

Title 12

STREETS, SIDEWALKS AND PUBLIC PLACES

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Chapter 12.04

STREETS AND SIDEWALKS GENERALLY

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12.04.010 **Obstructing streets, sidewalks and public places.**

No person shall obstruct any street, alley, sidewalk or public place in the city in any manner, except as hereinafter provided. (Ord. 704 (part), 2011; prior code § 7-101)

12.04.020 **Receiving goods and merchandise.**

Any person receiving or delivering any goods or merchandise may place such merchandise on the edge of the sidewalk in front of his premises for a period not exceeding three hours. (Ord. 704 (part), 2011; prior code § 7-102)

12.04.030 **Materials in street—Permits.**

The public works director may grant permission, in writing, to any person to deposit and keep materials for building in any public street adjacent to the building to be erected or repaired for a period of time not exceeding six weeks, however an extension may be granted by the public works director. Such material shall not obstruct or occupy more than one-third of the width of any sidewalk, street or road and shall not impede the flow of traffic or free flow of water in the gutter. (Ord. 704 (part), 2011; prior code § 7-103)

12.04.040 **Sidewalks.**

A. Responsibility. The construction, maintenance and replacement of deteriorated sidewalk fronting or abutting all streets, highways and avenues shall be accomplished by the builder, owner or developer of all residential and commercial property within the city in accordance with the procedure for requiring construction as hereinafter set forth, and construction shall be required as follows:

12.04.040

1. New Construction. Upon the issuance of a building permit for any structure within the city, as required by the provisions of Title 15, sidewalks in accordance with the specifications hereinafter set forth shall be constructed at the same time as the construction of the permitted structure, and this requirement to construct the sidewalk shall be a condition of the issuance of the building permit.

2. Petition of Property Owners. Construction of sidewalks in any area of not less than one block, measured from street to street within the city may be initiated upon the petition of a majority of the property owners abutting upon the proposed sidewalk or the city. In the event the city determines sidewalks are necessary, the construction costs are the responsibility of the adjacent property owners. However, the property owners may petition the city for a sidewalk assessment district. Upon receipt of the petition, the Custer City council shall schedule a hearing thereon and may

1. Require the construction of the sidewalk in accordance with the provisions of this section, and/or
2. Establish an assessment district for payment of the sidewalk, as set forth in South Dakota

Codified Law.

3. Resolution of Custer City Council. The city council shall also be empowered to initiate the construction or replacement of deteriorated public sidewalks upon any property abutting a public street by resolution, and after due investigation, and shall designate individual properties whereon sidewalks are determined to be necessary. The resolution shall also set a public hearing upon the resolution by the common council, which may be at a regular meeting of the common council, or at a special meeting called for the express purpose of considering the resolution. Not less than ten (10) days prior to the date of the hearing, a copy of the resolution including the notice of hearing thereon shall be sent to each of the affected property owners, and shall give notice to the property owners of their right to appear and be heard. Upon such hearing, the council shall have the power to require the construction of sidewalks, and shall set a schedule for the completion of the work, and may consider any variance in the specifications for the sidewalk construction, or make any other changes as are reasonably necessary to effectuate the construction of the sidewalk. Upon final hearing and subject to the changes or adjustments to the resolution made at the hearing, the resolution shall then become effective without further notice or hearing thereon.

B. Specifications. All sidewalks shall be curbside and shall be a minimum of five feet in width in commercial zones, and a minimum of four feet in width in residential zones, and shall be constructed in accordance with the specifications of the South Dakota State Highway Department which are by reference herewith adopted and made a part of the ordinance codified in this section, and will be available at the city finance office.

C. Variances. The city council may permit variances to the specifications contained in this section as to the location of the sidewalks, as may be necessary in consideration of special circumstances including previously constructed improvements or sidewalks, or physical features of the property not reasonably allowing construction in accordance with the specification; or in consideration of conforming the sidewalks to existing sidewalks or facilities upon adjoining properties, it being the intent of this section to require the installation of an orderly and functional system of public walkways within the city.

D. Failure to Install Sidewalks. In the event that after due notice of the requirements to construct any sidewalks under the provisions of this section, and within thirty (30) days thereafter if such sidewalks have not been installed or the city council has not acted to extend the time for such installation; the city may then proceed to cause

the sidewalks to be constructed in accordance with the specifications as hereinafter set forth, and the cost of such sidewalk construction shall be thereupon assessed to the owner of the property abutting the sidewalk.

