

# **Title 11**

## **Streets, Sidewalks, Park Land\* and Cemetery**

### **Chapters:**

- 11.04 *Street Excavation (Repealed by Ord. 19-05)*
- 11.05 Right of Way Restrictions and Regulations
- 11.06 City Land Excavation
- 11.08 Sidewalks
- 11.10 Permits for Utility Use of Right-of-Way
- 11.11 Firewood Harvest
- 11.12 Park Land
- 11.13 Camping Regulations
- 11.14 Violations and Penalties
- 11.16 Cemetery Advisory Commission

### Chapter 11.04 Street Excavation *(Repealed Ord. 19-05)*

### Chapter 11.05 Right of Way Restrictions and Regulations

### **Sections:**

- 11.05.010 Purpose--Administration.
- 11.05.020 Definitions.
- 11.05.030 Prohibited activities within rights-of-way.
- 11.05.040 Right-of-way use permit.
- 11.05.050 Construction permit required.
- 11.05.060 Construction permit application and conditions.
- 11.05.080 Encroachment permits.
- 11.05.090 Permit applications—Initial review--Decision.
- 11.05.100 Permit appeal—Decision final--Appeal.
- 11.05.110 Permit compliance.
- 11.05.120 Right-of-way use permits—Repair and maintenance of rights-of-way.
- 11.05.130 Road closure.
- 11.05.140 Right-of-way use permits—Traffic routing.
- 11.05.150 Right-of-way use permits—Closing rights-of-way.
- 11.05.160 Damage to right-of-way

- 11.05.170 Investigation—Warning.
- 11.05.180 Remedies for violations.
- 11.05.190 Stipulated agreement.
- 11.05.200 Enforcement hearing—Jurisdiction.
- 11.05.210 Enforcement hearing—Enforcement notice.
- 11.05.220 Enforcement hearing—Appeal.
- 11.05.230 Abatement of violation.

**11.05.010 Purpose—Administration.** A. The purpose of this chapter is to provide for regulation to protect public safety, protect rights-of-way with the City of Seldovia, and to promote responsible use of city rights-of way.

B. This chapter shall be administered by the City Manager.

**11.05.020 Definitions.** The following words, when used in this chapter, shall have the meanings respectively ascribed to them in this section:

A. "Applicant" means the person requesting a right-of-way use permit from the city.

B. "City" means the City of Seldovia.

C. "Construction," "right-of-way construction," or "construction of right-of-way" means the improving, building, erection, assembly, alteration, demolition, or repair (including, but not limited to, dredging, culvert placement or replacement) of roads, streets, trails, paths, and other improvements in rights-of-way, or near rights-of-way which physically impact the rights-of-way.

D. "Contractor" is defined as set forth in AS 08.18.171(4).

E. "Dedicated road right-of-way" or "right-of-way" means a right-of-way dedicated on a plat for road, street, or utility purposes in accordance with the platting requirements of the City of Seldovia, or such rights-of-way as have been specifically granted by easement or dedicated by statute, within the boundaries of the City of Seldovia.

F. "Development" means any human-caused change to improved or unimproved right-of-way, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, storage of materials or use of the right-of-way.

G. "Encroachments" means a structure, object, operation or material placed in, on, under or over a right-of-way.

H. "Maintenance" is defined as work performed on a routine basis to maintain a road in its originally constructed condition (or subsequently improved condition), or to prevent deterioration of the road. Maintenance does not include road construction or improvement.

I. "Operator" means the person operating or driving vehicles or equipment, who may or may not be the owner of the vehicle or equipment.

J. "Permittee" means the person granted a right-of-way use permit by the City.

K. "Respondent" means a person issued an enforcement notice from the City of Seldovia.

L. "Road" means a right-of-way that is used for travel by motor vehicles which may lawfully travel on state highways.

M. "Trail" means clearing or construction of a right-of-way for access by pedestrians, bikes, horses, all-terrain vehicles, snow machines, or other motorized vehicles which are designed primarily for off-road use.

**11.05.030 Prohibited activities with rights-of-way.** Except as provided in this chapter, the following activities are prohibited within dedicated rights-of-way in the road service area:

A. No person may extract, excavate, or remove sand, gravel, soil or trees from a dedicated right-of-way except as necessary for the construction, improvement, or maintenance of a road or driveway within the right-of-way and then only to the extent necessary for the construction, improvement, or maintenance.

B. No person shall construct a road or driveway within a dedicated right-of-way unless a permit has been obtained from the City prior to construction. The construction activity shall be conducted only in accordance with the issued permit conditions. Permits shall be issued subject to the conditions set forth in this chapter and any road service area resolutions adopted consistent with this chapter.

C. No private person, individual, or entity may, by any manner, regulate or purport to regulate the flow of traffic, or place any traffic regulatory device or sign within a right-of-way without the express permission of the City of Seldovia. Nor may any private person, individual, or entity prevent others' lawful use of the right-of-way by constructing or erecting any barricade or other blockage.

D. No person shall construct, install or place objects in a right-of-way without an encroachment permit. Permits shall only be issued subject to the conditions set forth in this chapter and any road service area resolutions adopted consistent with this chapter.

**11.05.040 Right-of-way use permits.** The City shall issue the following types of right-of-way use permits for City rights-of-way:

A. Right-of-way construction permits. Right-of-way construction permits are issued for construction of roads, driveways, trails and any related blockages

which impede traffic flow or lawful use of rights-of-way related to construction, which include the following types of permits:

1. Driveway permits for intersections within City rights-of-way between private drives and City rights-of-way.
2. Project-specific construction permits for all construction within a City right-of-way that is not covered by a driveway permit.

B. Encroachment permits. Encroachment permits are issued by the City Manager for objects existing or to be constructed, installed or placed within a City right-of-way by a private party or other non-city entity.

C. Prior permits; expiration. Permits issued prior to the adoption of these regulations shall be valid for three months after the effective date of these regulations. Permits which are not fulfilled within this time frame shall expire, however, permittee may request a new permit under current regulations.

D. Permits; priority. Multiple permits may be issued for a right-of-way where the applications do not present a conflict. Permits may be issued for an upgraded or different use of a right-of-way, or section of right-of-way, which is already subject to a permit. The City Manager has discretion to determine how to resolve conflicts over right-of-way permits in the City's best interest.

**11.05.050 Construction permit required.** A right-of-way construction permit is required under the circumstances set forth in this section.

A. Construction. Construction permits are required for construction of a road or driveway within a dedicated right-of-way.

B. Traffic flow; barricades. Construction permits are required to regulate the flow of traffic, to place any traffic regulatory device or sign within a dedicated right-of-way, or for placement of any barricade or blockage which impedes lawful use of a constructed right-of-way, or right-of-way under construction. Where the regulation of the flow of traffic, barricade, or blockage is not related to a planned or ongoing construction project, an encroachment permit is required.

