

TITLE 12

Streets, Sidewalks and Public Places

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CHAPTER 12.04

Streets and Sidewalks

I. Construction and Repair of Sidewalks, Curbs and Gutters

12.04.010 Authority of City Council.

The City Council is authorized to construct and maintain sidewalks, curbs and gutters or any one (1) or more of such improvements and provide for the payment of the expense thereof by special assessments upon the adjacent or abutting property in the manner designated and provided in Sections 12.04.010 through 12.04.180. (Prior code §24-16)

12.04.020 Petition by property owners.

Whenever the owners of one-half ($\frac{1}{2}$) of the frontage upon any sidewalk, curb or gutter of any street or specified portion of any street within the City petitions the City Council for the construction of such sidewalk, curb or gutter or whenever a two-thirds ($\frac{2}{3}$) majority of all of the members of the City Council decides that such improvements are necessary, the City Council may, at any regular meeting, by resolution, order the construction of such sidewalk, curb or gutter and the cost of construction thereof shall be apportioned between the owners of the abutting property and the City as follows: the City shall pay the cost of construction of such sidewalks, curbs and gutters across all streets and alleys and the owners of the abutting property shall pay all other cost of construction in proportion to the number of feet each owner has of property fronting or abutting upon such sidewalk, curb or gutter; provided, however, that the City Council shall not order the construction of such improvements or any of them upon such petition unless, in its opinion, the same will be for the best interests of the City. (Prior code §24-17)

12.04.030 Notice to property owners of City Council action.

(a) Within three (3) days from the time the City Council orders the construction of any sidewalk, curb or gutter, the City Clerk shall mail a notice to or otherwise actually notify the owners of the abutting property or their agents of the action taken by the City Council concerning such improvements and shall call for sealed bids for the construction of such improvements to be presented to the City Council at its next regular meeting.

(b) The notice to the property owners shall state the time and place of the opening of bids. (Prior code §24-18)

12.04.040 License for builders.

(a) No person shall engage in, carry on or contract the business of building concrete sidewalks or curbs and gutters without first having obtained a license from the City Clerk; provided that no license shall be granted until the applicant has a certificate of competency from the City Engineer.

(b) The applicant shall give a properly executed bond in the sum of five hundred dollars (\$500.00), which bond shall run to the people of the State and shall be signed by the applicant and by at least two (2) good and sufficient sureties of the County.

(c) The annual license fee shall be ten dollars (\$10.00). (Prior code §24-23)

12.04.050 Permit required.

Every concrete contractor or worker, before building any concrete or cement sidewalks or curbs and gutters, shall obtain a permit from the City Engineer authorizing the same. (Prior code §24-24)

II. Construction of Sidewalks, Curbs and Gutters

12.04.060 Width and location; sidewalks.

(a) All sidewalks, except as otherwise provided in Sections 12.04.010 through 12.04.180 or other City ordinances, hereafter constructed in new areas, shall be four (4) feet in width and shall be constructed abutting the curb. All other sidewalks shall conform in width and location to existing sidewalks within the block. Varying widths and location within a block shall not be permitted. They shall be constructed of concrete, except in cases where soil conditions will not, in the opinion of the City Council, permit the practical use of concrete, in which case they shall be constructed of vitrified brick. They shall be located (the inside line thereof) two (2) feet from the property line and shall be laid strictly and accurately upon and in accordance with the grades and levels fixed by the City Council.

(b) Whenever any store building, opera house, hotel or other business house of any kind fronts upon any street in the City, the sidewalk abutting such property, instead of being only five (5) feet in width, shall cover the whole of such street from the property line to the curb.

(c) Sidewalks, curbs and gutters shall be repaired with the same kind of material used in the construction thereof. (Ord. 685, 1974; prior code §24-19)

12.04.070 Width and location; curbs and gutters.

(a) All curbs and gutters shall be constructed as one (1) unit and shall be made of concrete and shall be located with reference to the property line as follows:

(1) On Colorado Avenue from Seventh Street to Tenth Street, twenty-five (25) feet from the property line;

(2) On all other streets from eighty (80) to one hundred (100) feet in width, seventeen and one-half (17½) feet from the property line;

(3) On all streets from seventy (70) to eighty (80) feet in width, fifteen (15) feet from the property line;

(4) On all streets from sixty-six (66) to seventy (70) feet in width, thirteen (13) feet from the property line;

(5) On all streets from sixty (60) to sixty-six (66) feet in width, twelve (12) feet from the property line;

(6) On all streets from fifty (50) to sixty (60) feet in width, ten (10) feet from the property line;

(7) On all streets from forty (40) to fifty (50) feet in width, eight (8) feet from the property line;

(8) On all streets from thirty-two (32) to forty (40) feet in width, six (6) feet from the property line.

(b) All gutters shall be a minimum of one (1) foot in width. (Prior code §24-20)

12.04.080 Filing of schedule of improvement costs; assessment; lien on property.

(a) After the completion of any sidewalk, curb or gutter, as specified in Sections 12.04.010 through 12.04.180 and to the satisfaction of the City Engineer, the City Engineer shall prepare and file with the City Clerk a schedule showing the whole cost of construction, exclusive of the street and alley crossings, together with a schedule showing the number of feet abutting on such improvements and the names of the owners of each lot fronting or abutting thereon and showing the number of feet each owner has fronting or abutting on such improvements.

(b) After the schedule is placed in the hands of the City Clerk, he or she shall assess and proportion the cost of such sidewalks, curb and gutter among the property owners according to the number of feet of property each owner has fronting or abutting upon such improvement.

(c) The amount so assessed shall become a valid and subsisting lien against such fronting or abutting property and shall be due and payable at the time of such assessment by the owner or owners of such property.

(d) Such assessment must be paid within thirty (30) days from the time it is made. (Prior code §24-21)

12.04.090 Collection of delinquent payments of assessments.

(a) If the owners of any abutting property fail to pay to the City Clerk the amount assessed against him or her for the construction of curbs, gutters or sidewalks within thirty (30) days from the time the assessment is made, the City Clerk shall certify the same to the County Treasurer, who shall place the same upon the tax list for the current year and collect the same in the same manner as other taxes, with ten-percent penalty thereon to defray the cost of collection.

