persons selling, renting or leasing property to modify the property in any way, or exercise a higher degree of care for a person having a disability than for a person construed to relieve any person or person of any obligations generally imposed on all persons regardless of any disability in a written lease, rental agreement, or contract or purchase or sale, or to forbid distinctions based on the inability to fulfill the terms and conditions, including financial obligations of such lease, agreement or contract.

I. The provisions of this ordinance shall not apply to the following:

1. The rental of a portion of a dwelling containing accommodations for two (2) families, one of which is occupied by the owner; or
2. The rental by an owner or occupier of a one-family accommodation in which resides of a room or rooms in such accommodations to another person or persons if the discrimination is by sex, marital status, status with regard to public assistance or disability. Nothing in this ordinance shall be construed to require any person or group of persons selling, renting or leasing property in any way, or exercise a higher degree of care for a person having a disability than for a person who does not have a disability; nor shall this ordinance be construed to relieve any person or persons of any obligations generally imposed on all persons regardless of any disability in a written lease, rental agreement, or contract of purchase or sale, or to forbid distinction based on the inability to fulfill the terms and conditions, including financial obligations, or such lease, agreement or contract.

307.04. ENFORCEMENT PROCEDURES: The City Council in and for the City of Henderson, Minnesota is designated as the enforcement agency for this ordinance and shall have the power to receive, hear and determine complaints as provided herein.

The City Council shall promptly investigate, upon complaint or upon their own motion, any violations of this ordinance. If after investigation, they shall have reason to believe a violation has occurred, they may refer the matter to the City Attorney for criminal prosecution, initiate civil enforcement procedures as herein provided, or enter into a settlement agreement which, when approved by the City Council and affected persons shall have the same force as an order.

307.05. STATUTES OF LIMITATIONS: No action may be brought for civil enforcement or criminal prosecution unless the charge of alleged discriminatory practice was filed with the CITY within 180 days from the occurrence of the practice.

307.06. CIVIL ENFORCEMENT PROCEDURE: Civil enforcement procedures shall be prosecuted by the City Attorney before the City Council in the following manner:

- A. The City Attorney shall serve upon the respondent by certified mail a complaint, signed by him, which shall set forth a clear and concise statement of the facts constituting the violation, set a time and place for hearing, and advise the respondent of his right to file an answer to appear in person or by an attorney and to examine and cross-examine witnesses.

- B. The hearing shall not be less than 20 days after service of the complaint. At any time prior to the hearing the respondent may file an answer. Facts not denied by answer shall be deemed admitted. If the answer sets out new matter, it shall be deemed denied by the City Council.
- C. The complaint or answer may be amended at any given item prior to the hearing with the consent of the opposing party.
- D. Hearings shall be before the City Council.
- E. The City Council may obtain subpoenas from the district Court to compel the attendance of witnesses and the production of documents at any hearing.
- F. If, after hearing, the panel shall include that a violation has occurred, it shall prepare an order which may contain any provision deemed desirable to do justice to the complaint or to prevent further violations. It may include provisions that require housing to the complainant or to do any other thing as may be just. The panel's order of fact and order shall be served on the respondent and each member of the complainant by mail shall become the findings and order of the panel unless within ten days after mailing of the findings and order, the panel shall revoke or amend the order, but any order of a panel may be modified by the panel at any.

PART VIII. CABLE TELEVISION

308.01. An Ordinance including addendum with exhibits, granting a franchise to Dow-Sat of Minnesota, incorporated, to operate and maintain a cable communication system in the city; setting forth conditions accompanying the grant of franchise; providing regulation, and use of the system; and prescribing penalties for the violation of its provisions.

308.16. Subdivision 1. The city shall follow rules relating to cable rate regulation promulgated by the Federal Communications Commission in 47 C.F. 12 Part 76.9000, subpart N.