C. Information required. The following information shall be required for all applications to construct, improve, or alter a City right-of-way:

1. A statement of the length and width of right-of-way to be constructed, the proposed uses after construction, and a drawing on the plat of the location and proposed design and method of the construction;
2. Approximate locations of flood plain, floodways, wetlands, streams, lakes, or other water bodies adjacent to or within 50 feet of the outer boundaries of the right-of-way;

3. Approximate grades of the natural terrain and final grade of the proposed road;
4. Soil conditions of the area subject to construction;
5. Identification of all properties to be served or accessed by the proposed construction;
6. Amount, type and placement of materials used in construction; and
7. Where information provided by existing topographic maps, aerial photography, and photographs is inadequate to accurately reflect conditions of the right-of-way or potential problems created or exacerbated by construction, additional information, surveys, or engineering analysis may be required prior to issuance of a permit.

**11.05.060 Construction permit application and conditions.** The following application procedures and conditions must be met for the right-of-way construction permits:

A. Application form. A right-of-way construction permit may be obtained by filing a complete application on a form provided by the City, which contains the information required by SMC 11.05.050(C). The construction activity shall be conducted only in accordance with the issued permit conditions.

B. Mandatory conditions. All construction permits shall be subject to the following conditions:

1. The permittee has responsibility to properly locate the proposed facility within the named right-of-way and to coordinate its construction activity with utilities in the same right-of-way.
2. Driveways or roads crossing utility installations shall cross as nearly perpendicular as possible to the utility line. The line locator phone number shall be included on the permit form by the City.
3. The City of Seldovia disclaims any warranty or liability regarding location or coordination with utility companies.
4. Materials or trees shall not be used or removed except to the extent necessary to construct the road or driveway and provide adequate snow storage areas. Gravel may not be mined from any City right-of-way unless the permittee has specific prior written approval by the City Manager.
5. The permittee must agree to comply with the terms, conditions and requirements of SMC Chapter 11.05, and any regulations adopted pursuant to this chapter.

6. All permits shall contain an expiration date determined by the City Manager.

7. Upon completion, permittee shall agree not to restrict the flow of traffic, place traffic signs, or prevent use by the public unless prior approval has been received from the City.

8. The permittee shall indemnify, defend, and hold and save the City, its elected and appointed officers, agents and employees harmless from any and all claims, demands, suits, or liability of any nature, kind or character including costs, expenses, and attorney's fees. The permittee shall be responsible under this clause for any and all legal actions or claims of any character arising from applicant or applicant's agents' performance or failure to perform this permit in any way whatsoever. This defense and indemnification responsibility includes claims alleging acts or omissions of the City or its agents, which are said to have contributed to the losses, failure, violations, or damages, except for acts or omissions solely attributable to the City.

9. Permittee is responsible for determining the need for any other local, state, or federal permits and acquiring the same. Permittee must abide by all applicable local, state, and federal laws.

10. Per SMC 11.05.180, violation of the permit's terms may result in its revocation or other administrative or court action against the permittee. The City reserves the right to revoke the permit at any time for its convenience.

11. Construction shall not damage the right-of-way, adjacent properties, or adjacent water bodies.

C. Discretionary conditions. The City Manager may impose the following discretionary conditions:

1. The permit may be subject to additional conditions to protect and manage City rights-of-way by preventing damage to the rights-of-way and adjacent public and private property or water bodies.

2. The posting of a security in favor of the City may be required for permits involving right-of-way construction, except driveway construction permits. The amount of the security shall be based on the length of right-of-way subject to construction. The security warrants the permittee will faithfully observe the terms and conditions of the permit and may be used to defray any costs for restoration and rehabilitation of the property, including without limitation environmental damage and cleanup. The security may be in the form of a certificate of deposit ("CD"), bond or certified check.

a. After a period of one year from the date of termination of the permit, the security shall be released and any balance remaining, including any remaining accrued interest, will be returned to the permittee, as long as the City determines the construction was performed in compliance with the permit conditions, within the boundaries of the right-of-way, does not pose a threat to the right-of-way or adjacent land and water bodies, remains in reasonably good condition, and continues to meet all applicable road standards and/or approved plans or agreements.

b. The security shall not be the City's exclusive monetary remedy if the costs of restoration and cleanup exceed the amount of the security.

3. A right-of-way construction permit may be denied if conditions cannot be placed on it to prevent damage to the rights-of-way, adjacent public or private property, or water bodies. Dedication of right-of-way alone does not mean a construction permit will be issued if issuance may damage the right-of-way, adjacent private or public property, or watercourses and water bodies.

4. Upon completion of construction, the permittee shall provide an as-built drawing prepared by a professional land surveyor registered to practice in Alaska under AS 8.48, if deemed necessary by the City Manager.

#### **11.05.080 Encroachment permits.**

A. Any person desiring to construct or cause an encroachment on a City right-of-way shall apply for an encroachment permit to the City Manager. Failure to obtain an encroachment permit is subject to the remedies set forth in SMC 11.05.080(E) and SMC 11.05.180.

B. A public utility or person who is issued a permit for utility facilities under SMC chapter 11.10 is not required to apply for an encroachment permit.

C. No encroachment permit is required for construction in accordance with an approved right-of-way construction permit issued pursuant to SMC 11.05.050 as long as the work is consistent with the terms of the construction permit.

D. A permit fee shall be charged for encroachment permits as provided in the current approved City of Seldovia Fee Schedule. A person who fails to apply for and obtain an encroachment permit prior to an enforcement notice being issued pursuant to SMC 11.05.200(A) shall pay a double permit fee.

E. Unauthorized encroachments shall be subject to removal by the owner upon being given notice by the City. Notice shall consist of a tag placed on the property allowing 48 hours to remove the encroachment. If the owner does not remove the encroachment after being given such notice, the City shall remove the encroachment and the person encroaching shall be fined pursuant to SMC 01.08.040 and pay all costs incurred by the City related to removal of the encroachment. However, the City may immediately remove any unauthorized encroachment that impedes traffic or maintenance, or which causes a public safety hazard, with no notice to the owner at the discretion of the City Manager.

F. All encroachments, including those that pre-date the effective date of this ordinance, must apply for an encroachment permit. Permits for encroachments that existed prior to the effective date of this ordinance shall pay the same permit fee as applies to permits received prior to placement or construction of the encroachment.

G. Any encroachment without a permit may be removed in accordance with SMC 11.05.080(E) or may be granted a permit allowing such encroachment to remain if such encroachment meets the approval of the City Manager or designee.

H. The City Manager has discretion to grant or deny any encroachment permit. The following standards shall be considered for all encroachment permit applications:

1. The encroachment may not interfere with road maintenance.
2. The encroachment may not block access to normal travel along the right-of-way.
3. The encroachment may not interfere with sight lines or distance.
4. The encroachment may not create a safety hazard.
5. The encroachment may not be a permanent structure, meaning any structure of a permanent nature that requires footings, foundations or pilings.

I. A person may not be denied a reasonable means of access to their property solely by the requirements of this chapter. An encroachment permit shall not grant the permittee exclusive right to use the area encroached upon.

J. A permit for construction of an encroachment (not covered by SMC 11.05.060) shall have an expiration date at which time the installation or construction of the encroachment must be complete. The permittee shall file a written notice of completion with the City Manager within ten days after completion of construction. No work shall be performed after the expiration date



unless an extension is approved. If an extension is not approved, the city may require the removal of the encroachment in accordance with SMC 11.05.080(E).