(b) Such assessments shall be and remain a lien upon such lots or parcels of land until paid by the owner. (Prior code §24-22)

12.04.100 Persons in concrete business not to allow name to be used to obtain permit.

No person carrying on a concrete business shall allow his or her name to be used by any person, either directly or indirectly, to obtain a permit to do any sidewalk or curb work under his or her bond. (Prior code §24-25)

III. Curb Cuts and Driveways

12.04.110 Curbs and gutters required.

(a) After the effective date of the ordinance codified in Sections 12.04.110 through 12.04.150 all streets shall be installed with curb and gutter.

(b) In the event of new opening or repair of existing curb, the City Engineer shall determine if it is feasible to cause the repair to be constructed as curb and gutter. (Ord. 679(part), 1973; prior code §24-15(part))

12.04.120 Curb cut requirements.

(a) No person shall cut any City curb without a written permit by City Engineer.

(b) Where a curb cut is required, the applicant shall make application to the City Engineer who will ascertain that the required curb cut conforms with City standards as pertaining to location, size and configuration.

(c) No curb sections may be broken out to make driveway openings. Curb sections shall be removed and the driveway with endslopes poured in place.

(d) Plot plans for new construction shall show the locations of all proposed driveways, the location of City facilities, including but not limited to, fire hydrants, utility poles, storm drain inlets and returns at intersections and alleys.

(e) No person shall install or modify any curb cut or driveway entrance without the express permission of the City Engineer. The use of concrete, timbers, asphalt or dirt, or any other materials which will divert the flowline of the gutter shall not be permitted. All changes in driveways will be referred to the City Engineer.

(f) The City Engineer shall determine the size, location and length of endslopes for the curb opening requested and shall provide plans therefor to the applicant. (Ord 679(part), 1973; prior code §24-15(part))

12.04.130 Curb openings; alley, residential and commercial driveways.

(a) Alley curb openings shall normally be fourteen (14) feet with three-foot endslopes.

(b) Residential zone driveways (single driveways):

(1) Single driveways shall not exceed fourteen (14) feet with three-foot endslopes.

(2) Double driveways shall not exceed eighteen (18) feet with three-foot endslopes.

(c) Commercial driveways shall be determined by the speed as established for the particular area and will normally follow standards set forth in this Subsection:

(1) Single driveway or parking lot entrance for property up to one hundred (100) feet in width:

a. To twenty-five (25) mph. Curb openings shall be twenty-five (25) feet with three-foot endslopes.

b. To thirty-five (35) mph. Curb openings shall be thirty-five (35) feet with three-foot endslopes.

(2) Double driveways or parking lot entrance for property over one hundred (100) feet in width:

a. To twenty-five (25) mph. Two (2) curb openings shall be twenty-five (25) feet with three-foot endslopes except that a straight-faced curb opening of twenty (20) feet shall exist between the driveway endslopes.

b. To thirty-five (35) mph. Two (2) curb openings shall be thirty-five (35) feet with three-foot endslopes except that thirty-five (35) straight-faced curb shall exist between endslopes. (Ord. 679(part), 1973; prior code §24-15(part))

12.04.140 Residential lot sizes; driveways allowed.

(a) Standard frontage. Where an interior lot has seventy (70) feet frontage or less, a one (1) driveway opening up to eighteen (18) feet is permitted.

(b) Corner lot. A corner lot may be permitted on drive opening up to eighteen (18) feet on both streets.

(c) Above-standard frontage. An interior lot which has over seventy (70) feet, two (2) driveways up to eighteen (18) feet is permitted. Corner lots may be permitted one (1) driveway opening up to eighteen (18) feet on both streets. (Ord. 679(part), 1973; prior code §24-15(part))

12.04.150 Location of driveways.

(a) No driveway shall normally be located within six (6) feet of a utility pole, hydrant, storm sewer opening without prior approval of the City Engineer, along the curb from the utility feature to the beginning of the endslope.

(b) No drive opening shall be constructed closer than twenty (20) feet from an intersection of the two (2) lines of both curblines where extended until they meet. On curbs with long radius, no curb opening shall be permitted except from a point where the straight face of the curb begins. Such distance shall be not less than six (6) feet from the point to the beginning of the endslope.

(c) When curb cuts are located in areas that may have sidewalks against the curb, the endslope distance shall be such that the maximum longitudinal slope shall not exceed one-half ($\frac{1}{2}$) inch above the flowline. (Ord. 679(part), 1973; prior code §24-15(part))

IV. Appeal for Sections 12.04.110 Through 12.04.150

12.04.160 Special use permit; application contents.

Any person aggrieved by the effect of Sections 12.04.110 through 12.04.150 may appeal to the Board of Adjustment and apply for a special use permit upon the terms and conditions set forth in Sections 12.04.160 through 12.04.180 and shall file an application in writing containing the following information:

- (1) A statement certifying that applicant is the lawful owner of the real estate upon which the excepted use is proposed or that he or she has a lawful right to receive a conveyance thereof if the application is granted;
- (2) A plot plan showing:
 - a. Legal dimensions of the tract to be used,
 - b. Location of all proposed improvements including curb cut access, off-street parking and other such facilities as applicant proposes to install,
 - c. Grade elevation,
 - d. Building setback from all property lines,
 - e. Front, side and rear elevations of all improvements to be erected,
 - f. Such perspective drawings that the proposed improvements in such detail as the Board may require as will clearly show the finished appearance of the improvements proposed, and
 - g. Such other items as the Board shall deem reasonably necessary to properly process the application. (Ord. 682 §1(part), 1974; Ord. 679(part), 1973; prior code §24-15(part))

12.04.170 Special use permit; factors for consideration.

In considering the application the Board of Adjustment shall give consideration to the comprehensive plan of the City and the health and safety, morals, comfort and general welfare of the inhabitants of the City, including but not limited to the following factors:

- (1) Observation of general police regulations;
- (2) Prevention of traffic congestion;
- (3) Promotion of traffic safety and the orderly parking of motor vehicles;
- (4) Promotion of the safety of individuals and property;
- (5) Encouragement of improvements and land uses in keeping with overall planning,

(6) Provision for orderly and proper urban renewal, development and growth. (Ord. 682 §1(part), 1974; Ord. 679(part), 1973; prior code §24-15(part))

12.04.180 Reversion to compliance to original provisions in case of abandonment of use.

In the event a special use permit is granted, permitting a curb cut other than as provided in Section 12.04.110 through 12.04.150, the special use permit shall contain a restriction that if the use applied for is abandoned or proposed to be changed, the subsequent use shall be in conformance with Section 12.04.110 through 12.04.150 and curbs and gutters shall be installed in conformance with provisions of Sections 12.04.110 through 12.04.150. (Ord. 682(part), 1974; Ord. 679(part), 1973; prior code §24-15(part))

V. Grading and Paving of Alleys

12.04.190 Order of work done upon petition of property owners.

Whenever the owners of the majority of the frontage of the lots or land adjacent to or abutting upon any alley or designated portion thereof within the City petition the City Council for the grading of an alley or the grading and paving of such alley, the City Council shall immediately order the grading or grading and paving to be done. (Prior code §24-26)

12.04.200 Grade and material requirements.

(a) All paving constructed in any of the alleys in the City shall be constructed of either concrete or asphaltum and the same shall cover the entire surface of the alley, except as provided in this Chapter, and shall be laid with a firm and permanent foundation of suitable material, according to the specifications of the City Engineer.

(b) Such paving shall be laid upon the established grade of alleys and in all respects be under the supervision and to the satisfaction of the City Engineer.

(c) Paving shall be repaired with the same kind of material as that used in the construction thereof. (Prior code §24-27)

12.04.210 Notice to property owners to construct or repair.

(a) Whenever the City Council orders the grading or paving of any alley or portion thereof or the construction or repair of any pavement, the City Manager shall forthwith serve a written or printed notice upon the owner or agent of each lot or parcel of land fronting upon, adjacent to or abutting upon such pavement or alley to be so graded or paved, requiring him or her to grade, construct or repair as much thereof as abuts the lot or parcel of land owned by him or her or for which he or she is agent within thirty (30) days from the date of the service of such notice, in case of grading and construction, and in fifteen (15) days in case of repair of such pavement, according to the plans and specifications provided by the City Engineer and under the direction and to the satisfaction of the City Engineer.

(b) In case the owner of any such parcel of land or lot is a nonresident and has no agent in the City upon whom such notice can be served, the City Manager shall publish a notice of like tenor and

effect for a period of two (2) weeks in a newspaper of general circulation in the City. (Prior code §24-28)

12.04.220 Assessment of costs when owner fails to construct or repair.

(a) In case the owner or agent fails to grade such alley or to construct or repair such pavement within the time specified in the notice provided for by Section 12.04.210, the City Manager may cause the same to be done under the direction of the City Engineer and shall, upon the completion of such work, make out and deliver to the City Clerk a certificate showing the cost thereof and a description of the property adjacent to or abutting upon such work and pavement, the name of the parties who performed the work or furnished the materials therefor and the amounts owing to each. The City Council shall, at its next regular meeting, assess the cost of such grading, construction or repair of such pavement against the land adjacent to or abutting upon such pavement or grading, specifying the exact amount so assessed. The expense of the construction or repair of such pavement is assessed against such property and is made and declared to be a lien against the same until the same is paid.

(b) Upon filing with the City Clerk of any such certificate and the assessment by the City Council, the City Council shall designate and set a time and place when and where such land or lot owner may appear before the City Council and be heard as to the justness and correctness of the amount so certified and assessed against his or her lot or parcel of land. The City Clerk shall then cause to be published in some paper of general circulation, published in the City, for a period of ten (10) days, a notice to such lot or landowners, setting forth the time and place so fixed and when and where he or she or they may appear before the City Council for the purpose of an appeal. At the time and place mentioned in such notice, the City Council shall meet and hear and consider any and all complaints of any lot owner affected by such assessments, and correct any errors, and remedy any injustice there may be in any such certificate and assessment.

(c) In case the owner of any lot or parcel of land fails to pay any such assessment to the City Clerk within thirty (30) days after the meeting of the City Council mentioned in Subsection (b) above, the same shall be certified to the County Treasurer to be placed upon the tax roll for the current year and collected in the same manner as other taxes assessed upon such property. (Prior code §24-29)

VI. Miscellaneous Regulations

12.04.230 Driving on new pavement prohibited.

It is unlawful for any person to walk upon or to drive any vehicle or animal upon any new paving upon any street, alley or sidewalk before such street, alley or sidewalk is open for traffic. (Prior code §24-1)

12.04.240 Use of sidewalk while receiving or delivering goods.

No person, while receiving or delivering goods, wares, merchandise or baggage, shall permit the same to remain on any sidewalk or in any street or alley longer than is necessary to convey such article to or from the premises abutting on such sidewalk, street or alley, to or from which such articles are being delivered or received. For this purpose, he or she shall not occupy over four (4) feet of the outer edge of the sidewalk in front of his or her store or building. (Prior code §24-2)

12.04.250 Use of sidewalks for storage or display of goods; prohibited.

(a) Except as provided below, no street, sidewalk or alley shall be used for the storage or display of goods, wares or merchandise of any kind or description whatever.

(b) Except as provided below, no person shall place or cause to be placed in or upon any street, alley or sidewalk any barrel, box, crate, baggage or other obstruction of any kind or description whatever.

(c) Subparagraph (a) above shall not apply to a sidewalk sale or other promotion occurring upon a street, sidewalk or alley which is instituted in conjunction with promotion events with other surrounding merchants that is temporary in nature and does not exceed forty-eight (48) consecutive hours of use of said street, sidewalk or alleyway.