E. Use of Sidewalk.

1. Merchant Use.

a. Any merchant within the commercial zone of the city may use and occupy up to one-third of the total sidewalk area in front of such merchant's business for the display of products or merchandise subject, however, to the further limitation described hereafter in paragraphs b, c, d, e, and f. Parking node areas shall not be utilized in calculations of total sidewalk area. Such merchant use shall be limited to that portion of the sidewalk directly contiguous and perpendicular to the merchant's building. No merchandise or wares intended for sale, or intended as advertisements for saleable wares located within the merchant's establishment, shall be displayed or hung from awnings or posts outside of the permitted area. However, from October 1st to April 1st awning posts and light poles may be decorated for holidays. Decorations may extend from the post or pole to the back of the curb to a maximum height of seven (7) feet, but must not impede access to or from parking. All decorations on light poles shall be approved by the community development director. The chamber of commerce shall be allowed to display selected objects such as the buffalo art pieces and informational attachments on nodes as approved by the community development director.

b. The total combination of all such properties placed upon the sidewalks shall not in total occupy in excess of one third (1/3) of the total sidewalk space. For those properties that have awning/canopy supported by post(s), the sidewalk space shall be measured from the inside of the post to a point parallel with the property line.

c. Such properties shall not be permitted to obstruct pedestrian traffic upon such sidewalk, or create any hazard to any person traveling upon such sidewalk. Access from parking areas to sidewalk shall not be obstructed. A minimum of five feet in width of unobstructed sidewalk shall be maintained.

d. In no event shall any merchant use or occupy the sidewalk and other areas within any parking node within Custer City, except that small planters or newspaper boxes may be placed in locations approved by the community development director.

e. Benches, Chairs, Tables, and Planters. The placement of benches, chairs, tables, and planters upon sidewalks by the owner of the abutting property, or their agent, shall be allowed; provided, that such items are placed within the three feet adjacent to the building, and a minimum of five feet in width of unobstructed sidewalk is maintained.

i. Benches, chairs, tables, and planters may be required to be attached to the building and must be maintained in good repair and clean.

ii. The owner of the abutting property or his or her agent, who places the benches, chairs, tables, and planters upon the sidewalk, shall keep the benches, chairs, tables, and planters in a neat and satisfactory manner.

iii. Benches, chairs, and tables are authorized for public use and convenience only.

iv. Hanging baskets from the awnings are only allowed with authorization from the city on an annual basis.

f. Signs. Pedestrian-oriented signs placed on the sidewalks are authorized hereunder and shall be of such size, dimension, orientation and placement as to be directed toward the attention of pedestrians within fifty (50) feet thereof and, under no circumstances, directed toward the attention of persons traveling in motor vehicles. Such signs shall not exceed thirty-six (36) inches in height or more than twenty-four (24) inches in width on any face and with

no more than two faces total. Any such sign shall contain no off-premises advertising, and shall display no logo or advertising copy other than for the primary business of the occupant of the abutting property. The location of any sign shall be as required in subsection E.1.a. of this section.

g. Penalties. Violations of this section shall receive two written warnings by a city official. After two written warnings are issued in a calendar year, a fine of twenty-five dollars (\$25.00) shall be issued. For each additional violation in a calendar year, the fine issued will double from the previous fine received, up to a maximum of five hundred dollars (\$500.00) per violation.

2. Rubbish and Dirt on Sidewalk. It is unlawful for any person or the owner occupant of any lot or lots abutting any public sidewalk to allow any mud, rubbish, dirt, debris or obstruction to remain on the sidewalk for more than twelve (12) hours.

3. Snow and Ice. Snow and ice permitted to gather and remain upon the sidewalks of the city is dangerous to the safety of its citizens and others using the sidewalks, and is declared a public nuisance. It shall be the duty of the owner, occupant, person in possession or in charge of any lot, parcel or plot of ground fronting or abutting upon any sidewalk to keep such sidewalk free and clear of snow and ice to the width of the sidewalk. If the ice is not removable by ordinary means, the owner, occupant, or person in possession or in charge shall take necessary precautions to render the sidewalk safe for passage by treating the ice with salt or sand.

a. The following enforcements shall apply in accordance with this section:

i. The central business district shall have snow and ice removed to the width of the sidewalk by 9:00 a.m.

ii. The highway commercial district with non-DOT sidewalks shall have snow and ice removed to the width of the sidewalk by 9:00 a.m.

iii. The highway commercial district with DOT sidewalks shall have snow and ice removed to the width of the sidewalk or the day following the plowing or clearing of the street.

iv. The residential district shall have snow and ice removed to the width of the sidewalk twenty-four (24) hours after the cessation of snowfall.

b. If the owner, occupant, person in possession or in charge of any lot, parcel or plot of ground fronting or abutting upon any sidewalk fails or neglects to remove the snow or ice from sidewalk in accordance with this section, or shall fail to treat or remove ice with salt or sand, then the superintendent of streets or any other officer of the city may proceed and remove the same and the expenses for removing such snow and ice shall include the cost of equipment, labor, materials and a penalty shall be invoiced to the property owner and may be assessed against the abutting property from which the snow or ice was removed or it may be collected by suit against the owner or occupant of the lot or building.