K. Hold harmless. The permittee shall indemnify, defend, and hold and save the City, its elected and appointed officers, agents and employees harmless from any and all claims, demands, suits, or liability of any nature, kind or character including costs, expenses, and attorney's fees. The permittee shall be responsible under this clause for any and all legal actions or claims of any character, sustained by any person, or property arising from permittee or permittee's agents' performance or failure to perform this permit in any way whatsoever. This defense and indemnification responsibility includes claims alleging acts or omissions of the City or its agents, which are said to have contributed to the losses, failure, violations, or damages, except for acts or omissions solely attributable to the City.

L. Any damages to a public right-of-way, dedication, easement or City land which is caused by an encroachment, authorized or unauthorized, are subject to immediate repair by the City, at the owner's expense. The City may require the owner to repair the damage within a timeframe specified by the City Manager if notice is given to the owner. The owner shall be subject to a fine as set forth in SMC 01.08.040 and liable for all costs incurred by the City from the repair, including overhead costs.

M. The City Manager may revoke an encroachment permit or require removal of a permitted encroachment if at any time the encroachment impacts City duties such as road construction, improvements or maintenance, or otherwise impairs or impedes public safety or access to the right-of-way. Removal of an encroachment due to revocation of an encroachment permit shall comply with the requirements of SMC 11.05.080(E). Issuance of an encroachment permit does not create a property right in the continuing encroachment.

**11.05.090 Permit applications—Initial review--Decision.** The City Manager shall have seven days from the date a complete right-of-way use permit application is received to issue a written denial or approval of the permit requested, unless for good cause stated, the City Manager extends the time frame for permit determinations or refers the permit to the City Council for initial review. The City Manager shall, by first-class mail, facsimile, electronic mail ("email"), or hand-delivery transmit written notice of approval or denial to the applicant at the most recent address provided to the City in writing by the applicant.

**11.05.100 Permit appeal—Decision final--Appeal.** The City Manager's initial permit review under SMC 11.05.090 is appealable to the City Council. An appeal to the City Council must be filed within 10 days of the distribution date of the City Manager's written decision. The appeal shall be in writing and shall state the reasons the appellant believes the City Manager's decision to be in error, including references to code sections violated by the City Manager's decision. The permittee may request review by the City Council following the procedures and

deadlines under this provision when the City Manager issues a cease and desist order SMC 11.05.180(C) or revokes a permit under SMC 11.05.180(D). Whether the City Council reviews a permit on appeal or provides the initial permit review, the applicant for a permit may appeal the City Council's determination to the superior court. Nothing in this regulation shall prohibit utilization of a mutually-acceptable alternative dispute resolution procedure.

**11.05.110 Permit compliance.** A permit may not be issued under this title if the permit applicant is subject to any enforcement orders regarding outstanding violations under chapter SMC 11.05.

**11.05.120 Right-of-way use permits—Repair and maintenance of rights-of-way.** For any permit issued under SMC 11.05.060, 11.05.065, or 11.05.080, the permittee has an ongoing responsibility to maintain the right-of-way in a condition equal to that which existed before the permittee's operation began as long as the maintenance required can be attributed to the permittee. The permittee shall repair the right-of-way immediately after discovery of any damage or deterioration caused by the permittee's use of the right-of-way. Such repair must return the right-of-way to at least the same condition as existed before the permittee damaged the right-of-way. In the event the permittee fails to comply with this section, the City may repair the right-of-way at the permittee's expense 24 hours after giving the permittee telephonic, electronic, hand-delivered or facsimile notice of the need for repair or maintenance. Repair costs may be deducted from the security posted, and permittee may be subject to any other remedies available under this chapter or at law or in equity. This section does not require a construction permittee to perform right-of-way maintenance after construction is completed.

**11.05.130 Road closure.** The City Manager may close a road with a physical barricade and signage where damage to the right-of-way or a threat to public safety is presented by continued use of the road. The road may be reopened when the City Manager determines that the condition causing the threat to public safety or damage to the right-of-way has been repaired or alleviated.

**11.05.140 Right-of-way use permits—Traffic routing.** When traffic or lawful use of the right-of-way by others will be affected by the permittee's use of the right-of-way, the permittee shall so state on the permit application and shall provide signage and safeguards in accordance with the most current edition of the Alaska Traffic Manual. The permittee shall be responsible for obtaining any further permission for such routing from the appropriate entities including but not limited to the applicable fire, emergency medical, police, and school bus transportation agencies.

**11.05.150 Right-of-way use permits—Closing rights-of-way.** In the event the permittee may need to temporarily close a right-of-way, the permittee shall indicate on the permit application the proposed date, time and duration of the proposed closure. The City Manager shall indicate on the permit whether the

proposed closure is authorized. The City Manager may require a date, time, or duration for right-of-way closure different from that proposed by the permittee if it is in the best interests of the City. The permittee shall be responsible for obtaining any further permission needed for an approved closure from the appropriate entities including but not limited to applicable fire, emergency medical, police, and school bus transportation agencies.

**11.05.160 Damage to right-of-way.** Persons or entities causing damage to a right-of-way are liable to the borough for the cost of repair, and may be subject to any other remedy available under this chapter or at law or in equity.

**11.05.170 Investigation—Warning.**

A. Upon receiving information indicating the occurrence of a violation of SMC Chapter 11.05, the City Manager or designee may investigate the violation to the extent, and within the timeframe, that the City Manager or designee finds to be appropriate to the circumstances.

B. The City may issue a written warning notice to an alleged violator. The warning notice shall describe the violation, the provisions of this title that have been violated, and the remedies that the City may seek if the violation is not corrected voluntarily. If the City Manager or designee issues a warning notice the notice shall state clearly that it does not initiate an enforcement proceeding, but that the City may initiate an enforcement proceeding if the violation is not corrected or abated within a specified time.

**11.05.180 Remedies for violations.**

A. Court Action. For any violation of this chapter the City may bring a civil action in superior court against the violator for any one or more of the following:

1. To enjoin or abate the violation. Upon application for injunctive relief and a finding that a person is in violation or threatening a violation, the superior court shall enjoin the violation.
2. To require the restoration of any structure, vegetation, land, water body or other thing upon the land that is destroyed, damaged, altered or removed in such violation.
3. To recover damages to the City caused by the violation.
4. To recover a civil penalty not exceeding \$1,000.00 for each violation, pursuant to AS 29.25.070(b) as now enacted or hereinafter amended.

B. City Enforcement Proceeding. For any violation of this chapter, the City may bring an administrative enforcement proceeding against the violator for any one or more of the following:

1. To correct or abate the violation.
2. To recover a civil fine not exceeding \$500.00 per day for each violation in accord with the fine schedule set forth at SMC 01.08.040.

