

Title 12
STREETS AND SIDEWALKS*

Chapters:

- 12.04 Grades and Curb Lines
- 12.06 Use of Public Right of Way
- 12.08 Excavations
- 12.16 Sidewalk Construction
- 12.24 Street Trees

Chapter 12.04
GRADES AND CURB LINES**

Sections:

- 12.04.010 Datum Plane
- 12.04.020 Grades
- 12.04.030 Curb Elevations

12.04.010 Datum Plane. All grades are established and reckoned in feet and decimals of feet above an imaginary horizontal plane known as the datum plane. The datum plane is fifty feet below the benchmark on the northwest corner of the stone doorsill of the brick bank building situated on the southeast corner of Main Street and State Street. (Ord. 27 §1, 1929)

12.04.020 Grades. The grades established shall be the grades at the points specified and straight lines shall connect the grade points unless in the judgment of the engineer vertical curves can be used to better advantage. The street grades shall be at the center of the street on which they are established and at the center of intersecting streets or at the points specifically fixed otherwise. The sidewalk grade shall be the top of the surface of the inside edge of the sidewalk. (Ord. 27 §2, 1929)

12.04.030 Curb Elevations. The following elevations shall apply at the locations designated and all future street, sidewalk and driveway improvements shall be constructed in conformity therewith.

Curb Elevations

Note: All elevations refer to top of curb; subtract 0.5 feet for gutter grades. An asterisk indicates points of vertical curve intersections (*). The elevations shown are corrected for vertical curvature.

On State Street from Prestien Drive north to Franklin Street-49 feet back to back--Project beginning at Station 69+60.

<u>Station</u>	<u>Description</u>	<u>West Curb</u>	<u>East Curb</u>
69+60	41.5' South of Centerline of Prestien Drive	74.13	-----
70+50	48.5' North of Centerline of Prestien Drive	74.54	74.54
71+00		74.68*	74.68*
71+50		74.82	74.82
72+00		74.20	74.66
72+68.4	South End of Radius at Lincoln Street	-----	73.68
73+00		73.24	-----
73+39.6	North End of Radius at Lincoln Street	-----	72.53
74+00		71.22	71.26
75+95	South End of Radius at Hoover Street	67.44	67.42
76+69	North End of Radius at Hoover Street	66.24	66.50
79+25	South End of Radius at Eagle Street	64.48	63.95
83+34	North End of Radius at Fayette Street	63.00	63.89
84+02		-----	64.23
84+70	Inlet	-----	63.89
84+80	End of Curb	63.95	-----
85+90	South End of Radius at Franklin St--End of Project (Ord. 2-85 §4, 1985)	-----	63.85

Chapter 12.06

USE OF PUBLIC RIGHT OF WAY

Sections:

- 12.06.010 Purpose and Rule of Interpretation
- 12.06.020 Franchise, License or Lease Required
- 12.06.030 Fees Required
- 12.06.040 Limit on Term
- 12.06.050 Placement of Facilities
- 12.06.060 Indemnification and Bond
- 12.06.070 Regulation by the City
- 12.06.080 Construction and Excavation by Holders of Franchise, License or Lease
- 12.06.090 City Construction and Paving
- 12.06.100 Design Notice to City
- 12.06.110 Above Ground Cables, Wires, Conduits, and Poles
- 12.06.120 Assignment
- 12.06.130 Forfeiture
- 12.06.140 Application
- 12.06.150 Severability
- 12.06.160 Home Rule
- 12.06.170 New Technologies

12.06.010 Purpose and Rule of Interpretation. The City Council finds it necessary for the City to establish uniform rules and controls to ensure public safety and provide efficient delivery of services by the City and others wishing to utilize streets and other public property for the delivery of utility or other services, in order to protect public and private investments, ensure orderly use of public property and ensure the health, safety, and welfare of the population, to provide for the regulation and administration of the public streets and other public property, and secure the right of the City to a return on its investment in public property. This ordinance is to be interpreted in light of these findings for the benefit of the public and users of the streets and other public property. (Ord. 2-97)

12.06.020 Franchise, License or Lease Required. No person or other entity shall use the public right of way or other public property without first obtaining a franchise, license, or lease from the City. The City shall not enter into or issue any franchise, license, lease that grants exclusive rights. An application for a license or lease shall be filed with the City clerk on a form provided by the City and shall include as a minimum the following information: the name, address, and telephone number of the applicant; the name, address, and telephone number of a person whom the City may notify or contact at any time concerning the license or lease; an engineering site plan showing the proposed location of the facilities including any manholes, the size, type and proposed depth of any conduit or other enclosures; and any additional information the City may require. All licenses or leases required by this section shall be granted by the City Council.

12.06.030 Fees Required. No franchise, license or lease for the use of public right of way or other public property shall be granted without requiring the grantee thereof to pay a reasonable and competitively neutral fee for the use of public right of way or other public property.

The fees shall be as follows:

All new franchises shall be assessed a franchise fee of up to five percent (5%) of the gross receipts of customers within the City limits.

A license or lease fee will be assessed on all new licenses or leases for space in the right of way. This license or lease fee is a one-time fee for the term of the license or lease. Payment is expected when the license or lease is signed, however, a payment schedule may be entered into between with the City and the licensee or lessee. Any payment schedule must require full payment of the fee by the end of the fifth year of the license or lease. If the license or lease is renewed, a new license or lease will be assessed. The fee shall be based on actual administrative cost to the City for processing application and issuance of any licensure lease and is established as follows:

New License or Lease fees

\$250.00 per application filed \$250.00 per license or lease issued

In addition to the license or lease fee, an annual right of way management fee will be assessed on July 1, of each year that the license or lease is in force. The fee is based on the number of linear feet of wire laid in the City right of way, and reflects the actual management cost the City incurs while maintaining the right of way. The fee is established as follows:

Right of Way Management Fees

Buried Lines

All Carriers \$0.30 per linear foot

Non-Buried Lines Telephone Service Only All Carriers \$2.00 per pole

Electronic Network Services All Carriers \$3.25 per pole

CATV Service Only All Carriers \$4.50 per pole

In addition to the license fee and annual management fee, any person or other entity shall pay a fee every time their facility requires excavation in the right of way. This fee will cover cost for street degradation and replacement, inspection, and obstruction and routing of pedestrian and vehicle traffic. The fee schedule is established as follows:

Excavation Fees

All Surfaces \$100.00 excavation permit fee

Non Surfaced Right of Way \$0.50 per linear foot of open trench

Surfaced Right of Way Roads, Highways, and Streets \$14.00 per square yard of asphalt surface

Curb and Gutters \$16.00 per linear foot of concrete surface

Sidewalks \$8.00 per linear foot of concrete surface

All or part of this fee may be waived if work is done in conjunction with City construction.