4. Driving or Parking upon Sidewalk. It is unlawful for any person to park or drive upon a public sidewalk within the city except to cross the sidewalk at designated driveways. The owner or occupant of any building or ground fronting or adjoining any sidewalk as aforesaid, or operating a business abutting the sidewalk shall take necessary and reasonable measures to require that customers to the business or premises do not park upon the public sidewalk, or cross the same in any manner except at a ninety (90) degree angle at designated driveways.

5. Intersections, Curb Cuts and Handicap Access. At any time that the owner of any building or ground within the city shall install any sidewalks as required by this section and in conformance with the requirements and specifications as herein set forth, notice shall be then given to the city of the necessity of any work necessary at intersections and including curb cuts and handicap access. Whenever any person, firm or corporation makes new installation of sidewalks, curbs or gutters or improves or replaces existing sidewalks, curb or gutters, in both business and residential areas, it shall be required that they install ramps at all places necessary to make the transition from street to sidewalk easily negotiable for handicapped persons in wheelchairs and for blind persons. (Ord. 730, 2013; Ord. 711, 2012; Ord. 704 (part), 2011; Ord. 678, 2010; Ord. 586, 2003; Ord. 550, 2002; Ord. 537, 2001; Ord. 490, 1998; Ord. 369, 1992; Ord. 347, 1990: prior code § 7-104)

12.04.050 Clearance of overhanging projections over streets and sidewalks.

Minimum clearance of overhanging projections over streets and sidewalks within the city shall be maintained. Trees shall be trimmed by the owner or the occupant of said premises so that no bough or branch thereof shall project lower than fourteen (14) feet above the surface of any street and eight feet above the surface of the sidewalk. Sidewalk awnings and canopies shall have a minimum clearance of eight feet. All signs shall have a clearance of ten (10) feet above the sidewalk and shall not extend beyond the outer edge of the sidewalk. All other overhanging projections shall have a minimum clearance of ten (10) feet above the sidewalk and fourteen (14) feet above the street. No sign, billboard or other construction shall be permitted across any street or alley nor allowed to extend beyond the outer edge of the sidewalk, nor be allowed to be suspended in any manner from one side of the street to the opposite side, excepting such signs or structures built by and under the authority of the city. (Ord. 704 (part), 2011: prior code § 7-105)

12.04.060 Private driveways.

No person, firm or corporation shall construct any private driveway to any private premises from a public street without first securing written authorization thereof from the appropriate department head. All private driveways shall be constructed at the owner's expense and equipped with a drain pipe of not less than fifteen (15) inches to carry off water where applicable. Such drain pipes located within the right-of-way shall be maintained and kept open by the city. (Ord. 704 (part), 2011; Ord. 488, 1998: prior code § 7-106)

12.04.070 Eave pipes.

No person shall place or maintain any pipe, leading from the eaves of any building, in such a position that the water discharged thereby may flow upon or over any public sidewalk. (Ord. 704 (part), 2011; prior code § 7-107)

12.04.080 Repair of vehicles in streets.

It is unlawful for any person to perform any mechanical repair of vehicles upon any of the public streets within the city, where such automobile shall remain in the street for a length of time greater than one day. (Ord. 704 (part), 2011; prior code § 7-108)

12.04.090

12.04.090 Removal of obstructions.

Any obstruction or sign which is placed in violation of these provisions, may after ten (10) days written notice be removed by the city at the owner's expense. (Ord. 704 (part), 2011; prior code § 7-109)

12.04.120 Parkways—Maintenance.

A. 1. The owner of any lot, parcel of ground or tract of land shall be responsible for the condition and upkeep of that portion of any street or public right-of-way abutting upon his or her property and not used as a roadway for vehicular traffic. This section, however, shall not apply to the center parkways on boulevards. The property owner shall keep all weeds cut on his or her parkways, and is granted the right to make the same into grass plots and lawns and to plant and maintain shrubs, flowers and trees, under the supervision of the superintendent of parks, for the purpose of beautifying the city streets. The owner may prohibit pedestrian traffic thereon, except on concrete sidewalks where concrete sidewalks exist. When concrete sidewalks have not been installed, pedestrians may walk on parkways and shall not walk in streets. This shall not be construed to authorize pedestrian traffic in areas where dedicated streets have not been opened to travel.

2. The property owner shall keep the grass cut in a neat and satisfactory manner, and shall not place or allow to grow any shrub, tree or plant of any kind so as to interfere with the view of the driver of any vehicle traveling on any roadway or in any alley.