C. Cease and desist order.

1. The City Manager may issue a cease and desist order if they determine that any person or entity is violating the terms of the permit or SMC Chapter 11.05. The order may require that the person or entity immediately cease all activity within the right-of-way, even if previously permitted to conduct work, upon receiving notice of the order. Notice may be given in person, or via telephone, e-mail, or facsimile.
2. The person or entity may request an informal meeting with the City Manager to attempt to resolve the violation. The City Manager has discretion to engage in an informal review and may require remedial action, modify the terms of a permit, or establish new permit conditions at the informal meeting. Any such changes must be consistent with mandatory conditions pursuant to SMC 11.05 and the original terms and intent of the permit. The cease and desist order will remain in effect until such time as the City Manager withdraws the order.
3. The City Manager may post a cease and desist order within the affected right-of-way if the person violating SMC Chapter 11.05 cannot be ascertained. Removal of a posted notice is subject to the fines set forth in SMC 01.08.040.
4. The person or entity subject to a cease and desist order is entitled to review of the City Manager's decision before the City Council under SMC 11.05.100.

D. Permit revocation.

1. If the City Manager and permittee do not resolve permit violation(s) informally under SMC 11.05.180(C)(2), or if the violations cannot be resolved informally, the City Manager may revoke any permit issued under SMC Chapter 11.05. The City Manager is not required to engage in an informal resolution process before revoking a permit.
2. A permit may be revoked at the discretion of the City Manager for failure to comply with the terms of the permit or City code, or for impacts to the exercise of City duties, access, or public safety. The permittee is entitled to review before the City Council regarding the revocation subject to SMC 11.05.100.
3. A permittee who continues with work under a revoked permit is subject to fines as set forth in SMC 01.08.040.

E. No remedy provided in this section is exclusive, but is cumulative of all other remedies available under this chapter or at law or in equity.

**11.05.190 Stipulated agreement.**

A. In lieu of, or in addition to a written warning notice as described in SMC 11.05.170, the City may enter into a stipulated agreement with a person for violations of SMC Chapter 11.05.

B. A stipulated agreement between the City and a person committing violations shall constitute an admission and acknowledgement by the person of the alleged code violation and an agreement to remedy the violation and pay civil fines as described within the stipulation and within the timeframe agreed upon. The stipulated fine shall be one-half the fine for a one-day violation. Where there is more than one violation associated with the stipulation the stipulated fine shall be one-half of the highest one day fine.

C. If a person does not fully comply with a stipulated agreement, an enforcement notice may be issued as provided in SMC 11.05.200(A). Failure to comply with the stipulated agreement may subject violator to additional fines under SMC 01.08.040.

D. Nothing in this section prevents the City and the violator from entering into a stipulation after an enforcement notice has been issued. The limitation of fines set forth in SMC 11.05.210(G)(2) shall not apply to such a stipulated agreement. The fine may be negotiated subject to the City Council's approval.

#### **11.05.200 Enforcement hearing—Notice.**

A. The City Manager commences an administrative enforcement hearing under this chapter by serving an enforcement notice on each alleged violator, copied to the City Council, that contains the following:

1. The names and last known addresses of all alleged violators;
2. The name of the right-of-way, or description by location if the right-of-way is unnamed, on which the alleged violations are located;
3. A citation to each provision of this title that is alleged to have been violated, and a statement of the facts that constitute each alleged violation in sufficient detail to provide the recipient with a reasonable opportunity to respond to the allegations;
4. A description of the action, if any, that is required to correct or abate the alleged violation, and the time within which the correction or abatement must occur;
5. The remedies that City will seek for the alleged violation; and
6. The address, telephone, facsimile number and email address for contacting the City regarding the violation.
7. Notice of the date of the hearing.

B. An enforcement notice may be served upon a person by:

1. Delivery to the person or the person's authorized agent;
2. Certified mail, return receipt requested, restricted delivery, to the person or the person's authorized agent;
3. Any other method of delivery where the person acknowledges receipt of the enforcement notice in writing;
4. Posting at the site of the violation if the City Manager cannot ascertain a good mailing address or achieve personal service; or

5. Publication notice as provided in Rule 4(e)(2) of the Alaska Rules of Civil Procedure, but only if reasonable attempts to utilize the methods prescribed by subparagraphs (1) through (4) above are not successful.

**11.05.210 Enforcement hearing—Jurisdiction.** The City Council while conduct adjudicative proceedings under this chapter.

**11.05.220 Enforcement hearing—Appeal.** An appeal from a City Council decision may be filed in the superior court within 30 days after the date of distribution of the City Council's decision to the parties, and is governed by Part 6 of the Alaska Rules of Appellate Procedure. The City Council's decision remains in effect while an appeal is pending unless stayed by the superior court.

**11.05.230 Abatement of violation.**

A. Any use, activity, condition, property, or structure identified as a violation in an enforcement notice that continues after the City Council has issued an order finding the use, activity, condition, property, or structure to be in violation may be abated as provided in this section.

B. Before a civil action is filed to abate a violation, a final warning notice shall be served personally or by certified mail with return receipt requested to the violator. The City may request the court to order the violator(s) to abate the violation. If the violator has failed or is unwilling or unable to abate the violation, the court may order the violator(s) to pay the costs of the City's abatement of the violation.

C. The persons found in violation of an enforcement order by the City Council are liable to the City for the entire cost of the abatement, including incidental expenses. "Costs of abatement" include removal, repair, relocation, and any other costs, including incidental costs, which are or would reasonably and necessarily be incurred to remedy or remove the violation or comply with the order of the City Council. For purposes of this section, the term "incidental expenses" shall include but not be limited to the actual expenses and costs to the City in the preparation of the notices, specifications and contracts, work inspection, attorney's fees, consultant fees and interest from the date of completion at the rate of ten percent per annum. The City will cause an invoice for collection to be sent to the violator specifying the nature and costs of the work performed. (Ord. 19-05)

## Chapter 11.06 City Land Excavation

**Sections:**

11.06.010 Intent.  
11.06.020 Definitions.

- 11.06.030 Removal—Prohibited.
- 11.06.040 Permitted.
- 11.06.050 Violation—Penalties.

**11.06.010 Intent.** It is the intent of this chapter to protect and preserve the stability of all the City- Owned land areas and beach areas which may require like protection.

**11.06.020 Definitions.** The following words, when used in this chapter, shall have the meanings respectively ascribed to them in this section:

“Beach area” means the zone of sand, gravel and other unconsolidated materials that extends upward from the 17.2 foot mean high tide line to the place where there is a marked change in material or physiographic form.

“Dredge material” means earth, sand or gravel that is removed from below the low water line in City harbor.

“Excavation” means the digging out and removal of gravel or other fill materials whereby any existing surface grade is altered or disturbed.

“Removal” means the movement by lifting, pushing aside or taking away or off of any gravel or other fill materials from any area subject to the provisions of this chapter.

**11.06.030 Removal-- Prohibited.** A. The removal or excavation of gravel, gravel fill or other fill material from any beach area or from any portion of City-owned land shall be regulated by the City.

B. The removal or excavation of gravel, gravel fill or other fill material by machinery from any beach area city-owned shall be prohibited except as provided in SMC 11.06.040.

**11.06.040 Permitted.** A. This chapter shall not apply to the removal or excavation of gravel, gravel fill or other fill material from any beach or from any portion of the City-owned land by the City of Seldovia.