(d) Subparagraph (b) shall not apply to planters or waste receptacles, placed upon the sidewalk or alleyway, for so long as: 1) the planter or waste receptacle is appropriate for the use intended; 2) the planter or waste receptacle does not constitute a hazard or danger to users of said street, sidewalk or alleyway; and 3) only for so long as the planter or waste receptacle is maintained by the landowner. (Ord. 1014 §2, 1990; prior code §24-3)

12.04.260 Use of streets and sidewalks for storage or display of vehicles or machinery.

No street, sidewalk or alley shall be used for the storage or display of new or used cars, automobiles, farm machinery or machinery of any kind; provided that such cars, automobiles and machinery may be transported over the streets to and from the place of business or storage of the owner and that such cars, automobiles and machinery may, by permission and under supervision of the Director of Public Safety, be propelled or conveyed in procession for advertising purposes. (Ord. 1384 §§1—4, 2004; Prior code §24-4)

12.04.270 Throwing waste materials into streets prohibited.

(a) No person shall throw into any street, alley or vacant lot in the City any wrapping paper, wastepaper, old clothes, shoes, hats, bottles, broken glassware or pieces of board or sweep from his or her place of business any straw or paper, filth or litter.

(b) No person who shall throw, deposit or cause to be thrown or deposited in, into or upon any street, alley, public place or vacant lot in the City any ashes, putrid meats, decayed vegetables, offal from butcher shops, slops or offal from eating establishments, kitchen offal or slops, manure or stable refuse, dead animal, brute, carrion or fleshy vegetable matter subject to decay, contents of privy vaults, garbage, rubbish or any foul or nauseous substance or offensive matter. (Prior code §24-6)

12.04.280 Openings on sidewalks must be in secure condition.

No person shall leave or keep open any cellar door, pit, vault or other subterranean opening on any highway or sidewalk or allow the same to be left or kept open or be kept in an insecure condition so that a passerby shall be in danger of falling into such cellar, pit or other opening. (Prior code §24-7)

12.04.290 Storage of building materials; permit; required.

No person shall encumber or obstruct any street, alley or other public place by placing thereon any building materials, rubbish or any other article or thing whatsoever without having first obtained a permit from the City Manager. (Prior code §24-8)

12.04.300 Storage of building materials; permit; conditions.

(a) The City Manager shall not grant any permit to place or keep any building materials in any street or alley for a period longer than four (4) months.

(b) Such permit shall not authorize the obstruction of more than one-third ($\frac{1}{3}$) of the street or alley and one-half ($\frac{1}{2}$) of the sidewalk, except in case of urgent necessity and for short periods.

(c) Such permit shall be deemed void whenever the person to whom the same is granted shall extend the obstruction beyond the limits prescribed in this Section. (Prior code §24-9)

12.04.310 Authorization of the Director of Public Safety to order removal of obstruction.

(a) The Director of Public Safety is authorized to order any article or thing whatsoever which may encumber or obstruct any street, alley or other public place to be removed.

(b) Such article or thing shall be removed within one (1) day after notice to the owner thereof or his or her agent to remove the same or cause the same to be removed to some suitable place. (Ord. 1384 §§1—4, 2004; Prior code §24-10)

12.04.320 Erection or placement of buildings in streets; prohibited.

No person shall erect or place any building, in whole or in part, upon any street, alley, sidewalk or other public ground within the City. (Prior code §24-11)

12.04.330 Erection or placement of buildings in streets; removal and assessment.

(a) The owner of any building, fence or other obstruction erected or placed upon any street, alley, sidewalk or other public grounds within the City shall remove the same within thirty (30) days after he or she is requested to do so by a notice in writing signed by the City Manager.

(b) If the owner of any building, fence or other obstruction or encroachment upon any street, alley, sidewalk or public ground in the City refuses or neglects to remove the same after such notice, the same shall be deemed a nuisance and the City Manager may cause the same to be removed, at his or her discretion. The expense of such removal shall be recoverable of the owner in an action of debt or assessment on the premises in the manner provided for other municipal charges and assessments. (Prior code §24-12)

12.04.340 Driving on sidewalks.

It is unlawful for any person to ride or drive any animal, carriage, bicycle, vehicle, conveyance or machine of any kind upon any sidewalk, or strip of ground reserved for sidewalks, within the City,

except as set forth in Sections 12.04.340, 12.04.341, 12.04.342, 12.04.343 and 12.04.344. (Ord. 1117 §§1, 2, 1994; prior code §24-13)

12.04.341 Sidewalk crossings.

Nothing contained in Section 12.04.340 shall limit or preclude any animal, carriage, bicycle, vehicle, conveyance or machine from moving across a regular sidewalk crossing to or from private property in the necessary ingress or egress from such property. (Ord. 1117 §3, 1994)

12.04.342 Handicapped exceptions.

Nothing contained in Section 12.04.340 shall limit or preclude a handicapped person operating a handicapped wheelchair from operating said handicapped wheelchair anywhere upon the sidewalks within the City. (Ord. 1117 §4, 1994)

12.04.343 Residential exceptions.

Nothing contained in Section 12.04.340 shall preclude any person under the age of sixteen (16) years of age from operating a bicycle or a tricycle upon the sidewalks of the City, on any sidewalks within the City, except those sidewalks set forth in Section 12.04.345. (Ord. 1117 §5, 1994)

12.04.344 Municipal duty exception.

Nothing contained in Section 12.04.340 shall preclude any use of any animal, carriage, vehicle, bicycle, conveyance or machine by a duly authorized member of the Police Department or Fire Department official in fulfillment of that member's respective official duties. (Ord. 1117 §6, 1994)

12.04.345 Business district.

Except as to those provisions set forth in Sections 12.04.341, 12.04.342 and 12.04.344, it shall be unlawful to drive any animal, carriage, bicycle, vehicle, conveyance or machine of any kind upon any sidewalk, or strip of ground reserved for sidewalks, within the City, and specifically within the following described area:

(1) Area 1: An area boundaried by the southernmost boundary of First Street (as the northern boundary), the northernmost portion of Fifth Street (as the southern boundary), the easternmost portion of San Juan Avenue (as the western boundary), and the westernmost portion of Raton Avenue (as the eastern boundary).