12.06.040 Limit on Term. On franchise, license or lease for use of the public right of way or other public property shall be granted for a term in excess 25 years.

12.06.050 Placement of Facilities. The facilities, fixtures, and equipment of the distribution, transmission, or sale of any utility services, or services provided under license or lease or easement, shall be placed and maintained so as not to unnecessarily or unreasonably interfere with the travel on the streets, highways, avenues, alleys, bridges, and public places in the City, nor shall such facilities, fixtures and equipment interfere with the proper use of the same, including, but not limited to, ordinary drainage or the functions of sewers, underground pipe or other property of the City. In the event that facilities, fixtures, and equipment of any person or any other entity located within a public right of way must be relocated because of paving, road construction, or reconstruction of at the owner's cost. The City shall upon request of any person or other entity holding a franchise, license, or lease review any plans for the construction of facilities, fixtures, and equipment within the public right of way and advise the person or other entity of any conflict such construction may have with planned or anticipated public improvements, but failure of the City to so advise such person or other entity will not relieve the owner of such facilities or its obligations under this ordinance. Notwithstanding the foregoing, City may require placement of equipment or facilities belonging to any holder of a franchise, license, or lease be limited to locations designated by the City Public Works Director if such limitation is deemed by the Public Works Director to be necessary to protect the integrity of use of present and future users of the public right of way or other public property.

12.06.060 Indemnification and Bond. Indemnification and Bond. The holder of any franchise, license, or lease shall indemnify and hold the City harmless at all times during the terms of the franchise, license or lease from and against all claims for injury or damage to any person or property, including payments under workers' compensation

laws, caused by the construction, erection, operation, or maintenance of its facilities, fixtures, or equipment or the negligence of its contractors or its employees. In case of any suit or action at law being commenced against the City, upon any claim for damage arising out of any loss, injury or damage claimed to have been caused by installation, improvement, obstruction or excavation made or left in, under, or upon such streets, sidewalk, alley, or public place by the holder of a franchise, license or lease, its agents, contractors, or employees, upon being notified in writing by the City of such action or proceeding, the holder of said franchise, license, or lease shall appear and make the proper defense thereto at the expense of the holder of said franchise, license or lease and if any judgment or decree shall in any such case be rendered against the City therein, the holder of said franchise, license or lease shall assume, pay, and satisfy such judgment or decree with the cost thereof. Immediately upon issuance of the franchise, license, or lease, the holder of the franchise, license or lease shall purchase general liability insurance. The amount of insurance shall be a minimum of \$1,000,000 with a maximum deductible of \$5,000. The holder of the franchise, license or lease shall file with the City clerk a certificate of insurance, which clearly discloses on its face coverage in conformity with these requirements. Upon request of the City, the holder of the franchise license or lease shall submit a certified copy of the policy.

12.06.070 Regulation by the City. The City reserves the right to make reasonable general regulations for the use of streets and other public property which unless otherwise specifically provided shall apply to any holder of a franchise, license or lease.

12.06.080 Construction and Excavation by Holders of Franchise, License or Lease. A written permit will be obtained from the City Public Works Director whenever it becomes necessary for the holder of any franchise, license, or lease to excavate in streets or public grounds of the City. Such permits shall state a particular part or point of the street where the excavation is to be made and the length of time in which such permit shall authorize work to be done. An exception to a requirement for a permit shall be made in cases of emergency involving public safety, in which case a permit will be obtained at the earliest opportunity after the work has started.

In making excavations in the street, the holder of any franchise, license or lease shall proceed with such work as to cause the least possible inconvenience to the public.

The holder of any franchise, license or lease shall properly protect, according to safety standards generally accepted at the time of placement as may be determined from time to time by the City Public Works Director, all excavations and obstructions by proper placement of shoring, surface plates, barricades, warning lights and such other additional devices as circumstances may warrant. If in the opinion of the City Public Works Director such excavation or obstruction is not properly and safely protected the Public Works Director shall notify such holder of a franchise, license or lease who shall immediately comply with such reasonable instructions.

Immediately after use, any trenches for excavations which the holder of a franchise, license or lease has opened shall be filled. However, no trench or excavation in the streets shall be filled or covered without giving the City the right to inspect the same. All backfilling in streets will be according to City specifications. Temporary street surfacing will be placed in such excavations as soon as the same has been backfilled. Pavements,

sidewalks, curbs and gutters or other portions of streets and public places open, disturbed or damaged shall be promptly restored and replaced with like materials at the expense of the holder of the franchise, license or lease and left in as good condition as before the opening, disturbance, or damage occurred. In the event like replacement materials are not available, the holder of the franchise, license or lease shall notify the City Public Works Director who must approve the use of any alternate materials. In the event the holder of the franchise, license or lease fails to comply with the provisions of this section, after having been given reasonable notice, the City may do such works as may be needed to properly repair such pavements, sidewalks, curbs and gutters or other portions of streets and public places and the cost thereof shall be repaid to the City by the holder of the franchise, license or lease. In cases where a cut or disturbance is made in a section of street paving or sidewalks, but cause greater disturbance than to just the area cut, rather than replace only the area cut the holder of the franchise, license or lease shall replace that area as may be ordered by the City Public Works Director, which in no event shall exceed the panel or panels disturbed.

12.06.090 City Construction and Paving. Whenever the City shall pave or repave any street or shall change the grade line of any street or public place or shall construct or reconstruct any conduit, water main service or water connection, sewer or other City owned public works or City owned utility, it shall be the duty of the holder of any franchise, license, or lease, when so ordered by the City, to relocate its service lines and other property in the streets or other public place at its own expense as to conform to the established grade or line of such street or public place and so as not to interfere with the public improvements so constructed or reconstructed. In the case of other public improvements, including but not limited to urban renewal projects, the City may require the holder of a franchise, license or lease to relocate its poles, service lines and appurtenances in the street at the owner's expense. The City may at its discretion assign personnel for inspection of excavation and related work being performed by the holder of a franchise, license or lease. Should the holder of the franchise, license, or lease fail or refuse to do and perform the things provided in this section, the City may, after reasonable notice, perform the work and charge the expense thereof to the holder of the franchise, license, or lease and the holder of the franchise, license, or lease shall promptly pay said charges.

12.06.100 Design Notice to City. The holder of a franchise, license, or lease shall promptly, upon request, furnish the City Clerk a detailed map or maps of its distribution system both within the City limits and the are with two miles surrounding the City unless that area is within another City. The holder of a franchise, license, lease shall thereafter update the map or maps at least annually or upon request, showing all subsequent additions or deletions to the distribution system. Prior to any excavation by the City or its agents, a representative must contact the holder of any franchise, license, or lease regarding current information on the location of underground lines or facilities in the area concerned. The obligation to contact the holder of a franchise, license or lease under this section shall be satisfied if contact is made with a corporation organized pursuant to Code of Iowa Chapter 480(1993) or an entity with similar function utilized by both the City and the company, currently the Iowa One Call System.