B. This chapter shall not apply to dredge material placed or stored on City-Owned Land by the City of Seldovia. The City may provide for the use and disposal of such dredge material in the following order of priority, with all proceeds from sales of dredge material being deposited in the port/harbor enterprise fund:

1. Replacement of material removed from City beaches by storms or erosion.
2. Fill to improve City-owned land and beaches.

3. Sale for use as fill on privately owned or leased property.
4. Emergency repairs of erosion.

C. Gravel, gravel fill or other fill material may be removed for personal use, in increments smaller than ten gallons a removal, not to exceed fifty gallons a week.

**11.06.050 Violation—Penalties.** Any excavation or removal of gravel, gravel fill or fill material not permitted shall be considered a violation of this chapter. The penalty for an offense in this chapter is the fine listed in the fine schedule in SMC 1.08.040. (Ord. 19-02)

## Chapter 11.08 Sidewalks

### Sections:

- 11.08.010 Obstructing unlawful.
- 11.08.020 Penalty.

**11.08.010 Obstructing unlawful.** It is unlawful for anyone to build, construct, erect, keep or maintain on, upon, over, across, adjacent to, attached to or along any part or parts of any gutter, sidewalk or sidewalks in the City, any post, bicycle rack, hitching post, hitching racks, sign, sign work, lamp, obstruction or structure of any kind or nature whatsoever. Any and all such obstructions are declared to be unlawful, unless a permit is secured in the same manner as those permits provided in Section 11.04.030 are secured. (Prior code Sec. 5.015)

**11.08.020 Penalty.** Violation of any provision of this chapter is an infraction subject to the fine established in section 1.08.040 of this code. (Ord. 16-06)

## Chapter 11.10 Permits for Utility Use of Right-of-Way

### Sections:

- 11.10.010 Purpose--Administration.
- 11.10.020 Definitions.
- 11.10.030 Utility use of right-of-way—Permits required.
- 11.10.040 General utility right-of-way use permit.



- 11.10.050 Utility construction project permits.
- 11.10.060 Construction permit requirements.
- 11.10.070 Standards concerning excavation activity.
- 11.10.080 Utility locations within the right-of-way.
- 11.10.090 Prior existing installations—Maintenance—Relocation-- Costs.
- 11.10.100 Appeals/Enforcement

**11.10.010 Purpose—Administration.** A. The purpose of this chapter is to provide for regulation of construction activities by public utilities within City of Seldovia rights-of-way.

B. This chapter shall be administered by the City Manager.

**11.10.020 Definitions.** The following words, when used in this chapter, shall have the meanings respectively ascribed to them in this section:

A. “City Right-of-way” all dedicated rights-of-way, public easements and section line easements within the City of Seldovia.

B. “Maintenance” upkeep, repair, or improvement work on an existing utility facility which does not expand the area occupied by, or change the location of the facility.

C. “Excavation” the removal, carrying away, backfilling, tunneling, boring, bulldozing, digging out, leveling, clearing, or moving of earth or soil by manual or mechanical means.

D. “Public utility” every corporation, company, individual or association of individuals as defined by AS 42.05.720 that owns, operates, manages or controls any plant, pipeline or system for furnishing electrical service, telephone service, cable television service, natural or manufactured gas service, water service or sewer service to the public for compensation.

E. “Road opening” excavation within a road accepted for maintenance by the City of Seldovia.

**11.10.030 Utility use of right-of-way—Permits required.**

A. After January 1, 2019, a public utility shall not construct any facility in, under or over city right-of-way without first having been granted:

1. A general utility right-of-way use permit as set forth in section 11.10.040 of this chapter; and,

2. A utility construction project permit for each individual road opening project, excavation or overhead pole line project as set forth in section 11.10.050 of this chapter.

B. Utility right-of-way use permits may include reasonable conditions deemed necessary to protect the public health, safety and welfare and the interests of the city.

**11.10.040 General utility right-of-way use permit.** A. A general utility right-of-way use permit shall give written evidence of a utility's written agreement to comply with terms, conditions and requirements of this chapter, including, but not limited to:

1. A provision for indemnification by the utility saving the city harmless against any loss or damages due to the negligence of the utility or its agents and employees while constructing, operating and maintaining its plant and equipment in, under or over city right-of-way.

B. There is established an annual base fee for a general utility right-of-way permit in the amount listed in the most current City of Seldovia Fee Schedule.

C. A general utility right-of-way permit issued to a utility authorizes the utility to:

1. Conduct normal maintenance and/or repairs of existing utility facilities within a right-of-way.

2. Provide service connections from existing utility facilities within a right-of-way to individual customer facilities outside of the right-of-way. (Ord. 19-06)

**11.10.050 Utility construction project permits.** A. After securing a general right-of-way use permit as provided in section 11.10.040 of this chapter, a utility shall obtain a permit from the city for each individual road opening project, excavation or overhead pole line project sought to be performed by a utility for the purpose of installing new primary or secondary distribution lines, trunks or mains; including extensions of existing facilities.

B. Application shall be made upon forms provided by the city and shall include, at a minimum, the following information:

1. The name and location of the right-of-way for which the permit is sought;

2. The type of improvement or facility planned;

3. Plans, drawings, or sketches showing the length, horizontal width, vertical depth and configuration of the improvement, its specific location within the right-of-way and its relationship to the existing roadway;

4. The proposed method of location and marking of the boundaries of the right-of-way for construction purposes;

5. The name of the utility, its address, phone number and contact person;

6. Whether any subcontractor may be working for the utility on this project and, if so, the subcontractor's name, address, phone number and contact person;

7. Whether a detour of traffic will be necessary and, if so, a traffic routing narrative statement and plan as required by Section 11.10.050 of this chapter;

8. Exceptions to assigned utility locations as prescribed by section 11.10.060 of this chapter; and

9. Any additional information and assurances as the City Manager shall find reasonably necessary for the issuance of a construction project permit.

C. Each application for a utility construction permit shall include a fee in the amount listed in the most current City of Seldovia Fee Schedule.

D. The City shall review and grant or deny construction project permits within 10 working days, where the standards, terms and conditions of the chapter are met.

**11.10.060 Construction permit requirements.** A. Each permit shall set out a window for construction dates including projected start and completion dates, and the procedure to be followed for any required road closures during the course of construction.

B. Utility lines or facilities shall be located to assure compatibility with all present and anticipated future uses of the right-of-way in which the utility is located. The following general standards shall apply:

1. Utilities shall be located outside of the existing or anticipated travel surface and avoid impacting the drainage of the roadway whenever possible.

2. The location of the utility shall allow for the safe and practical maintenance and improvement of both the utility and the roadway.

3. Surface utility fixtures shall be set back from the existing or planned roadway surface and shall not be located so to create a visual or physical obstacle or hazard.

4. Excavation, backfill, or other disturbance by utility construction or maintenance activities shall be finished in a manner which restores the ground surface and landscape to the original or better condition. Clearing of vegetation shall be held to the minimum necessary for safe construction and maintenance of the utility. Slash and debris shall be disposed of in a

neat and orderly manner. Felled timber shall be removed in a manner approved by the City Manager prior to the next construction season.