(2) Area 2: An area boundaried by the southernmost boundary of First Street (as the northern boundary), the northernmost portion of Third Street (as the southern boundary), the easternmost portion of Carson Avenue (as the western boundary), and the westernmost portion of San Juan Avenue (as the eastern boundary).

(3) Area 3: An area boundaried by the southernmost boundary of First Street (as the northern boundary), the northernmost portion of Third Street (as the southern boundary), the easternmost portion of Raton Avenue (as the western boundary), and the westernmost portion of Steen Avenue (as the eastern boundary). (Ord. 1117 §7, 1994)

12.04.350 Discharge of offensive substances onto streets prohibited.

No distiller, tanner, brewer, soap-boiler, tallow chandler, livery stable keeper, innkeeper or other person shall allow to be discharged or permit to flow, from any stillhouse, workshop, manufactory or other house or place owned or kept by him or her, any foul or nauseous liquor or substance of any kind upon any street, alley or other public place so as to be offensive to persons living in the vicinity. (Prior code §24-14)

CHAPTER 12.08

Trees and Plants

12.08.010 Planting of trees.

All trees planted on the streets of the City shall be placed as follows:

(1) Where the curblineline is thirteen (13) feet from the property line, trees shall be set ten (10) feet from the property lines.

(2) Where the curblineline is more than thirteen (13) feet from the property line, trees shall be placed twelve (12) feet from the property line. (Prior code §24-5)

12.08.020 City Manager; authority to make regulations concerning trees.

The City Manager shall have the power to promulgate, amend and repeal rules, regulations and specifications for the trimming, spraying, removal, planting, pruning and protection of trees, shrubs, vines, hedges and other plants within the limits of any street, alley, sidewalk or other public place in the City. (Prior code §24-5.1)

12.08.030 City Manager; enforcement of regulations.

The City Manager shall have the power to have all trees, shrubs, vines, hedges and other plants within the limits of any street, alley, sidewalk or other public place trimmed, sprayed, removed, planted and protected or to require the owner of any property abutting on any street, alley, sidewalk or other public place to trim any tree, shrub, hedge or other plant, which may project beyond the property line of such owner, onto or over public property, or which may obstruct the light from any street lamp, the movement of pedestrians or the vision of drivers of vehicles at intersections, or which may interfere with powerlines at the expense of such owner. (Prior code §24-5.2)

12.08.040 City Manager; inspection of trees, shrubs and hedges; treatment of elm species.

(a) It shall be the responsibility of the City Manager to cause to be inspected, all trees, shrubs, vines, hedges, plants, logs or branches upon any property within the limits of the City. Upon discovering any such trees, shrubs, vines, hedges, plants, logs or branches to be infected with any disease or infested by any insects detrimental to the growth, health and life of such plants, the City Manager will at once notify in writing, the owner, agent or occupant of the premises whereon the same is located, of the condition thereof, and direct such owner, agent or occupant to eradicate,

remove and destroy such condition, or to remove and destroy such trees, shrubs, vines, hedges, logs, branches or other plants. Trees, or parts thereof, of elm in a dead or dying condition that are, or may serve, as breeding places for the European elm bark beetle, shall be considered a public nuisance and shall be removed and destroyed or buried by owner of the tree or trees.

(b) Without notice, it is and shall be the duty of every person owning, controlling or occupying any premises upon which any elm tree or bushes of any variety is located to spray or otherwise treat such elm tree, trees, bush or bushes with such material or materials in such manner at such time or times, at least annually, as may be determined by the City Manager, to be effective in the control of elm beetles or any other pest or disease which may exist in or be a threat to the elm trees of the City. Such treatment, to be effective and in compliance with this procedure, must be completed after April 15 and prior to June 15 of each year. (Ord. 802 §1, 1980; prior code §24-5.4)

12.08.050 Trees may not obstruct or damage streets or sidewalks.

(a) Any tree growing on a public alley, street or highway, but so located as to extend its branches over a public alley, street or highway, shall be so trimmed by the owner of the property on which the tree stands, or by his or her agents, that there shall be a clear height of twelve (12) feet above the surface of the street, alley or highway and eight (8) feet above the surface of the sidewalks unobstructed by branches and such owner or his or her agents shall remove all dead branches and stubs on such tree or trees which are or may become a menace to travelers on the public highways, streets or alleys of the City. Trees whose roots are causing upraised sidewalk slabs or are similarly causing trouble are declared a nuisance. If a tree or its parts in any other way cause a hindrance to the general public or if it is considered troublesome, or in any way may endanger the security and usefulness of any public street, highway, alley, sewer or sidewalk as determined by the City Manager, it is declared to be a public nuisance.

(b) If the owner of such private property does not correct or remove such nuisances within a reasonable time specified in writing by the City Manager he or she shall cause the nuisance to be corrected or removed and the cost shall be assessed to such owner. (Prior code §24-5.5)

12.08.060 Property owner or occupant; responsibility to care for trees adjoining public streets.

(a) The City Manager is authorized to require any owner or agent of any premises to trim, spray, remove or otherwise care for trees upon which such premises abut. It shall be the duty of such owner, agent or occupant of such premises to comply with such requirements within a reasonable time after receiving written notice to do so from the City Manager, such time to be stated in the notice.

(b) In the event the owner or occupant of any premises fails or neglects to comply with the notice provided in Subsection (a) above, the City Manager is authorized to take action required by the notice at the expense of the owner, agent or occupant of the property, which expenses shall be collected as provided in Sections 12.08.080 and 12.08.090. (Prior code §24-5.6)

12.08.070 Property owner or occupant; responsibility to remove dead trees or branches.

It shall be the duty of the owner or occupant of any property to remove any dead trees or dead overhanging boughs dangerous to life, limb or property located on the premises of such owner or

upon public property abutting the premises of such owner, upon receipt of written notice of the City Manager to do so and within such reasonable time as specified in the notice. (Prior code §24-5.3)

12.08.080 Cost of tree care assessed to property owner.

(a) The costs of spraying or other tree care, pursuant to Section 12.08.060 shall be and is assessed upon the lots and tract of land upon which the trees are located. After the completion of the spraying or other tree care the City Manager shall prepare and send to the City Clerk, a schedule showing the description of the lots and tract of land upon which the trees were located, that were sprayed or otherwise cared for, and the costs thereof and the names of the owners thereof.