12.06.110 Above Ground Cables, Wires, Conduits, and Poles. All cables, wires, and conduits shall be placed underground except where above ground connections to buildings or other locations above ground is reasonably necessary. Such above ground connection shall be by means of poles and such above ground connections shall be attached, where reasonably practical, to those poles owned by the City owned electric utility. The Public Works Director must approve all such attachments before said attachment is made. When attachment to a City owned pole is reasonably impractical, a pole shall be installed by the holder of the franchise, license or lease at owners expense and shall be located as far as reasonably practical, within alleys. No such poles shall be installed or erected until the Public Works Director have approved the proposed location, construction, and pole heights.

12.06.120 Assignment. No sale or assignment of any franchise, license or lease of the use of public right of way or other public property shall be effective until it is approved by the City Council and the holder of thereof has filed with the City clerk written notice of the proposed sale, transfer, disposition assignment, such notice to clearly summarize the proposed procedure and the terms and conditions thereof. Such approval by the City shall not be unreasonable withheld. The proposed vendee, assignee or lessee shall similarly file an instrument, duly executed, reciting such proposal, accepting terms of the franchise, license or lease and agreeing to perform all of the conditions thereof.

12.06.130 Forfeiture. The violation of any material portion of a franchise, license or lease by the holder thereof or its successors or assigns, or its failure to promptly perform any of the provisions of this ordinance shall be cause for forfeiture of said franchise, license or lease and the termination of all rights thereunder. Such forfeiture shall be accomplished by ordinance of the City after written notice to the holder thereof and a continuation of the violation or default specified on the notice for at least thirty (30) days from the date the notice was served.

12.06.140 Application. This ordinance shall apply to all franchises, licenses, or leases and easements granted by the City including all existing franchises licenses, or leases and easements.

12.06.150 Severability. If any such section or provision of this ordinance is held invalid by a court of competent jurisdiction such holding shall not effect the validity of any other provisions of this ordinance which can be given effect without the invalid portion or portions and to this end each section and provision of this ordinance is severable.

12.06.160 Home Rule. This ordinance is intended to be and shall be construed as consistent with the reservation of local authority contained in the 25th Amendment to the Iowa Constitution granting cities Home Rule powers. To such end any limitation on the power of the City contained herein is to be strictly construed and the City reserves the right to exercise all power and authority to regulate and control its local affairs and all

ordinances and regulations of the City shall be enforceable against the holder of any franchise, license or lease.

12.06.170 New Technologies. Should within the term of any franchise, license or lease developments within the field for which the grant was made offer to the holder thereof the opportunity to effectively, efficiently, and economically serve its customers through use of a substance or material other than those for which the grant was originally made, then the holder of the franchise, license, or lease may petition the City Council which, with such requirements or limitations as it deems necessary to protect public health, safety, and welfare, may allow the use of such substances under the terms and conditions of the franchise, license or lease.

Chapter 12.08

STREET CUTS AND EXCAVATIONS

Sections:

- 12.08.010 Definition of Terms
- 12.08.020 Excavation Permit Required
- 12.08.030 Application for Permit
- 12.08.040 Permit Fees
- 12.08.050 Safety Measures
- 12.08.060 Backfilling and Restoration
- 12.08.070 Charges for Cuts in Pavement Surfaces
- 12.08.080 Additional Permits Not Required
- 12.08.090 Right of City to do Work
- 12.08.100 Rules and Regulations
- 12.08.110 Violation and Penalties

12.08.010 Definition of Terms. The following definitions shall apply to all terms and provisions of this chapter:

1. Pavement surface. "Pavement surface" includes all pavements, pavement surfaces, sidewalks, and all other appurtenances or construction within the limits of streets, avenues, and alleys in the City.
2. Driveway surface. "Driveway surface" includes all driveway surfaces within the limits of streets, avenues, or alleys within the City, other than "pavement surface" as defined herein, whether of earth, gravel, cinders, bituminous or other materials. (Ord. 8-64 §1, 1964)

12.08.020 Excavation Permit Required. Excavating within the right-of-way of public streets and alleys, and of public grounds, and the cutting of surfacing or pavings of the traveled way therein, shall not be done by any person, firm, association, or corporation without obtaining a permit from the City Clerk. (Code of Iowa, Sec. 364.12(2))

12.08.030 Application for Permit. No person shall commence excavation in any public street or public ground until that person has applied to the City Clerk for an excavation permit. Such application shall indicate the location of the excavation, the name and address of the applicant

who is to do the work, whether public liability insurance is in force, and that the applicant has requested location of underground utilities through Iowa One Call. The making of an application shall be deemed notice to the City of the plan to cut the street surfacing or pavements, and to obstruct the public way. Such permits shall not be valid until six (6) hours after receipt unless the Clerk waives this requirement. In an emergency, authorized persons or companies may commence excavations provided that they shall have made a reasonable effort to inform the City and the utilities whose underground utilities might be involved in any way, and those involved in the excavation shall make written application at the earliest practicable moment. The Clerk may provide on the form for the certification that the applicant has notified all utilities and other parties required by this Ordinance.

12.08.040 Permit Fees. The permit fee shall be fifteen dollars \$15.00 for the cost of each inspection. A single excavation shall be deemed to constitute all the digging necessary for a single connection, or a cut for installing a main not exceeding one hundred (100) feet in length. An additional fee of fifteen dollars (\$15.00) shall be required for every additional one hundred 100 feet, or major fraction thereof, of main excavation.

12.08.050 Safety Measures. Any person, firm, or corporation cutting a pavement or surfacing or excavating in the streets shall erect suitable barricades, maintain warning lights from sunset to sunrise each night, and take such other precautions as necessary for the safety of the public, whether vehicles or pedestrians. Lights and warning devices, such as traffic cones, flags, etc shall likewise protect vehicles, equipment, materials, excavated material, and similar items. Where traffic conditions warrant, the party excavating may be required to provide flagmen, if in the judgment of the Chief of Police the public safety requires it. Compliance with City Ordinances and regulations shall not be deemed to waive the requirements that the party excavating shall comply with all the requirements of the labor safety laws and the rules of the Iowa Department of Labor, nor shall any failure be deemed a responsibility of the City.