B. No parkway shall be fenced or otherwise enclosed, and the city reserves the right to remove, or order the removal of, at any time, all trees, shrubs and other plants, where necessary, in order to construct or widen sidewalks, or to widen the roadway used for vehicular traffic, or where the trees or shrubs interfere with the vision of the drivers of motor vehicles on the streets or in the alleys. (Ord. 714 (part), 2012; Ord. 693 (part), 2011)

12.04.130 Public Rights-of-Way—Curb and Gutter—Maintenance.

All sections of curb and gutter, no matter the type or material makeup, which are used as an entrance to a driveway, shall be considered a part of that driveway. Maintenance, repair and replacement of that portion of curb and gutter shall be the responsibility of the property owner. (Ord. 714 (part), 2012; Ord. 693 (part), 2011)

Chapter 12.08
EXCAVATIONS

Sections:

- 12.08.010 Permit required.
- 12.08.020 Permit--Application.
- 12.08.030 Street cutting bond required.
- 12.08.040 Bond held by city.
- 12.08.050 Waiver of bond requirement.
- 12.08.060 Guarding excavations.
- 12.08.070 Hooking on to water or sewer system.
- 12.08.080 Restoration.
- 12.08.090 Water and sewer lines.

12.08.010 Permit required.

It is illegal for any person(s), firms, corporations, entities, etc., to excavate or dig anywhere in any public street or alley or any vacated portion of any street or alley within the city with any power equipment without having first obtained a digging permit. (Ord. 422 (part), 1994: prior code § 7-201)

12.08.020 Permit--Application.

- A. Application for a digging permit shall be made by written notification to the public works department at least forty-eight (48) hours in advance of commencing work.
- B. In the case of an emergency, the public works department will make every effort to issue a permit as soon as possible.
- C. Permit applications (attached as Exhibit A to the ordinance codified in this chapter) will be made at the finance office and reviewed for approval by the public works director. (Ord. 422 (part), 1994: prior code § 7-202)

12.08.030 Street cutting bond required.

- A. No permit will be issued unless a street cutting bond has been posted. Said bond must be either a cash or surety bond.
- B. The amount of the bond for excavating, trenching, drilling or cutting a street or alley up to a length of seventy-five (75) feet shall be five hundred dollars (\$500.00). The city council will determine the bond requirements for disturbances longer than seventy-five (75) feet. The bond will be held for one year, at which time a written release from the public works director is issued if all repairs have been reasonably performed. (Ord. 422 (part), 1994: prior code § 7-203)

12.08.040 Bond held by city.

In the event that remedial repairs are not deemed sufficient, in that a written release is not obtained from the public works director after expiration of the one-year period, the city shall hold the bond. The public works director shall then send written notice to the parties as to the cause for the bond being held by the city. If additional repairs are required, the contractor or party who applied for the permit will have an additional thirty (30) days to repair the deficiencies after receipt of notice. If the repairs are not completed within thirty (30) days, the city shall make the necessary repairs and withhold the costs and expenses for any repairs from the bond

previously posted. These repairs shall be made by either the city or a contractor hired by the city. (Ord. 422 (part), 1994: prior code § 7-204)

12.08.050 Waiver of bond requirement.

Waiver of the bond requirement may be allowed with the approval of the Custer City council, if the applicant has a past history or record of performing adequate repairs. Further, the applicant must sign a certificate of obligation requiring the applicant to reasonably repair a street or alley listed in the applicant's permit, at the city's request, and demonstrate the ability to discharge said obligation before the applicant shall be allowed a bond waiver. (Ord. 422 (part), 1994: prior code § 7-206)

12.08.060 Guarding excavations.

Any person receiving a permit shall maintain around the excavation both day and night suitable guards, fences, lanterns and signals so as to prevent injury to any person, animal or vehicle. (Prior code § 7-205)

12.08.070 Hooking on to water or sewer system.

No street or alley within the city may be excavated for the purpose of hooking on to the city water or sewer system without first obtaining a permit for that purpose from the Custer City finance office. A deposit of one hundred dollars (\$100.00) in the form of certified check, cashier's check or bond shall be made to the city by the builder or contractor before any excavation is started. (Prior code § 8-201)

12.08.080 Restoration.

The builder or contractor shall restore the street or alley to good usable condition, acceptable to the Custer City public works director or forfeit the one hundred dollar (\$100.00) deposit. In the event that the builder or contractor shall forfeit the deposit and that the deposit is not large enough to cover the cost of the street restoration, the builder or contractor shall pay the city the difference between the amount of the deposit and the cost of the street restoration. When the city public works director has accepted the restoration of the street or alley and signed a release, the city finance officer shall refund the deposit to the builder or contractor. (Prior code § 8-202)

12.08.090 Water and sewer lines.

No water line or sewer line installed within the city and hooked to the city water or sewer line system may be buried until it has been inspected by the Custer City water or sewer department employee qualified to make inspection. The city inspector shall then sign a release and the lines may then be buried. Inspection fees shall be set by the council from time to time. (Prior code § 8-203)

Chapter 12.12
CITY CEMETERY

Sections:

- 12.12.010 Name.**
- 12.12.020 Supervision.**
- 12.12.030 Powers and authority.**
- 12.12.040 Execution of conveyances.**
- 12.12.050 Monuments.**
- 12.12.060 Burial vaults.**
- 12.12.070 Hours—Alcoholic beverages prohibited.**
- 12.12.080 Reclaiming and resale of lots by city.**

12.12.010 Name.

The city cemetery shall be known as the Custer City Cemetery.
(Ord. 664 (part), 2009)

12.12.020 Supervision.

The Custer City finance office shall supervise the Custer City Cemetery.
(Ord. 664 (part), 2009)

12.12.030 Powers and authority.

A. The Custer City common council shall establish rates for the sale of cemetery lots and perpetual care maintenance within the Custer City Cemetery and shall periodically make adjustment of those fees. The Custer City finance office shall receive, receipt for, and deposit moneys from the sale of lots into the general fund for care and maintenance; and the perpetual care fees shall be deposited into the service fund, known as the Custer City Cemetery Perpetual Care Fund. The Perpetual Care Fund balance shall continue to increase to an amount so as the interest earned thereon may provide for all or a portion of the care of the cemetery. The interest shall be receipted into the general fund for care and maintenance.

B. Further, the Custer City common council shall have the power to contract with the owners or the families of decedents owning lots within the said Custer City Cemetery for the care of their lots within the cemetery. Further, the Custer City common council shall have the power to hire or contract with firms, or individuals for the care, maintenance and improvement of the Custer City Cemetery.
(Ord. 664 (part), 2009)

12.12.040 Execution of conveyances.

The Custer City finance office shall execute all conveyances of lots upon the payment of purchase price thereof. Each conveyance shall be signed by two officers of the City. The filing fee will be charged over and above the sale of the lots and perpetual care fees.
(Ord. 664 (part), 2009)

12.12.050 Monuments.

No monuments, stone, marker or structure of permanent nature shall be set in the cemetery without permission from the Custer City finance office. Planting trees, shrubs, flowers or other plants as well as construction of curbs, artificial walks, fencing, coping or enclosure of any kind is prohibited without authorization from the Custer City finance office.
(Ord. 664 (part), 2009)

12.12.060

12.12.060 Burial vaults.

No body or casket shall be placed in any grave or burial vault in the Custer City Cemetery without the prior approval of the Custer City finance office.

(Ord. 664 (part), 2009)

12.12.070 Hours—alcoholic beverages prohibited.

A. The municipal cemetery shall be open from dawn until dusk or five a.m. to nine p.m., whichever is earlier. There shall be no drinking or alcoholic beverages in the cemetery. Signs specifying the hours and rules shall be placed and maintained in a conspicuous place at each entrance to the cemetery.

B. Any person who enters the cemetery after the posted times or drinks alcoholic beverages on cemetery grounds will be guilty of a violation of this section and shall pay a fine of twenty-five dollars (\$25.00) to the city. Special exceptions shall be made for religious or sentimental reasons if they are related to the visitation by a friend or relative of a particular person who is buried in the cemetery, if prior approval is given by the Custer City finance office.

(Ord. 664 (part), 2009)

12.12.080 Reclaiming and resale of lots by city.

In addition to the power granted the city in SDCL 47-29-9, relating to the reselling of cemetery lots, the city shall have the right to discontinue all rights granted to a purchaser of any lot after a period of thirty (30) years from the date of sale thereof, should the Custer City finance officer upon investigation determine that the purchaser or owner thereof has not used said lot, or any part thereof, that such owner is deceased and that such lot will not likely be used as a burial place for the owner or purchaser or any members of his family. In the event that any such lot is to be reclaimed, inquiry shall be made to ascertain the names and addresses of such heirs or any of them, which can be obtained by the making of reasonable inquiry, and notice shall be given to such heirs, by mail, of the intention of the city to reclaim said property, and of the fact that said money will be deposited as hereinafter provided in this section. Notice and transfer shall be in accordance with SDCL 47-29-9. Whether any heirs of such deceased owner or purchaser are located or not, the original cost of said lot, as paid by said owner or purchaser, shall be held in trust by the city until such time as proof satisfactory to the city is made by the heirs of such deceased owner of the right to such proceeds. In case no heir of said deceased owner is located, notice of the reclaiming of such lot and the deposit of said money shall be published once a week for three (3) successive weeks in the official newspaper in the city.

(Ord. 664 (part), 2009)

Chapter 12.14

CITY TREES AND FOREST

Sections

- 12.14.010** **Definitions.**
- 12.14.020** **City tree board.**
- 12.14.030** **Planting and maintenance.**
- 12.14.040** **Interference.**
- 12.14.050** **Care and maintenance of city right-of-way.**
- 12.14.060** **Arborists certification and bond.**
- 12.14.070** **Penalties.**

12.14.010 **Definitions.**

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

“Board” is the City of Custer park and recreation board/committee.