(b) Upon the receipt of the schedule, the City Clerk shall assess the costs of the spraying or other tree care to the owner of the tract of land, and the amount so assessed shall be a lien in the several amounts assessed against each lot or tract of land until the same is paid, and shall have priority over other liens, except general taxes and prior special assessments, and shall be due and payable at the time of the assessment by the owners of the property.

(c) Such assessment must be paid within thirty (30) days from the time the assessment is made. (Prior code §24-5.7)

12.08.090 Failure to pay assessment; collection.

In case any assessment due and payable under this Chapter and Chapter 12.04 is not paid within thirty (30) days from the time the assessment is made, the City Clerk shall certify the same to the County Treasurer to be placed by him or her upon the tax list of the current year and to be collected in the same manner as other taxes are collected with ten percent penalty thereon to defray the cost of collection. (Prior code §24-5.8)

CHAPTER 12.12

Excavation

12.12.010 Permit required.

No person shall cut or dig in any street, alley, easement or right-of-way within the City without first having obtained a permit therefor from the office of the City Engineer and paying a fee therefor in the sum of ten dollars (\$10.00). (Ord. 727 §1, 1977)

12.12.020 Emergency provisions.

In the event of emergency a cut may be made, but a permit must be obtained no later than 5:00 p.m. on the next day. (Ord. 727 §2, 1977)

12.12.030 Backfilling and resurfacing.

After a cut has been made in a public right-of-way, the trench or cut shall be backfilled, compacted and resurfaced in accordance with the specifications contained upon the permit. (Ord. 727 §3, 1977)

CHAPTER 12.16

Building Numbers

12.16.010 Required; failure constitutes violation.

(a) All owners, agents or others having control or charge of property within the City shall number or cause to be numbered all their residences or places of business and other structures having a street frontage, in conformity with this Chapter. Structures hereafter erected in the City shall be numbered in conformity with this Chapter within thirty (30) days after their completion.

(b) In case any person fails or refuses to do so he or she shall be served with a notice by the City Manager notifying him or her within five (5) days from the service of the notice to so number his or her premises. If he or she then fails or refuses to so do he or she shall be deemed guilty of a violation of this Chapter. (Prior code §24-30)

12.16.020 Dividing lines of City.

For the purpose of numbering the various residences, business houses and other, buildings within the City, the following rules and regulations are adopted:

(1) First Street and Colorado Avenue shall be the dividing lines in the City, from which all numbering shall begin. All numbers north of First Street shall have a suffix of "North" to them, as "No. ____ North Carson Avenue." The numbers south of First Street shall have no suffix.

(2) All numbers east of Colorado Avenue shall be "East" and all numbers west of Colorado Avenue shall be "West," as "No. _____ East Second Street" and "No. _____ West Second Street." (Prior code §24-31)

12.16.030 Odd and even numbers.

(a) The numbers on the south side of all streets running east and west shall all be even numbers and all numbers on the north side of such streets shall be odd numbers.

(b) The numbers on all avenues of the City shall be even on the west sides thereof and odd on the east sides thereof. (Prior code §24-32)

12.16.040 Each twenty-five feet of frontage to be numbered; streets.

(a) The property on all streets running east and west in the City shall be numbered by giving each twenty-five (25) feet fronting on the street a separate number, beginning with Colorado Avenue

as the dividing line, with the number 1 on the north side of the street and with the number 2 on the south side thereof and numbering each twenty-five (25) feet consecutively, as 1, 3, 5, 9, 11, on the north side, and 2, 4, 6, 8, 10, 12, on the south side thereof, numbering both east and west from Colorado Avenue in that manner.

(b) For each additional block east or west, 100 shall be added, beginning with the numbers 1 and 2, with the proper number of hundreds added. (Prior code §24-33)

12.16.050 Each twenty-five feet of frontage to be numbered; avenues.

(a) On the avenues of the City running north and south, the numbering shall begin at First Street. The numbers in the row of blocks south of First Street shall begin with the number 101 on the east side and the number 102 on the west side thereof, for the first twenty-five (25) feet, numbering each twenty-five (25) feet thereafter with its proper number and adding 100 for each block.

(b) The numbering on avenues shall begin at the north side of all blocks south of First Street and at the south side of each block north of First Street. (Prior code §24-34)

12.16.060 Numbering when building partially on two units.

(a) Where a residence or place of business stands partly on one (1) twenty-five (25) feet and partly on the adjoining twenty-five (25) feet, the number used shall be the lowest given to either twenty-five (25) feet.

(b) Where there are two (2) residences or places of business on twenty-five (25) feet frontage, the one on the side nearest where the numbering begins shall take the proper number for that twenty-five (25) feet and the one adjoining on the same twenty-five (25) feet shall add one-half ($\frac{1}{2}$) to the number. (Prior code §24-35)

12.16.070 Fractional units to come next to alleys.

(a) In dividing any lot into twenty-five-foot sections for the purpose of numbering, the fractional parts of twenty-five (25) feet shall in all cases come next to the alleys.

(b) In blocks 49, 48, 31 and the south half of 14 which are two hundred ten (210) feet long, the fractional parts of twenty-five-foot sections shall come next to Lincoln Avenue. (Prior code §24-36)

12.16.080 Preparation of plat designating current number; filing with City Clerk.

(a) The City Engineer shall prepare or cause to be prepared a plat of the City for the use of the City Clerk, designating thereon the correct numbers of the lots in each block bearing the lowest number.

(b) Any person desiring to ascertain the number of his or her residence or place of business in the City shall apply to the City Clerk, who shall furnish him or her with his or her number, which number so furnished shall be used.