12.08.060 Backfilling and Restoration. Any person excavating in the right-of-way shall be responsible for the backfilling of the excavation in accordance with City specifications and the restoration of the pavement or surfacing to as good a condition as that existing prior to the excavation. If any excavator fails to backfill or restore the pavement or surfacing properly within forty-eight (48) hours of the completion of the underground work, the City reserves the right to backfill and resurface or install new paving and charge the cost thereof to the party excavating. If any backfilling or pavement or surfacing restoration is not in accordance with the City specifications, the Public Works Director is authorized to remove such material as is necessary and to backfill and restore the pavement or surfacing properly. All excavations and the repair thereof shall conform to the following minimum requirements and regulations:

1. Excavation: The excavated area shall be kept at a minimum consistent with space requirements for the repairs. Hard surface pavements shall be saw-cut to provide a straight and uniform edge for the completed patch.
2. Backfill: The entire excavated volume shall be backfilled with compatible material compacted full depth. Where the excavated material is granular and suitably compatible it may be used as backfill. Where heavy, wet clay or loam is encountered this material shall be removed from the site and replaced with dry material. Backfill shall be carried up to the bottom of the base course.
3. Base course for:

a. Seal coat surfacing: The top six (6) inches of the area shall be filled with road rock, compacted to ninety-five (95%) percent of optimum density rolled and raked to blend with the adjacent areas. The edges of the excavated area shall be cut clean and straight to provide a neat and workmanlike looking patch. Saw cuts will not be required but may be used at the option of the contractor.

b. Asphalt concrete surfacing: The base shall consist of six (6) inches of Portland cement concrete. The concrete shall extend beyond the edge of trench a minimum of six (6) inches to provide bearing on undisturbed soil. The concrete shall be highway Class "A". In areas of heavy traffic, maintenance mix concrete may be required in order to open the street to traffic at the earliest possible time.

4. Surfacing:

a. Seal coat surfacing: The finished base rock shall be treated with 0.3 gallons/square yard of MC 70 asphalt. After twenty-four (24) hours the surface cover consisting of 0.3 gallons of MC 3000 asphalt and thirty (30) pounds of three-eighths (3/8) inch chips per square yard shall be applied. The area shall be rolled and broomed to provide a smooth surface. As an alternate the patch area may be covered with cold asphalt patch mix three-quarter (3/4) inches thick properly rolled and compacted.

b. Asphalt concrete surfacing: After the portland cement concrete base has cured for five (5) days a two (2) inch compacted course Type B asphalt concrete shall be supplied. The patch shall be raked and compacted using a vibra plate or roller. The edges of the patch shall be saw cut. When completed the patch shall blend with the adjacent surface.

c. Portland cement concrete surfacing: After the sub-base is completed place six (6) inches of Class "A" concrete pavement finished to match the existing surface. Maintenance mix concrete may be required in heavy traffic areas in order to open the street to traffic at the earliest possible time. The patch shall extend a minimum of six (6) inches beyond the edge of the trench and anchored to existing pavement by dowels. The edges of the existing pavement shall be saw cut. The edge of the fresh pavement shall be tooled to eliminate raveling. (Ord. 2-83 §1, 1983)

12.08.070 Charges for Cuts in Pavement Surfaces.

a. All work in connection with this repair, including street surfacing, shall be the responsibility of the owner and done at his cost. It is anticipated that under normal circumstances the work will be accomplished by the owner under City supervision.

b. In the event the owner does not complete the surfacing, as specified in Section 6-66(4)(A)--(C), within thirty (30) days, the City after due notice, may proceed to place the surfacing and charge the owner. The following charges are established:

Seal coat surfacing--	\$1.50/sq. ft.
Asphalt cement pavement--	\$2.00/sq. ft.
Portland cement pavement--	\$2.50/sq. ft.

The City Council of the City of Denver may by resolution, increase or decrease charges in accordance with current costs as the Council may determine. (Ord. 2-83 §2, 1983)

12.08.080 Additional Permits Not Required. The issuance of a plumbing permit by the City for sewer and water connections shall be construed as granting permission to a licensed master plumber to do such excavation within the limits of any street, avenue and alley other than cutting

into or through or excavating under any pavement surface, as may be necessary to properly execute the work included in the plumbing permit. The work shall, however, be done under the supervision of the Public Works Director and in such manner as he may direct. (Ord. 8-64 §6, 1964)

12.08.090 Right of City to do Work. The Public Works Director may reserve the right to perform all of such portions of the work of cutting into or through or excavating along or under pavement surfaces, including the backfilling of trenches and pavement surfaces repairs, as he may deem necessary to fully protect the City from undue injury or excessive repair to the pavement surfaces. If the work is required by the failure of a privately owned facility, the City shall charge the owner thereof on a time and material basis. (Ord. 2-83 §3, 1983)

12.08.100 Rules and Regulations. The City Council may by resolution establish such rules and regulations for the manner of making cuts and related matters involving excavations.

12.08.110 Violation and Penalties. Any person, firm or corporation, whether acting directly or through employees or agents, that violates, disobeys, omits, neglects, refuses to comply with or resists any of the provisions of this chapter shall be deemed guilty of a misdemeanor and upon conviction thereof shall be subject to penalty as provided by the municipal infraction section of the municipal code. Each day that a violation of this chapter is permitted to exist shall constitute a separate and distinct offense. (Ord. 864 §8, 1964)

Chapter 12.16

SIDEWALK REGULATIONS

Sections:

- 12.16.010 Purpose
- 12.16.020 Definitions
- 12.16.030 Cleaning, Snow, Ice and Accumulations
- 12.16.040 Maintenance Responsibility
- 12.16.050 Liability of Abutting Owner
- 12.16.060 Ordering Sidewalk Improvements
- 12.16.070 Repairing Defective Sidewalks
- 12.16.080 Notice or Inability to Repair or Barricade
- 12.16.090 Standard Sidewalk Specifications
- 12.16.100 Permits for Construction or Removal
- 12.16.110 Failure to Obtain Permit; Remedies
- 12.16.120 Inspection and Approval
- 12.16.130 Barricades and Warning Lights
- 12.16.140 Interference with Sidewalk Improvements
- 12.16.150 Special Assessments for Construction and Repair
- 12.16.160 Notice of Assessment for Repair or Cleaning Costs
- 12.16.170 Hearing and Assessment
- 12.16.180 Billing and Certifying to County

12.16.010 Purpose. The purpose of this chapter is to improve and maintain sidewalks in a safe condition, to record owners of abutting property to maintain, repair, replace, construct or reconstruct sidewalks.