C. Each permit shall require that prior to beginning the next construction season the permittee shall provide proof of compliance with the application and permit requirements by filing with the City Manager as-built survey or other similar documentation as approved by the City Manager showing the actual location and configuration of the facility within the right-of-way.

D. Coordination between utilities for their construction activities within city rights-of-way shall be solely the responsibility of the utilities and each permit shall expressly state the City's disclaimer of any warranty or liability regarding coordination of utility facilities.

**11.10.070 Standards concerning excavation activity.** Upon securing a permit, all utilities shall abide by the following excavation standards:

A. Repair broken lines. The utility shall immediately notify an affected utility of any damage to their plant or equipment.

B. Project coordination. The utility shall insure adequate and timely notice to fire, emergency medical and police agencies and attempt to coordinate its work with the schedule for other construction work. It is the responsibility of the utility to see that proper traffic signs, detours and safeguards are provided, and that property owners affected are notified.

C. Traffic routing. Where traffic is affected, the utility shall provide that proper signing and safeguards be in accordance with the Alaska Traffic Manual and shall notify the Seldovia City Office to obtain clearance for the type of detour, time and other limitations imposed.

D. Closing roads. When traffic conditions permit, the City may, by written approval, permit the closing of roads to all traffic for a necessary period of time. Such approval may require the utility to give notification to various public agencies and to the general public.

E. Clearance for vital structures. The excavation work shall be performed and conducted so as not to interfere with access to fire hydrants, fire stations, fire escapes, water gates, underground vaults, valve housing structures and all other vital equipment unless approved on the permit.

F. Restoration of right-of-way. The right-of-way shall be restored to the grade and condition originally found. Gravel, paving or seal coating, ditches, culverts, fences, signs or other improvements shall be replaced, unless specific direction to the contrary is authorized in writing by the City. Failure to do so will be cause for the City to accomplish the required work and to collect damages from the utility.

G. Clean up. As the excavation work progresses, all roads shall be thoroughly cleaned of all rubbish, excess earth, rock and other debris caused by the construction. All existing drainage ways shall remain free and unobstructed. All cleanup operations shall be accomplished at the expense of the Utility and shall be completed to the satisfaction of the city.

H. Prompt completion of work. After an excavation is commenced, the work shall be promptly completed and the road restored to its original condition as soon as possible.

I. Urgent work: The City shall have the authority to condition the issuance of a permit upon the utility's operating on a twenty-four hour per day schedule, in order to complete an excavation as soon as possible when required by traffic conditions, safety or the convenience of the traveling public.

J. Emergency action. Nothing in this chapter shall be construed to prevent the making of such excavations as may be necessary for the preservation of life or property or for the location of trouble in conduit or pipe, or for making repairs, provided that the person making such excavation shall make a reasonable effort to notify police dispatch of the location of the emergency excavation. A utility excavating on an emergency basis in a roadway shall apply for a permit on the first working day after such work is commenced.

K. Existing survey monuments shall be protected and if disturbed or destroyed by construction activities, they will be replaced in accordance with AS 34.65.040.

**11.10.080 Utility locations within the right-of-way.** A. All utility facilities shall be placed within either of two 10-foot wide corridors located along the outer portions of each side of the right-of-way, i.e. ten feet as measured from the edge of the right-of-way toward the centerline of the right-of-way. If only half of the right-of-way has been dedicated, utilities placed within the right-of-way shall be placed only within the ten feet of the right-of-way adjacent to the subdivided lots or tracts from which the right-of-way was created.

B. Exceptions to assigned utility locations:

1. Whenever a utility finds it unreasonable to place its facilities within their assigned area, it may apply for an exception on a form provided by the City Manager and shall include, at a minimum, the following information:

a. A complete explanation as to why the utility is requesting an exception from its assigned location within the right-of-way;

b. Additional plans, drawings or sketches necessary to show locations of other existing utilities, problem areas such as rock or

wetlands, and locations where the utility is proposing to place new facilities; and,

c. Evidence that the request for an exception has been reviewed and approved by all other affected utilities.

2. Subject to appeal to the Seldovia Planning Commission, the City Manager or his designee has authority to grant an exception to the assigned utility location within the city right-of-way.

3. Requests for exceptions that become necessary and evident during actual ongoing construction shall be deemed approved if not rejected or modified after receipt by the City Manager. It is a utility's responsibility to inquire if the request for an exception has been approved, rejected or modified.

**11.10.090 Prior existing installations—Maintenance—Relocation—Costs.** A. Utility facilities, within a right-of-way subject to this chapter, installed prior to the effective date of this ordinance may remain in place as installed unless relocation of the prior existing utility is required for the installation or construction of a road or another utility within the right-of-way. In the event that such relocation is required, the relocated facility must comply with the provisions of this chapter.

B. The release from compliance granted under this section does not create the presumption the existing facility was properly or reasonably installed. Further while this release allows maintenance of existing facilities for their useful life, except as otherwise provided herein, it does not authorize an upgrade or relocation of the existing facility without complying with the provisions of this chapter.

C. Responsibility, if any, for the cost of relocation shall be determined in accordance with rulings of the Alaska Public Utilities Commission and any tariffs approved under its rules.

**11.10.100 Appeals/Enforcement.** A. Decisions of the City Manager regarding utility right-of-way permits shall be final unless appealed by the applicant to the Seldovia Planning Commission within 20 (twenty) calendar days after the City Manager's decision has been issued.

B. Appeal of a Seldovia Planning Commission determination regarding the City Manager's decision shall be directly to the Alaska Public Utilities Commission, or to the Superior Court of the State of Alaska, as appropriate.

C. Any person aggrieved by a decision of the City or a utility pertaining to this chapter may, within 30 calendar days after a decision is mailed or delivered to the person, file an appeal to the Alaska Public Utilities Commission pursuant to AS 42.05.251, or to the Superior Court of the State of Alaska, as appropriate.

D. Nothing in this section shall prohibit a mutually acceptable alternative dispute resolution procedure between the City and a utility to avoid the expense of an appeal to the Alaska Public Utilities Commission.

E. The City may, in its discretion, seek injunctive relief to enforce compliance with this chapter. (Ord. 19-02)

## Chapter 11.11 Firewood Harvest

### Sections:

11.11.010 Permit--Application.

11.11.020 Violations.

11.11.030 Rules and regulations—Special conditions.

**11.11.010 Permit--Application.** An application for cutting firewood shall be provided by the City of Seldovia.

A. A permit provided by the City of Seldovia must be obtained prior to cutting firewood on city lands. The permit fee shall be \$35.00.

B. Permits are valid for seven days from the date of issuance.

C. Individuals are limited to four permits per calendar year.

D. The City of Seldovia reserves the right to deny the permit to any individual if it is in the interest of the City to do so.

**11.11.020 Violations.** A. The following acts are minor offenses under this chapter:

1. Cutting for firewood any timber that is not already dead or downed

2. Cutting firewood other than personal use.

3. Using mechanical means other than chainsaws and vehicles to cut firewood.

B. The taking of any wood that is green and standing, no matter what it is used for, is considered a trespass and shall be subject to the general penalty designated in Section 1.08.010 of this code.