(c) No one shall be permitted to display any number other than the number provided by this Chapter for his or her property as a street number. (Prior code §24-37)

CHAPTER 12.20

Parks

12.20.010 Defined.

Park means any area used as a park, playground, swimming pool, golf course or any other area in the area owned or used by the City, devoted or designated to active or passive recreation either on a temporary or permanent basis. (Ord. 643 §1, 1971)

12.20.020 Injuring, befouling or defacing park property prohibited.

It is unlawful for any person to injure, befoul, deface, damage or destroy any park property. Such unlawful activities include, but are not limited to the following:

- (1) Depositing or dumping any filth, dirt, stone, tree limbs, garbage, litter or rubbish of any kind;
- (2) Befouling any basin, pool, lake or fountain with stones, wood, soap, detergent, dirt or any other substance;
- (3) Killing, molesting or disturbing any fish, fowl or animal in any manner, except as otherwise permitted in this Code;
- (4) Removing, destroying or injuring any tree, shrub, plant or flower, wild or cultivated, in any manner;
- (5) Defacing, removing, destroying or injuring any fence, bridge, building, fountain or other structure or property of any kind;
- (6) Digging, removing or carrying away any sward, sand, earth or material of any kind;
- (7) Standing, walking, riding or lying upon any place laid out and appropriated for shrubbery or grass when there has been placed thereon a sign forbidding the same. (Ord. 643 §2(a), 1971)

12.20.030 Commercial activity prohibited.

It is unlawful for any person except a park concessionaire to engage in any commercial activity of any kind upon park property. Such unlawful activities include, but are not limited to, the following:

- (1) Displaying for commercial purposes any placard, banner or sign;
- (2) Hawking, peddling or selling or displaying for sale or soliciting or taking orders for the sale of any goods, wares or merchandise;

- (3) Begging;
- (4) Strolling musicians and entertainers, organ grinders. (Ord. 643 §2(b), 1971)

12.20.040 Acts offensive to public morals or decency prohibited.

It is unlawful for any person to do any act offensive to public morals or decency upon park property. Such unlawful activities include, but are not limited to, the following:

- (1) Playing at any game of chance;
- (2) Performing any obscene or indecent act;
- (3) Taking into or upon any park any malt beverage or malt, vinous or spirituous liquor for sale or consumption except where permitted by ordinance. (Ord. 643 §2(c), 1971)

12.20.050 Boisterous or hazardous activities prohibited.

It is unlawful for any person to engage in any activity in any public park of a boisterous or hazardous nature which endangers themselves or others or disturbs other users of such park or other persons lawfully in the vicinity. Such unlawful activities include, but are not limited to, the following:

- (1) Indulging in any sport or exercise that is liable to frighten or annoy bystanders, injure travelers or impede the passage of traffic, either pedestrian or vehicular, except at such places as may be designated for such purpose;
- (2) Joining in any picnic or games without the consent of the persons of whom they are composed or in any manner disturbing or interfering with the same;
- (3) Building fires except in fireplaces provided therefor; a charcoal blaze may be kindled in a portable charcoal brazier, but care shall be taken that live coals are guarded and completely extinguished before leaving the same;
- (4) Going onto the ice on any lake, pond or stream except such as are designated as skating fields and only when the safety signal is displayed. (Ord. 643 §2(d), 1971)

12.20.060 Fishing regulations.

- (a) Fishing in any City park lake is permitted only to children under the age of fifteen (15) years;
- (b) The limit of fish that may be legally taken from the lakes designated in Subsection (a) above by a person permitted to fish therein shall be five (5) in number per day. (Ord. 643 §3, 1971)

12.20.070 Hours.

(a) No person other than an authorized City employee or designee thereof shall enter upon or be within any City park between the hours of 10:00 p.m. and 6:00 a.m.

(b) The limitation set out in Subsection (a) above shall not apply to any competitor or spectator at any regularly scheduled athletic event in any City park. (Ord. 643 §4, 1971)

12.20.080 Tennis courts.

It shall be unlawful for any person to carry on any activity on the tennis courts of the City wherein the activity is for any purpose other than the playing of the game of tennis. (Ord. 1294 §A, 2001)

CHAPTER 12.24

Cemeteries

12.24.010 Definitions.

For the purposes of this Chapter the following words and phrases shall have the meanings respectively ascribed to them by this Section:

- (1) *Calvary Cemetery* or *subdivision* means the south portion of Fairview Cemetery.
- (2) Fairview Cemetery is that part of the SW ¼ of Section 3, Township 24 South, Range 55 West of the Sixth P.M., lying south and west of the right-of-way of the Atchison, Topeka and Santa Fe Railway, heretofore purchased or used exclusively for cemetery purposes.
- (3) Lot means a parcel of land containing one (1) or more grave spaces.
- (4) Superintendent means the person appointed by the City Manager to supervise, tend and care for Fairview Cemetery. (Prior code §8-1)

12.24.020 Administration and supervision.

The administration and supervision of Fairview Cemetery shall be by direction of the City Manager through a superintendent appointed by him or her, who will employ such other persons as may be necessary for the care and maintenance of Fairview Cemetery. (Prior code §8-2)

12.24.030 Rules and regulations.

(a) The City Council shall adopt rules and regulations not inconsistent with the provisions of this Chapter governing the cemetery, which rules and regulations shall be on file and available for public examination if the office of the City Clerk.

(b) Failure to comply with any rule or regulation promulgated under this Section shall be deemed a violation of this Chapter. (Prior code §8-3)

12.24.040 Duties of superintendent.

(a) It shall be the duty of the superintendent to dig graves, supervise funerals, set monuments or markers, supervise all decorations of lots and graves, plant and care for all vegetation, maintain and repair driveways and walks, endeavor to prevent the defacing, destruction or damage of monuments, markers and other property in the cemetery and carry out and enforce the rules and regulations of the cemetery.

(b) After each burial the superintendent shall report to the City Clerk in writing in detail the location of the grave. (Prior code §8-4)

12.24.050 Maps and records of cemetery; burial permit requirements.

(a) It shall be the duty of the City Clerk to keep a map and the records of the cemetery and issue required permits.

(b) No permits shall be issued without the name and address of the lot owner and the lot and block number for which application is made. Burial permits shall be addressed to the superintendent giving the lot and block number for burial and the time of the funeral.