12.16.020 Definitions. As used in this chapter, the following terms have these meanings:

1. Defective Sidewalk. Any public sidewalk exhibiting one or more of the follow characteristics:
 - a. Vertical separations equal to three-fourths (3/4) inch or more.
 - b. Horizontal separations equal to three-fourths (3/4) inch or more.
 - c. Holes or depressions equal to three-fourths (3/4) inch or more and at least four inches in diameter.
 - d. Spalling over fifty (50) percent of the surface of a single square of the sidewalk with or more depressions equal to one-half (1/2) inch or more.
 - e. Spalling over less than fifty (50) percent of a single square of the sidewalk with of more depressions equal to three-fourths (3/4) inch or more.
 - f. a single square of sidewalk cracked in such a manner that no part thereof has a greater than one (1) square foot.
 - g. a sidewalk with any part thereof missing to the full depth.
 - h. a change from design or construction grade equal to or greater than three-fourths inch per foot.
2. Sidewalk Improvements. The construction, reconstruction, repair, replacement, or removal of a public sidewalk or the excavating, filling, or depositing of material in the public right-of-way in connection therewith.
3. Owner. The person owning the fee title or the contract purchaser for purposes of notification required herein. For all other purposes, "owner" shall include the lessee, or person in possession.

12.16.030 Cleaning Snow, Ice, and Accumulations. It shall be the duty of the owner to keep sidewalks abutting the owner's property clear of the natural accumulations of snow or ice. If the owner fails to do so within twenty-four (24) hours after deposit of accumulation, the Mayor may have the natural accumulations of snow or ice removed without notice to the property owner. The Mayor shall give the Council an itemized and verified statement of the removal costs and a legal description of the property at the next regular Council meeting. The costs shall be reviewed by the Council, and if found correct, shall be assessed against the property as taxes. The City Clerk shall be directed to certify the costs to the County Auditor for collection as provided in Section 364.12 of the Code of Iowa. (Code of Iowa, Sec. 364.12(2b) and (2e))

12.16.040 Maintenance Responsibility. The abutting property owner or owners shall be responsible for the repair, replacement or reconstruction of all broken or defective sidewalks to a safe condition and to maintain in a safe condition all sidewalks in the abutting street right-of-way. (Code of Iowa, Sec. 364.12(2c))

12.16.050 Liability of Abutting Owner. As provided in Section 364.14, Code of Iowa, in the event the owner of property abutting any public sidewalk fails or refuses to perform any act required of them by this Ordinance and in the event an action is brought against the City for personal injuries alleged to have been caused by a defect in or the condition of said sidewalk, the City may notify in writing the said abutting owner that it claims the injury was caused by their negligence and/or their failure to repair the defect or eliminate the condition complained of. The

notice shall state the pendency of the action, the name of the plaintiff, the name and location of the court where the action is pending, a brief statement of the alleged facts from which the cause arose, that the City believes that the person notified is liable to it for any judgment rendered against the City, and asking the person to appear and defend. A judgment obtained in the suit is conclusive in any action by the City against any person so notified, as to the existence of the defect or condition or other cause of the injury or damage, as to the liability of the City to the plaintiff in the first named action, and as to the amount of the damage or injury. The City may maintain an action against the person notified to recover the amount of the judgment together with all the expenses incurred by the City in the suit. (Code of Iowa, Sec. 364.14)

12.16.060 Ordering Sidewalk Improvements. The City Council may order the construction, reconstruction, repair, or replacement of permanent sidewalks upon any street or court. Notice of this order shall be sent to the owner by certified mail. The notice shall include the fact that the owner may request a hearing by the Council within fifteen (15) days or receipt of the notice.

12.16.070 Repairing Defective Sidewalks. It shall be the duty of the abutting property owner at any time, or upon receipt of thirty (30) days notice from the City, to repair, replace, or reconstruct all broken or defective sidewalks in the abutting street right-of-way. If, after the expiration of the thirty (30) days as provided in the notice, the required work has not been done or is not in the process of completion, the Mayor shall order the work to proceed to repair, replace, or reconstruct the sidewalk. Upon completion of the work, the Mayor shall submit to the Council an itemized and verified statement of expenditures for material and labor, and the legal description of the property abutting the sidewalk on which work has been performed. These costs shall be assessed to the property as taxes. The City Clerk shall be directed to certify the costs to the County Auditor for collection as provided in Section 364.12 of the Code of Iowa. (Code of Iowa, Sec. 364.12(e))

12.16.080 Notice of Inability to Repair or Barricade. It shall be the duty of the owner of the property abutting the sidewalk, or of the contractor or agent of the owner, to notify the City immediately in the event the owner is unable to make necessary sidewalk improvements or to install or erect warnings and barricades as required by this chapter.

12.16.090 Standard Sidewalk Specifications. Sidewalks constructed, repaired, or replaced under the provisions of this chapter shall be of the following construction and meet the following standards:

1. Portland cement concrete shall be the only material used in the construction and repair of sidewalks unless otherwise authorized by the City Council.
2. Sidewalks shall be on one-course construction.
3. Concrete may be placed directly on compact and well-drained soil. Where soil is not well drained, a four (4) inch sub-base of compact, clean, coarse gravel, sand, or cinders shall be laid. The adequacy of the soil drainage is to be determined by the Public Works Director.
4. The sidewalk bed shall be graded to the established grade.
5. Residential sidewalks shall be at least four (4) feet wide, or match existing sidewalks, and four (4) inches thick, and each section shall be no more than four (4) feet in length. In the central business district, sidewalks shall extend from the property line to the curb unless the Council shall establish a different distance due to the circumstances. Each section shall be four (4) inches

thick and no more than six (6) feet in length and width. All driveway areas shall not be less than six (6) inches in thickness.

6. Residential sidewalks shall be located with the inner edge (edge nearest the abutting private property) on the property line, unless the Council shall establish a different distance due to the circumstances.

7. All elevations of sidewalks are to be established by the City Council with assistance from the Superintendent of Public Works on a case-by-case basis.

8. All sidewalks shall slope at least one-quarter (1/4) inch per foot toward the curb, but in no event more than one-half (1/2) inch per foot toward the curb.

9. All sidewalks shall have a steel trowel finish followed by a "broom" or a "wood float" finish.

10. Ramps for the handicapped. There shall not be less than two (2) curb cuts or ramps per lineal block, which shall be located on, or near the crosswalks at intersections. Each curb cut or ramp shall be at least thirty (30) inches wide, shall be sloped at not greater than one (1) inch of rise per twelve (12) inches lineal distance, except that a slope no greater than one (1) inch of rise per eight (8) inches lineal distance may be used where necessary, shall have a nonskid surface, and shall otherwise be so constructed as to allow reasonable access to the crosswalk for physically handicapped persons using the sidewalk. (Code of Iowa, Sec. 216C.9)

11. All sidewalk improvements on public property, whether performed by the owner of the abutting property or by the City, shall be performed under the supervision and inspection of the Public Works Director, and in accordance with the standard sidewalk specifications set forth in this chapter.