“City tree manager” shall mean the person employed, contracted, or appointed by the city who has direct responsibility for implementing and enforcing this chapter.

“Park trees” shall mean the trees, shrubs, bushes and all other woody vegetation on public lands.

“Pest” shall mean any organism, insect, rodent or other agent that damages or causes abnormal growth, disease or death of any tree, shrub, bush or woody vegetation.

“Street trees” shall mean trees, shrubs, bushes, and all other woody vegetation on lands lying within municipal or public rights-of-way. (Ord. 690 (part), 2011)

12.14.020 **City tree board.**

A. Establishment, composition, appointment. The City of Custer park and recreation board/committee is hereby designated as the city tree board, consisting of members appointed by the mayor with the approval of the city council.

B. Terms, compensation, organization.

(a) The terms of office of the board members are as established by the city council, for a period of two (2) years.

(b) Members of the board shall serve without compensation.

(c) The board shall choose its own officers and shall keep a journal of the proceedings. A quorum is required to do business.

(d) The board may appoint subcommittees or task forces to specifically address community forestry needs.

(e) The public works director shall be the city's tree manager and also a member of the board.

C. Duties and responsibilities. The duties of the city tree board are as follows:

(a) The board will study, investigate, counsel, and develop and annually update 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.

(b) The board, when requested by the city council, shall consider, investigate, make findings, reports, and recommendations upon any special matter or question coming within the scope of its work.

D. Review by council. The city council shall have the right to review the conduct, acts and decisions of the city tree board. Any person may appeal any ruling or order of the city tree board within thirty (30) days to the city council who may hear the matter and make the final decision. (Ord. 690 (part), 2011)

12.14.030 Planting and maintenance.

A. Street and park trees.

(a) No street tree shall be planted unless approved by the city tree manager. The kind, size, variety, and location thereof shall be in accordance with the city tree plan.

(b) A list of trees and shrubbery suitable for street trees and their spacing shall be developed by the board and included in the city tree plan.

(c) Care of street trees shall be the responsibility of the owner of the abutting property.

(d) 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 (3) 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 chapter at the determination of the city tree board.

(e) Stumps of street and park trees shall not project above the surface of the ground.

(f) The city shall have the right to plant, prune, maintain and remove trees, plants and shrubs within rights-of-way and on public grounds.

(g) The city may remove or cause to be removed, any tree or part thereof which is infested with any pest or is in an unsafe condition or is injurious to sewers, electric power lines, gas lines, water lines or other public improvements or which interferes with public walkways, streets, highways or alleys.

(h) The city shall maintain park trees using *Firewise* or similar specifications that reduce potential damage caused by wildfire to private and public property.

(i) Removal of street and park trees. When the city must remove permitted street trees to install or repair water and sewer lines, the property owner may be awarded up to fifty dollars (\$50.00) per tree in matching funds to cover the cost of replacement. The funds shall be paid to the property owner(s) upon receipt of proof of purchase and planting. Private utility companies shall be responsible for the same matching funds as specified herein when operating within city right-of-way.

B. Trees on private property.

(a) No person shall store any tree or part thereof known to harbor or contain any pest infestation or declared to contain any pest infestation. The city shall have the right to inspect and cause the removal of any dead or diseased trees, parts of trees, or other vegetation on private property within the city if such trees constitute a hazard to life or property or harbor pests, which constitute a threat to other trees within the city. The city shall notify the owners of such trees, in writing, to remove such trees within such reasonable time as shall be determined by the city. Removal shall be made by the owners at their own expense. In the event of failure of the owners to comply with such provisions, the city shall have the authority to remove such trees and charge the cost of removal to the owners or to assess the costs thereof against the property. Refer to Section 8.16.220 for the city's nuisance ordinance on dead or diseased trees.

(b) Property owners should maintain a degree of wildfire protection on their property to prevent spread to adjacent property. Property owners should thin trees and do other treatments based on *Firewise* recommendations.

(c) Any person claiming an interest in any tree ordered to be removed may appeal such order to the city tree board/committee within seven (7) days from the date of the order. (Ord. 690 (part), 2011)

12.14.040 Interference.

It shall be unlawful for any person, firm, or entity to prevent, delay, or interfere with the city or any of its agents, officers or contractors engaged in the planting, cultivation, mulching, pruning, spraying, inspecting or removing of any trees within the city as authorized by this article. (Ord. 690 (part), 2011)

12.14.050 Care and maintenance of city right-of-way.

The care and maintenance of trees inside of city right-of-way including, but not limited to, the area between the property line and street curb shall be the responsibility of the owner, manager or lessee of the abutting property.