(c) The City Clerk shall require application for all burial permits to be made at least eight (8) working hours before the funeral and shall not issue permits for funerals less than one (1) hour apart. (Prior code §8-5)

12.24.060 Burial spaces; application; purchase and deed.

(a) Applications for the purchase of burial spaces shall contain a description of the space, purchase price and method of payment, and when executed by the purchaser and the City it shall become a binding contract of purchase and sale.

(b) Upon payment of the full purchase price to the City, a cemetery deed by the City, executed by the Mayor conveying the space free and clear of all encumbrances shall be executed and delivered to purchaser. (Prior code §8-6)

12.24.070 Burial spaces; price.

The sale price of grave spaces, including perpetual care of all spaces, shall be governed by the rules and regulations of the cemetery. (Prior code §8-7)

12.24.080 Transfer, assignment or conveyance of property right in cemetery.

(a) No transfer, assignment or conveyance of any property right or interest in Fairview Cemetery shall be valid without the consent in writing of the City.

(b) The City shall not consent to the transfer of any property right or interest in Fairview Cemetery upon which there is any indebtedness due the City. (Prior code §88)

12.24.090 Lots or spaces; resale prohibited.

No lot or space shall be sold to or purchased by a funeral director or other person for purposes of resale or speculation. (Prior code §8-9)

12.24.100 Lots or spaces; conditions for reversion of right or interest to City.

In the event a lot or space is vacated by reason of bodies being removed therefrom, all right and interest in the lot or space shall revert to the City. (Prior code §8-10)

12.24.110 Interments.

(a) Application and permission for interment, interment charges and payment, and permissible use of burial space shall be governed by the rules and regulations of the cemetery.

(b) It shall be conclusively presumed, unless written notification to the contrary is filed with the City Clerk, that the purchaser of any space in Fairview Cemetery is being acquired for family use, and the City shall have the right, without obtaining any interment permit from the owners, to allow interment in such space of any member of the family of the owners. (Prior code §811)

12.24.120 Erection of monuments.

(a) All monuments or markers shall be placed at least six (6) inches inside the space lines and shall be of granite, marble or real bronze and shall be erected upon a foundation.

(b) Erection, construction, specifications, materials and placing of marker foundations, monuments, vaults and corner stones shall be governed by the rules and regulations of the cemetery. (Prior code §8-12)

12.24.130 Regulations on placing decorations or fences or planting vegetation.

(a) Fences, railings, hedges and other obstructions and decorations other than flowers, vases, wreaths and flags are prohibited and will be removed without notice.

(b) All decoration of lots or spaces and planting of vegetation within the cemetery shall be under the control, supervision and direction of the superintendent, who will be governed by the rules and regulations of the cemetery. (Prior code §8-13)

12.24.140 Fees for disinterring bodies.

Fees for opening graves, disinterring bodies and use of equipment shall be governed by the rules and regulations of the cemetery. (Prior code §8-14)

12.24.150 Perpetual care; spaces conveyed after passage of ordinance codified in this Chapter.

All grave spaces in Fairview Cemetery conveyed after the passage of the ordinance codified in this Chapter shall be perpetually cared for by the City. (Prior code §8-15)

12.24.160 Perpetual care; obtaining; cost.

(a) Lot owners without perpetual care for lots may obtain perpetual care, evidenced by a certificate of the City, upon payment therefor.

(b) The cost of such perpetual care shall be governed by the rules and regulations of the cemetery. (Prior code §8-16)

12.24.170 Perpetual care; fund established; disposition of moneys.

(a) The City Treasurer shall place the money derived for perpetual care in a separate fund to be known as the Cemetery Perpetual Care Fund and shall invest the money of the fund in City warrants, or in the event there is no outstanding City warrants, the money shall be invested in securities approved by the City Council.

(b) The interest derived therefrom shall be used in caring for the lots thus endowed and under no circumstances shall the principal be used for any other purpose whatsoever. (Prior code §8-17)

12.24.180 Designation of Memorial Park section and infant section of Fairview Cemetery.

(a) Block 205 of Fairview Cemetery shall be a Memorial Park section and Lots 108 to 144 in Block 205 shall be the infant section restricted to infant or baby burials in caskets not over three (3) feet in length.

(b) Spaces in Memorial Park sections, including markers and sodding, shall be always maintained flush or level with the established grade of the lots. The material, size and placing of all markers, decorations and vases shall be governed by rules and regulations of the cemetery. (Prior code §8-18)

12.24.190 Closing driveways and establishing grades.

The City shall have the right to close any walk or driveway in the cemetery heretofore existing or hereafter constructed and to establish grades. (Prior code §8-20)

12.24.200 Prohibitions generally.

No person in Fairview Cemetery shall:

- (1) Drive or ride any machine or animal on lots, lawns or walks;
- (2) Drive an automobile or other vehicle in excess of twenty (20) miles per hour or such lesser speed as shall be prudent under the conditions and circumstances then existing;
- (3) Lunch or discard paper boxes and other unsightly articles in the cemetery;
- (4) Cause any employee to do work for lot owners without an order from the superintendent or give to any employee any valuable consideration to do work for a lot owner;

- (5) Do work on the grounds, except by permission of the superintendent;
- (6) Perform or cause to be performed a burial in the cemetery on Sunday without a special permit therefor issued by the City Manager on written recommendation of the health officers;
- (7) Hunt or in any way disturb the birds or fowl or discharge any firearms, fireworks or other missiles within or over any portion of the cemetery or around the gates, fences or roads adjoining the same, except as a part of military funerals or similar occasions;
- (8) Take any animal or permit any animal to be taken into the cemetery;
- (9) Deface, damage, destroy or injure any vegetation, monuments, markers or other property or thing in Fairview Cemetery. (Prior code §8-19)

12.24.210 City nonliability for acts of trespassers.

The City shall not be liable for any act of lot owners, visitors, licensees or trespassers within the cemetery or for any damage to person or property while within Fairview Cemetery. (Prior code §8-21)