12.16.100 Permits for Construction or Removal. No person shall make any sidewalk improvements unless such person shall obtain a permit from the City Clerk. The permit shall state that the person will comply with the ordinances of the City and with the specifications for sidewalks adopted by the City. The permit also shall state that the work will be done under the direction and approval of the Public Works Director. All such permits shall be issued without charge and a copy thereof, with the application, shall be filed and preserved in the office of the City Clerk. The permit shall state when the work is to be commenced and when the work is to be completed. The time of completion for the sidewalk improvements may be extended by the City Council. All permits for sidewalk improvements not ordered by resolution of the City Council shall be issued in compliance with this chapter. The City Council may withhold the issuance of any permit for any sidewalk improvements for a sufficient period to determine the necessity for the proposed improvements or when weather conditions will adversely affect the sidewalk improvements.

12.16.110 Failure to Obtain Permit Remedies. Whenever any sidewalk improvements are made that do not conform to the provisions of this chapter and with the specifications, or when any sidewalk improvements are made without a permit, the Mayor shall serve notice to obtain a permit upon the property owner and upon the contractor doing the work. If the sidewalk is in the course of construction, the notice shall order the work to stop until a permit is obtained and the work is corrected to comply with the specifications. If the sidewalk work has been completed, the owner shall obtain a permit immediately and perform any needed corrections within five (5) days from receipt of the permit. If the owner fails to comply with this notice, the Mayor shall have the work completed and the costs assessed to the property owner as provided in this chapter.

12.16.120 Inspection and Approval. Upon final completion, the Superintendent of Public Works shall inspect the work and may order corrections if the work does not meet specifications. When the work does meet all requirements of this chapter, the specifications, and the permit, the Superintendent of Public Works shall indicate this on both copies of the permit.

12.16.130 Barricades and Warning Lights. Proper warning lights and barricades shall be placed to protect persons from materials, equipment, and dangerous conditions. Placement and maintenance of adequate warnings is the responsibility of the constructor, the owner, and the lessee of the property.

12.16.140 Interference with Sidewalk Improvements. No person shall knowingly or willfully drive any vehicle upon any portion of any sidewalk or approach thereto while it is in the process of being improved, or upon any portion of any completed sidewalk or approach thereto, or shall remove or destroy, any part or all of any sidewalk or approach thereto, or shall remove, destroy, mar, or deface any sidewalk at any time or destroy, mar, remove, or deface any notice or warning device provided by this chapter.

12.16.150 Special Assessments for Construction and Repair. The City Council may assess the cost of initial construction, improvements, and/or repair of sidewalks in the City according to the special assessment procedures established in Chapter 384, Division IV, Code of Iowa. (Code of Iowa, Sec. 384.38)

12.16.160 Notice of Assessment for Repair or Cleaning Costs. When the Mayor submits a bill for sidewalk improvements or for removal of accumulations as provided in this chapter, the City Clerk shall send a notice of such facts to the owner of the abutting property. The notice may be given either by personal service or by certified mail to the last known address of the owner. The notice shall contain a statement of the work performed, the cost of the work that is being assessed, a description of the property affected, and the fact that the person may pay the amount assessed within thirty (30) days without interest or penalty. The notice also shall indicate that the person may object to such assessment and given the place and time at which Council will hear such objections. The time set for hearing shall be at least fifteen (15) days after the service or mailing of the notice. (Code of Iowa, Sec. 384.50)

12.16.170 Hearing and Assessment. At the time and place designed in the Notice, the Council shall consider all objections to the assessment, correct all errors or omissions, and adopt a corrected list as the amounts to be assessed against the property. (Code of Iowa, Sec. 384.51)

12.16.180 Billing and Certifying to County. Thirty (30) days after the Council's decision, the City Clerk shall certify any unpaid amounts to the County Treasurer. The unpaid assessments shall constitute a lien against the property and shall be collected by the County Treasurer in the same manner as other taxes. Any assessment that exceeds one hundred dollars \$100 may be paid in installments as set by Council, not exceeding ten (10), in the same manner and at the same interest rates as for special assessments under Chapter 384, division IV, Code of Iowa. No interest shall be charged for assessments, or parts thereof, paid within thirty (30) days of the time the Council determined the final amounts. (Code of Iowa, Sec. 384.60)

Chapter 12.24
STREET TREES*

Sections:

- 12.24.010 Definitions
- 12.24.020 City Arborist--Position Created
- 12.24.025 Creation of Tree Board
- 12.24.030 Permit Required.
- 12.24.040 Businesses Removing, Cutting or Trimming-License Fee
- 12.24.050 Permits and Licenses--Exceptions
- 12.24.060 Tree Maintenance Business--Bond Required
- 12.24.070 Tree Maintenance Business--Insurance
- 12.24.080 Felling of Trees and/or Limbs onto Streets
- 12.24.090 Use of Trees and Shrubs
- 12.24.100 Arboricultural Specs and Standards of Practice
- 12.24.110 Removal of Trees
- 12.24.120 Duty to Trim Trees
- 12.24.130 Protecting Trees and Shrubs from Construction
- 12.24.140 Damaging Trees or Shrubs
- 12.24.150 Nuisances
- 12.24.160 Violations--Penalty

12.24.010 Definitions. For use in this chapter, the following terms are defined:

- (1) "Parking" means that part of the street, avenue or highway in the City not covered by sidewalk and lying between the lot line and the curb line; or, on unpaved streets, that part of the street, avenue or highway lying between the lot line and that portion of the street usually traveled by vehicular traffic.
- (2) "Person" means any individual, firm, corporation, trust, association or any other organized group.
- (3) "Property owner" means a person owning private property in the City as shown by the county auditor's plats of the City.
- (4) "Public property" means any and all property located within the confines of the City and owned by the City or held in the name of the City by any of the departments, commissions or agencies within the City government.
- (5) "Street" means the entire width between property lines of avenues or highways. (Ord. 1A-86 §1, 1986)

*For statutory provisions authorizing municipal corporations by ordinance to assume charge, custody and control of all trees and shrubbery upon the public streets, and to plant, prune, care for, remove, and maintain all trees and shrubbery upon the public streets, see I.C.A. 368.32. Prior ordinance history: Ord. 35.

12.24.020 City Arborist--Position Created.

1. There is established the position of City Arborist, who shall be appointed by the City Council and shall have the authority and primary responsibility to implement the procedures of

this chapter and supervise the general care of all trees and shrubs within the jurisdiction of the City.

2. The City Council shall have custody and control of all trees and shrubs growing now or hereinafter in any park, street or public property in the City and shall have power to supervise plant removal, care for and otherwise, maintain such trees and shrubs.

3. The City arborist shall be authorized to organize, direct and regulate the planning, maintenance, care and removal of any and all trees under the jurisdiction of the City Council.

4. The City arborist shall be authorized to direct the removal of any tree or shrub, or portion thereof whether diseased and/or unhealthy if such tree is located on private property and is declared a nuisance or hazard as defined in this chapter.