**11.11.030 Rules and regulations—Special conditions.** A. The removal of timber from city land to be used for firewood will be in accordance with the applicable rules and regulations codified in this chapter.

A. The following special conditions will apply:

1. Cut only dead or downed timber.
2. All portions suitable for firewood, of any tree standing or down which is cut for firewood, will be completely removed. No waste will be tolerated. A clean-up plan will be developed between the applicant and staff at the time that the permit is issued and will include a provision for assessment of the clean-up based on circumstances.
3. All stumps resulting from firewood cutting will not exceed a height of 12 inches above the ground.
4. All wood cutting will be carried on in a manner that will not interfere with other authorized operations.
5. Extreme caution will be taken at all times to prevent the obstruction or littering of any public road or highway, any private road, or other main road providing access to city land during or as a result of any operations necessary for the removal of firewood. (Ord. 19-12)

## Chapter 11.12 Park Land\*

**Sections:**

- 11.12.010 Public park land described.
- 11.12.020 Memorial park land described.

**11.12.010 Public park land described.** There shall be set aside and excluded from sale for all time for the purpose of a park, that certain land given to the City for that purpose and described as Lots 2 and 3 of Block 1 of the City of Seldovia according to official plat no. 1771. (Prior code Sec. 10.005)

**11.12.020 Memorial park land described.** There shall be set aside and excluded from sale for all time for the purpose of a memorial park, those lots which have in the past been used for the burial of certain persons, and described as Lots 26, 27, 28, 29, of Block 6, according to the official plat of the City of Seldovia, no. 1771. (Prior code Sec. 10.010)



\*For statutory provisions regarding general city powers see AS Sec. 29.35.010 and AS Sec. 29.35.250.

## Chapter 11.13 Camping Regulations

### Sections:

- 11.13.010 Maximum duration of camping.
- 11.13.020 Certain acts prohibited.
- 11.13.030 Storage of garbage, refuse and other wastes.
- 11.13.040 Unattended camps.
- 11.13.050 Unauthorized structures.
- 11.13.060 Definitions.
- 11.13.070 Penalty

**11.13.010 Maximum duration of camping.** A. No person shall camp on City-owned or controlled property in excess of fourteen calendar days, regardless of any changes in campsites or campgrounds. Persons who have utilized their fourteen day camping period may not return to camp in any City-owned or -controlled camping area for fourteen additional days, following the last day of their fourteen-day camping period. The fourteen days of authorized camping need not be consecutive.

B. An exception may be granted to the fourteen-day limitation if there are sufficient vacant campsites, as determined by an authorized city official. All persons shall move their campsite at the end of each fourteen-day period. (Ord. 81-10 Sec. 1(part), 1981)

- 11.13.020 Certain acts prohibited.** It is unlawful for any person to:
- A. Dispose of or deposit human body wastes or any other waste on City owned or -controlled land other than in authorized or designated receptacles;
  - B. Make or cause to be made any unnecessary or unusual noise which annoys, injures or endangers the comfort, repose, health or safety of the public, or any individual member of the public on City-owned or -controlled land;
  - C. Erect, occupy or otherwise utilize any temporary or permanent structure or shelter on City-owned or -controlled lands, except that:

1. Unless otherwise prohibited, tents of standard commercial manufacture or constructed in whole or in part from canvas, nylon or other tenting material may be erected and occupied in designated camping areas. Structures so exempted may not be modified, extended or sheltered by the addition of any material not a commercially manufactured component of said tent or other than a recognized tenting material,

2. Unless otherwise prohibited, self-contained camper units may be parked and occupied in designated camping areas so long as they remain immediately mobile;

D. Park, leave, maintain or utilize any vehicle, camper unit or camp in violation of any provision of any section of this regulation. All vehicles, camper units or other camps in violation shall be subject to impoundment by any peace officer. All costs of impoundment and storage of any property so impounded shall be paid before said property shall be released. Property so impounded shall additionally be subject to a twenty dollar impound fee, which shall be paid before said property is released. All permanent structures shall be impounded;

E. Deface, destroy, alter, remove or otherwise disfigure any live trees, equipment, sign, utility services, or other facility owned or provided by the city at any City-owned campground or campsite, or parking area adjacent thereto;

F. Allow any dog owned, harbored or controlled by himself to be at large in any City-owned or -controlled campground. All fecal wastes of any dog discharged or deposited on any lands within a City-owned or -controlled campground shall be immediately removed by the person owning, harboring, or controlling said animal and shall be deposited in trash receptacles or otherwise stored in containers;

G. Leave any campsite in a disorderly or unsightly condition upon termination of use;

H. Construct any foundation or footing including piling, log, rock, concrete or other;

I. Discharge any firearm or air rifle, either for hunting, target shooting or any other purpose.

J. Camping as defined in SMC 11.13.060, is prohibited in areas other than those so designated by the City. (Ord. 81-10 Sec. 1(part), 1981; Ord. 17-08)

**11.13.030 Storage of garbage, refuse and other wastes.** All garbage, refuse and other waste created or compiled in the course of activities while camping, shall be stored in opaque containers which shall be tightly closed to contain odors and to exclude insects, rodents and vermin. Plastic garbage sacks

are acceptable containers for compliance with this section. (Ord. 81-10 Sec. 1(part), 1981)

**11.13.040 Unattended camps.** A campsite shall be occupied on the first night after equipment, vehicles or tents have been set up. Equipment left unattended for a period of seventy-two hours at any campsite on City-owned or -controlled property may be impounded unless prior permission for a longer storage period has been obtained from an authorized city representative. An impound fee of twenty dollars and all costs of impoundment and storage shall be paid before said property may be released. (Ord. 81-10 Sec. 1(part), 1981)

**11.13.050 Unauthorized structures.** Any structure erected, maintained, occupied or utilized on City-owned or -controlled land without written permission from the City Manager or otherwise permitted under this ordinance shall be unlawful and shall be subject to impoundment or disposal by any peace officer. If said structure is impounded pursuant to this section, all costs of impoundment and storage shall be paid in addition to the impound fee of twenty dollars before said structure may be released. All costs of recovery shall be borne by the person claiming said structure. (Ord. 81-10 Sec. 1(part), 1980)

**11.13.060 Definitions.** A. "Campground" means an area owned, controlled, developed and/or maintained by the City, which contains one or more campsites or contains adequate area for one or more campsite.

B. "Camping" means:

1. The erection of, or occupancy of any tent, regardless of whether said tent is of commercial manufacture or has been constructed in whole or part by any person;
2. The placing or leaving of any items normally found at a campsite such as cookstoves, lanterns, etc., if sleeping bags and/or other forms of bedding are also left at the location;
3. The parking of any camper unit in any area owned or controlled by the City of Seldovia, which has been designated a camping area by official signs, in excess of twenty, four hours, shall constitute camping, regardless of any physical change in campsite within camping area;
4. The presence of any person sleeping in any motor vehicles or camper units between the hours of midnight and six a.m., which shall constitute *prima facie* evidence of camping;
5. Sleeping on the ground, with or without any shelter, sleeping pad, etc., between the hours of midnight and six a.m. on any land owned or controlled by the City, which shall constitute camping;

6. The preparation or consumption of meals in, or in affiliation with and in proximity to, any camper unit at any time following midnight of the day said camper unit was parked in any campground, shall constitute *prima facie* evidence of camping.