Such persons are jointly and severally liable for such care and maintenance. (Ord. 690 (part), 2011)

12.14.060 Arborists certification and bond.

It shall be unlawful for any person or firm to engage in the business or occupation of pruning, treating, or removing street or park trees within the city without certification from the International Society of Arboriculture. Such certification is not required for any public service company or city employee doing such work in the pursuit of their official responsibilities. Additionally each operator or firm shall possess liability insurance in the minimum amounts of one million dollars per person, two million dollars per occurrence, and shall name the city as an additional insured. (Ord. 690 (part), 2011)

12.14.070 Penalties.

Any person violating any provision of this chapter shall be, upon conviction or a plea, guilty of a Class II misdemeanor and subject to a fine not to exceed (\$200.00). Prosecution or conviction under this provision shall not be a bar to any other remedy or relief for violation of these regulations. (Ord. 690 (part), 2011)

Chapter 12.16

CITY PARK USE REGULATIONS

Sections:

12.16.010 Protection of park property.

12.16.020 Protection of trees.

12.16.030 Rubbish.

12.16.040 Driving in parks.

12.16.050 Selling merchandise.

12.16.010 Protection of park property.

It is unlawful to deface, damage or in any way interfere with any structure or property in any city park. (Prior code § 2-102)

12.16.020 Protection of trees.

It is unlawful to interfere with or damage any trees or vegetation in any city park. (Prior code § 2-103)

12.16.030 Rubbish.

It is unlawful to throw or deposit any refuse or garbage of any kind in any city park or any body of water within or adjoining a city park, unless such refuse or garbage is deposited within a proper receptacle. (Prior code § 2-104)

12.16.040 Driving in parks.

It is unlawful to drive any vehicle upon the grass or planting space in a city park, except places provided for parking and driving. (Prior code § 2-105)

12.16.050 Selling merchandise.

It is unlawful to peddle or offer for sale any merchandise in a city park without permission from the park and recreation board. (Prior code § 2-106)

Chapter 12.18

CAMPING UPON CITY PROPERTY

Sections:

12.18.010 Violation--Penalty.

12.18.010 Violation--Penalty.

A. It is unlawful for any person or entity to enter or remain upon City properties or rights-of-way for the purpose of overnight camping or any overnight stay, unless otherwise expressly permitted by majority vote of the city council.

B. Campers parked upon city streets and rights-of-way shall be given warning for the first violation and ticketed if not removed within twenty-four (24) hours. All other violations of this section shall carry a maximum penalty of thirty (30) days jail and/or fine of two hundred dollars (\$200.00). (Ord. 507, 1999)

Chapter 12.20

LOUDSPEAKERS

Sections:

12.20.010 General provisions.

12.20.020 License--Revocation.

12.20.030 License--Restrictions.

12.20.040 Exception.

12.20.010 General provisions.

No person shall maintain or operate any loudspeaker or amplifier connected with any radio, phonograph, tape recorder, microphone or any other device by which sounds are magnified and made heard over any public street or outdoor place without having first secured a license therefor. Application for a license shall be made to the city finance officer upon payment of such fee as the city council shall establish by resolution. Upon appearance of the person, firm or corporation requesting the license, the city council shall determine whether such license shall be granted. (Prior code § 11-501)

12.20.020 License--Revocation.

The license shall be effective for an indefinite term, unless terminated by resolution of the city council or upon petition of fifteen (15) residents of the city after which a hearing shall be set to determine the continued term of such license. (Prior code § 11-502)

12.20.030 License--Restrictions.

The sound amplifier license may not be transferred, sold or set over in any form to any person, firm or corporation whatsoever. Such license shall be effective only for the location stated in the licensee's application. Such license shall be granted only for use between the hours of nine a.m. to nine p.m., Monday through Saturday and twelve noon to nine p.m. on Sunday. No licensee shall operate at a volume or in a manner so as to be offensive to the general public. In addition, no licensee shall cause or permit to be emitted from any sound device any lewd, obscene or indecent language or sound or any false representation of any matter or to advertise any product or service, the sale of which is prohibited by law. (Prior code § 11-503)

12.20.040 Exception.

This section shall not apply to any such loudspeaker devices as may be used in connection with any parade or pageant, providing that proper authorization has been issued for the same for the city. (Prior code § 11-504)

Chapter 12.24

MEETINGS, ASSEMBLIES AND PARADES

Sections:

12.24.010 Definitions.

12.24.020 Permit required.

12.24.030 Exceptions.

12.24.040 Application.

12.24.050 Findings required.

12.24.060 Conditions to permit.

12.24.070 Prior application.

12.24.080 Notice of issuance or denial.

12.24.090 Appeal procedure.

- 12.24.100 Contents of permit.
- 12.24.110 Duty of permittee.
- 12.24.120 Revocation of permit.
- 12.24.130 Public conduct during a meeting, assembly or parade.

* Prior history: Prior code § 9-319.

12.24.010 Definitions.

As used in this chapter:

"Activity" means a parade or public meeting or assembly.

"Funeral procession" means a single movement from a mortuary or church to the place of burial of a human body, under direction of an authorized funeral director.