5. The City arborist shall, at the direction of the City Council, be authorized to organize, direct and supervise the sale of any trees or shrubs under the jurisdiction of the City as provided by this chapter. (Ord. 1A-86 52, 1986)

12.24.025 Creation of Tree Board. There is hereby created and established a City Tree Board for the City of Denver, Iowa which shall consist of five members, citizens and residents of this City, who shall be appointed by the Mayor with the approval of the Council. One member of the Board shall also be a member of the City Parks and Recreation Committee and one member of the Board shall also be a City Utility employee or member of the Board of Trustees.

Term of Office. The full term of office for members of the City Tree Board shall be three years, and members shall hold the office from the first day of July following their appointment. The Mayor shall appoint two persons to the first City Tree Board for a one-year term, two persons to a two-year term, and one person to a full term.

Vacancy. In the event that a vacancy occurs on the Board, it shall be filled by appointment by the Mayor with the approval of the Council, and such appointee shall fill out the unexpired term of the member whose office was vacated.

Compensation. Members of the board shall serve without compensation.

Duties and Responsibilities. It shall be the responsibility of the Board to study, investigate, and develop and/or update annually, and administer a written plan for the care, preservation, pruning, planting, replanting, removal or disposition of trees and shrubs in parks, along streets and in other public areas. Such plan will be presented annually to the City Council and upon their acceptance and approval shall constitute the official comprehensive City Tree Plan for the City of Denver, Iowa. The Board, when requested by the City Council, shall consider, investigate, make finding, report and recommend upon any special matter of questions coming within the scope of its work.

Operation. The Board shall choose its own officers, make its own rules and regulations and keep a journal of its proceedings. A majority of the members shall be a quorum for the transaction of business.

Street Classification. The following list constitutes the official Street Tree Classifications for Denver, Iowa. Although, other species are not prohibited, property owners are encouraged to plant these species as street trees.

1. Small Trees Under Power Lines. Amur Maple (tree form), Flowering Crab, Hornbeam (American), Japanese Tree Lilac, Pagoda Dogwood, Serviceberry.

2. Shade Trees When No Power Lines Are Present. Ash (White or Green), Freeman Maple, Gingko Biloba, Hackberry, Hornbeam (European), Kentucky Coffee Tree, Linden, Red Oak, Swamp White Oak, White Oak.

Distance from Curb and Sidewalk. The distance trees may be planted from curbs or curb lines and sidewalks will be in accordance with the three species size classes listed above. No trees may be planted closer to any curb or sidewalk than the following: Small Trees, 2 feet; Medium Trees, 3 feet; and Large Trees, 4 feet, unless in conformity with Section 10.24.100.

Distance from Street Corners and Fire Plugs. No Street Tree shall be planted closer than twenty (20) feet of any street corner, measured from the point of nearest intersecting curbs or curb lines. No street tree shall be planted closer than ten (10) feet of any fireplug.

Utilities. No Street Trees other than those species listed as Small Trees may be planted under or within 10 (10) lateral feet of any overhead utility wire, or over or within ten (10) lateral feet of any underground water line, sewer line, transmission line or other utility.

Public Tree Care. The City shall have the right to plant, prune, maintain and remove trees, plants and shrubs within the lines of all streets, alleys, avenues, lanes, squares and public grounds, as may be necessary to insure public safety or to preserve or enhance the symmetry and beauty of such public grounds. The City may remove or cause or order to be removed, any tree or part thereof which is in an unsafe condition or which by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines, or other public improvements, or is affected with any injurious fungus, insect or other pest, provided, however, provided that such removal be conducted in accordance with tree removal policies of the tree plan. This Section does not prohibit the planting of Street Trees by adjacent property owners providing that the selection and location of said trees is in accordance with the Section.

Tree Topping. It shall be unlawful as a normal practice for any person, firm, or City department to top any Street Tree, park Tree, or other tree on public property. Topping is defined as the severe cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes. Or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempted from this ordinance at the determination of the City Tree Board. The City Tree Board shall adopt a tree topping policy in its Tree Plan to be followed by the City in pruning or topping trees.

Pruning, Corner Clearance. Every owner of any tree overhanging any street or right-of-way within the City shall prune the branches in accord with this Section and so that such branches shall not obstruct the light from any street lamp or obstruct the view of any street intersection and so that there shall be a clear space of eight (8) feet above the surface of the street or sidewalk except that trees which overhang a traveled way shall be trimmed to at least twelve (12) feet above the surface of the traveled way. Said owners shall remove all dead, diseased or dangerous trees, or broken or decayed limbs, which constitute a menace to the safety of the public. The City shall have the right to prune any tree or shrub on private property when it interferes with the proper spread of lights along the street from a street light or interferes with visibility of any traffic control device or sign.

Dead or Diseased Tree Removal on Private Property. The City shall have the right to cause the removal of any dead or diseased trees on private property within the City, when such trees constitute a hazard to life and property or harbor insects or disease which constitute a potential threat to other trees within the City. The City Tree Board will notify in writing the owners of such trees. Removal shall be done by said owners at their own expense within sixty days after the date of service of notice. In the event of failure of owners to comply with such provisions, the City shall have the authority to remove such trees and charge the cost of removal on the owners property tax notice.

Removal of Stumps. All stumps of street and park trees shall be removed below the surface of the ground so that the top of the stump shall not project above the surface of the ground. When the City causes a tree on City property to be removed, the City shall remove the stump to 6" below ground level.

Interference with City Tree Board. It shall be unlawful for any person to prevent, delay or interfere with the City Tree Board, or any of its agents, while engaging in and about the planting, cultivating, mulching, pruning, spraying, or removing of any Street Trees, Park Trees, or trees on private grounds, as authorized in this ordinance.

Review by City Council. The City Council shall have the right to review the conduct, acts and decisions of the City Tree Board. Any person may appeal from any ruling or order of the City Tree Board to the City Council who may hear the matter and make the final decision.

12.24.030 Permit Required.

(a) Except as allowed in Section 12.24.120, no person shall cut or remove any tree or shrub on the streets or on public property without first obtaining a permit from the City arborist, who shall issue said permit if the proposed work is necessary and the proposed methods and workmanship are satisfactory.

(b) The City Arborist may demand the posting of bond or insurance before the permit is granted. Such bond or insurance shall be of sufficient amount to reasonably cover any damages that may occur to life or property while the provisions of the permit are being carried out.

(c) Every permit granted in accordance with this section by the City Arborist shall describe the work to be done, the estimated cost, define the species, sizes and location of all trees and shrubs concerned and contain a definite date of expiration.