C. "Designated camping site" means any area of land owned or controlled by the City, which has been marked by official signs as open to camping.

D. "Immediately mobile" means that the camper unit may be moved from its campsite by either (1) starting its propulsion engine and driving said unit away, or (2) by attaching a towing vehicle to the trailer hitch of said camper unit and pulling it away; provided, that in both (1) and (2) the removal must be feasible without any preliminary actions to prepare the vehicle for removal, such as, but not limited to, installation of wheels or removal of support structure of platforms, etc.

E. "Other wastes" means garbage, refuse, offal, oil, grease, tar, dyestuffs, acids, chemicals, industrial or seafood processing wastes; and any other substance which may cause, or tend to cause, pollution of the lands or waters within the city.

F. "Parking" means the placing or leaving of any motor vehicle or trailer on any land within the city if the propulsion engine of said vehicle is off.

G. "Permanent structure or shelter" means any collection, assemblage, construction, or assortment of materials or devices; whether of natural or synthetic nature, which has served or is reasonable capable of serving as protection from any of the elements; or as an item constructed to enhance the habitability of a campsite, such as, but not limited to structures functioning as, or which are reasonably capable of functioning as furniture items. Any camper unit rendered less than immediately mobile by the removal of wheels or placement on supports or platforms shall also be a permanent structure. Commercially-manufactured tents and the flysheet supplied for the tent by the manufacturer or constructed in whole or in part from canvas, nylon or other tenting material, shall not be classified as permanent structures or shelters unless they have been placed on a platform or material other than the soil at the site of erection.

H. "Self-contained camper unit" means all vehicles and trailers that contain sleeping facilities for one or more persons. Sleeping facilities shall also include any structure or area of any vehicle or trailer that circumstances indicate are actually being used for sleeping and need not consist of actual beds or bunks. Self-contained camper units are also referred to as "camper units" in this article. Self-contained camper units may be referred to as "campers" on signs for designated camping areas.

I. "Temporary structure or shelter" means all tents of standard commercial manufacture with the flysheet provided by the manufacturer or constructed in whole or in part from canvas, nylon or other tenting material, and all commercially manufactured self-contained camper units, so long as said camper units are maintained in such a condition that they are immediately mobile. Any camper unit not maintained in an immediately mobile condition shall be deemed a permanent structure. (Ord. 81-10 Sec. 1(part), 1981; Ord 17-08)

**11.13.070 Penalty.** Unless otherwise designated by an impound fee or other general penalty, violation of any provision of this chapter is an infraction subject to the fine established in section 1.08.040 of this code. (Ord. 16-06)

## Chapter 11.14 Violations and Penalties

### Sections

11.14.010 Designated

**11.14.010 Designated.** Unless otherwise designated, any person, or persons, or business, who violates any of the provisions of this title are subject to the general penalty provisions codified at Section 1.08.010. (Ord. 16-06)

## Chapter 11.16 Cemetery Advisory Commission

### Sections:

11.16.010 Cemetery described.

11.16.020 Establishment.

11.16.030 Membership.

11.16.040 Terms of members.

11.16.050 Officers.

11.16.060 Meetings.

11.16.070 Duties and Responsibilities of the Commission.

11.16.080 Cemetery Fund.

**11.16.010 Cemetery Described.** The Seldovia Cemetery encompasses city-owned properties with the legal description of "T 8S R 14W SEC 32 Seward Meridian SL 0720060 FRANK RABY SUB 1971 ADDN AMD TRA CT B", and "T 8S R 14W SEC 32 Seward Meridian SL 0720060 FRANK RABY SUB 1971 ADDN AMD TRA CT B".

**11.16.020 Establishment.** There shall be a City of Seldovia Cemetery Advisory Commission, referred to in this chapter as the Commission.

**11.16.030 Membership.** Such Commission will be made up of five (5) members, who shall be nominated by the Mayor from a list of potential candidates provided by the Commission and others who may apply and confirmed by a majority of the City Council.

**11.16.040 Terms of members.** A. Members of the Commission shall be appointed for the following terms:

1. Three members shall be appointed for three-year terms.
2. Two members shall be appointed for two-year terms.

B. At the end of the respective terms set forth in subparagraph (A) of this section, members shall be appointed for full four-year terms.

C. In the event that a vacancy is created on a board, the Mayor shall promptly act to fill the vacancy for the remainder of the term.

**11.16.050 Officers.** The Commission shall have a chairperson and a vice-chairperson, who shall be elected by and from the Commission for a term of one year. Election of officers shall be the first order of business at any time that an officer's seat is not filled.

**11.16.060 Meetings.** The Commission shall conduct a public meeting no less than once a year, or at the call of the chairman. The chair may schedule a work session at any time. The Commission shall record minutes of each proceeding by the Commission secretary and be filed in the office of the City Clerk. The Commission will report to the City Council no less than once a year. All meetings shall be open to the public in accordance with AS 44.62.310.

**11.16.070 Duties and responsibilities of the Commission.** The Commission shall act in an advisory capacity to the City Council of the City of Seldovia, in matters of policy concerning the Seldovia Cemetery, including but not limited to the following:

A. Development of the established cemetery.

B. Preservation of the history and integrity of the Seldovia Cemetery.

C. Adoption, change, repeal or alteration of rules, regulations, restrictions on cemetery services, and all matters directly or indirectly affecting the Seldovia Cemetery.

D. Solicitation of donations of money and property in support of its duties under this chapter.

1. Donations of money shall be deposited to the City treasury.

2. Donations of property shall be accepted by deed or other conveyance subject to the approval of the City Council, and shall be held or disposed of for the Seldovia Cemetery as the Council may direct.

3. The Commission may make recommendations to the Council for the disposition of money or property so received.

E. Consider any specific proposal, problem or project as directed by the City Council and report thereon directly to the Council or as the Council otherwise directs.

F. Performance of such other powers and duties as the Council of the City of Seldovia may designate from time to time.

G. The City Council may at a future date expand or withdraw duties and responsibilities of the Commission.

**11.16.080 Cemetery Fund.** A. The Seldovia Cemetery fund is established as a separate dedicated account in the City general fund to receive money for the Seldovia Cemetery from the following sources:

1. The Seldovia Cemetery service fee schedule. Fee schedule shall be established by non-code ordinance of the Council and shall be subject to review and revision as occasion demands.

2. Funds donated to the City for the Seldovia Cemetery.

3. Other funds appropriated by the Council for the Seldovia Cemetery.

B. Money in the Seldovia Cemetery fund shall be used solely to pay for the development of the established Cemetery, preservation of the history and integrity of the Seldovia Cemetery, and for Seldovia Cemetery operations. (Ord. 17-25)