(d) Any permit may be declared void if the terms are violated. (Ord. 1A-86 §3, 1986)

12.24.040 Businesses Removing, Cutting or Trimming-License Fees. No person shall engage in the business of removing, cutting or trimming of trees or shrubbery in the City without first obtaining a license therefor. The applicant shall submit written application to the City arborist setting forth his experience and qualifications. Upon determination by the City arborist that he is qualified, he shall be granted a license which shall allow the removal, cutting and trimming of trees and shrubbery in the City, which shall be an annual license commencing January 1st and terminating December 31st of each year. The license fee shall be ten dollars per year, which fee shall be paid prior to the issuance of the license. No trimming, cutting or removal shall be done until the license has been obtained. (Ord. 1A-86 §4, 1986)

12.24.050 Permits and Licenses--Exceptions. Sections of this chapter relating to permits and licenses shall not apply to:

(1) The United States of America, the State of Iowa, county municipality or political subdivisions of the state, any department, bureau or agency of any of the foregoing or any official representative of any of the foregoing in pursuit of official duties;

(2) Any person with reference to trees and shrubs on his own premises;

(3) Any individual performing labor or services on or in connection with trees at the direction and under the personal supervision of a licensed tree trimmer while in the performance of such functions;

(4) Any public utility engaged in tree trimming and/or tree removal for the purpose of line clearance in order to insure the continuity of utility service to the public.

(5) Trimming and cutting which is in compliance with Section 12.24.120. (Ord. 1A-86 §5, 1986)

12.24.060 Tree Maintenance Business--Bond Required. Any person, before engaging in the business or occupation of removing, cutting or trimming trees in the City, shall deposit it with the City clerk a good and sufficient bond or evidence of insurance in the sum of not less than five thousand dollars, conditioned that such person shall faithfully comply with the provisions of this chapter and shall indemnify, save and keep harmless the City and its officers from any and all claims, damages and losses and actions by reason of any acts or things done under or by authority or permission granted in this chapter. (Ord. 1A-86 §6, 1986)

12.24.070 Tree Maintenance Business--Insurance. Any person, before engaging in the business or occupation of removing, cutting or trimming trees in the City, shall furnish satisfactory evidence to the City arborist that the workmen employed by him are covered by a suitable workmen's compensation policy according to the laws of the state. (Ord. 1A-86 §7, 1986)

12.24.080 Felling of Trees and/or Limbs onto Streets. If a tree or limb will fall on any street, alley or sidewalk, the City arborist must be notified prior to felling.

(1) Safety requirements. The person to whom the permit is issued shall be responsible for placing such signs, flags, flares and barricades as are needed to warn persons of the danger of using the street, sidewalk or alley.

(2) Trees or branches, which are felled or trimmed onto public property, must be removed immediately unless an extension of time is granted by the City arborist in writing.

(3) Stump removal cavities must be cleared and refilled with soil in the same operation. At no time shall a cavity remain unfilled overnight. (Ord. 1A-86 §8, 1986)

12.24.090 Use of Trees and Shrubs. (a) No person shall fasten any sign, box, wire, rope or other material to, around or through any tree or shrub in any street, park or public place in the City except by the permission of the City arborist or when such materials are designed to preserve such tree or shrub and have been placed under a permit granted by the City arborist.

(b) No person shall deposit, place, store or maintain upon any street, park or public place in the City, any stone, brick sand, concrete or other material which shall impede the free passage of water, air and fertilizer to the roots of any tree or shrub growing therein except by permission of the City arborist or when such materials are designed for the construction of sidewalks, pavement, gutters or other public improvements under a permit granted by the City or some department thereof. (Ord. 1A-86 §§9, 10, 1986)

12.24.100 Arboricultural Specifications and Standards of Practice.

(1) Location.

(A) All trees and shrubs hereafter planted in any street shall be planted midway between the outer line of the sidewalk and the curb. In the event a curb line is not established, trees shall not be planted within ten feet from the near edge of the road.

(B) Trees shall not be planted on the parking area if said parking is less than four feet nine inches in depth (sidewalk to curb) or contains less than twenty-four square feet of exposed soil or grass surface.

(C) Trees shall not be planted closer than thirty feet to the street intersections (property line extended) and four feet ten inches from any driveway.

(D) No tree shall be planted in the parking area whose mature size will encroach upon power lines or traffic signs.

(2) Trimming or Pruning.

(A) All cuts are to be made sufficiently close to the parent stem so that healing can readily start under normal conditions.

(B) All limbs over one inch in diameter must be bottom cut first to prevent stripping of bark as limbs fall. Any limbs which endanger other limbs, trees or property shall be lowered to the ground, not felled.

(C) To avoid the spreading of disease, tools shall be disinfected with alcohol before use on another tree. (Ord. 1A-86 511, 1986)

12.24.110 Removal of Trees. The City arborist shall remove, on the order of the Council, any tree on the streets of this municipality, which interferes with the making of improvements, or with travel thereon. He shall additionally remove any trees on the street, not on private property, which have become diseased or which constitute a public hazard or which may otherwise be declared a nuisance by the City arborist. (Ord. 1A-86 §12, 1986)

12.24.120 Duty to Trim Trees. The owner or agent of the abutting property shall keep the trees on, or overhanging the street trimmed so that all branches will be at least sixteen feet above the surface of the street and eight feet above the sidewalks. (Ord. 1A-86 §13, 1986)

12.24.130 Protecting Trees and Shrubs from Construction. During all building and construction operations, the contractor or builder shall erect suitable protective barriers around all trees and shrubs in any street, park or public place in the City in order to prevent said trees from being injured. (Ord. 1A-86 §14, 1986)

12.24.140 Damaging Trees or Shrubs. No person shall break, deface, injure, kill or destroy any tree or shrub or set fire or permit any fire to burn where such fire or heat thereof will injure any portion of any tree or shrub in any street, park or public place in the City. (Ord. 1A-86 §15, 1986)

12.24.150 Nuisances.

(a) No person shall maintain, cause or permit any tree or shrub to be maintained in such a manner as to be considered a nuisance.

(b) In the event that such a nuisance occurs, a written complaint describing such nuisance and signed by the complainant must be filed with the City arborist or be filed by the City arborist.

(c) Upon receipt of a complaint, the City Council shall cause a notice to be issued to the owner of the property describing the property and the nuisance, which shall request the abatement of the nuisance within fourteen days of the receipt of the notice. The owner shall receive a signed copy of the complaint form.

(d) In the event the owner of the property refuses to abate the nuisance within fourteen days of the receipt of the notice, the complainant may charge the property owner with a violation of this section by signing the appropriate citation. (Ord. 1A-86 §16, 1986)

12.24.160 Violations--Penalty. Violations of the provisions of this chapter shall, upon conviction, be subject to imprisonment not exceeding thirty days or a fine not exceeding one hundred dollars. (Ord. 1A-86 §17, 1986)

This page was intentionally left blank.

The next page number is 280.