"Parade" means a march or procession of any kind.

"Public meeting or assembly" means a planned or organized gathering of a group of persons, or any ceremony, show, exhibition or pageant which may reasonably be expected to result in the gathering of a group of persons, upon any public street, park or other public grounds. (Ord. 461 § 1, 1996)

12.24.020 Permit required.

It is unlawful for any person to hold, manage, conduct, aid, participate in, form, start or carry on any parade or public meeting or assembly, as defined in this chapter, in or upon any public street, park or other public grounds in the city unless and until a permit to conduct such meeting, assembly or parade has been obtained in compliance with the provisions of this chapter, except as herein provided. (Ord. 461 § 2, 1996)

12.24.030 Exceptions.

This chapter shall not apply to any of the following:

- A. Funeral processions;
- B. A governmental agency within the scope of its functions;
- C. Students going to and from school classes or participating in educational activities, providing such activity is authorized by the school district and is under the immediate direction and supervision of the school authorities authorized by the school district to approve and supervise such activity. (Ord. 461 § 3, 1996)

12.24.040 Application.

A. Application for permits under this ordinance must be filed with the chief of police or duly authorized law enforcement officer not less than five days in advance of the proposed activity. Late applications may be accepted if filed sufficiently in advance of the date of the proposed activity to enable the chief of police or duly authorized law enforcement officer to determine that the activity will meet the requirements set forth in Section 12.24.050 of this chapter.

B. This application shall be in writing and shall give the following information:

- 1. The name, address and telephone number of the person requesting the permit. If the activity is proposed to be conducted for, on behalf of, or by any organization, the name, address and telephone number of the headquarters of the organization and the authorized head of such organization shall be stated;
- 2. The name, address and telephone number of the person who will be directly in charge of and responsible for the activity;
- 3. The purpose of the activity;
- 4. The date, time and location or route of the proposed activity;

5. The approximate number of persons who will participate in the activity and the number and kind of vehicles, equipment and animals which will be used;
6. Plans for the assembly and dispersal of the parade, including times and locations thereof;
7. A statement as to whether the parade will occupy all or only a portion of the streets proposed to be traversed;
8. A statement as to whether a permit has been requested or obtained from any other city within which said activity shall commence, terminate or occur in part;
9. Any additional information which the chief of police or duly authorized law enforcement officer shall find reasonably necessary to a determination of the findings required by Section 12.24.050 of this chapter. (Ord. 461 § 4, 1996)

12.24.050 Findings required.

The chief of police, his designated representative, or a duly authorized law enforcement officer shall issue a permit as provided for hereunder when from a consideration of the application and from such other information as may otherwise be obtained he finds that:

- A. The conduct of such activity will not substantially interrupt the safe and orderly movement of other traffic;
- B. The concentration of persons, animals and vehicles will not unduly interfere with proper fire and police protection of, or ambulance service to, areas where the activity will take place or areas contiguous to such area;
- C. The conduct of such activity will not unduly interfere with the movement of firefighting equipment en route to a fire, or the movement of other emergency equipment;
- D. The conduct of such activity is not reasonably likely to cause injury to persons or property; and
- E. Such activity is not to be held for the sole purpose of advertising the goods, wares or merchandise of a particular business establishment or vendor. (Ord. 461 § 5, 1996)

12.24.060 Conditions to permit.

The chief of police or duly authorized law enforcement officer shall have authority to impose such conditions as are necessary to insure that all the findings mentioned in Section 12.24.050 of this chapter shall exist during the continuation of the activity. (Ord. 461 § 6, 1996)

12.24.070 Prior application.

If a prior permit application shall have been made for an activity proposed to be held at the same time or place, the chief of police or duly authorized law enforcement officer may refuse approval of the later application. In case of such refusal, he shall forthwith send the applicant a written notice that he may apply for an alternate time and place. (Ord. 461 § 7, 1996)

12.24.080 Notice of issuance or denial.

The chief of police or duly authorized law enforcement officer shall act upon the permit application within three days of the filing thereof. If he disapproves of the application, he shall mail to the applicant within that three-day period notice of the denial and the reason for it. (Ord. 461 § 8, 1996)

12.24.090 Appeal procedure.

The applicant shall have the right to appeal the denial of a permit to the city council. A notice of appeal shall be filed with the city clerk within two days after receipt of notice of the denial. The city council shall act

upon the appeal at its next meeting following receipt of the notice of appeal. (Ord. 461 § 9, 1996)

12.24.100 Contents of permit.

Conditions to the issuance of any permit shall be set forth in the permit. (Ord. 461 § 10, 1996)

12.24.110 Duty of permittee.

A. A permittee hereunder shall comply with all terms and conditions of said permit and with all applicable laws and ordinances.

B. The written permit obtained pursuant to this chapter shall be carried by the person heading or leading the activity for which the permit was issued. (Ord. 461 § 11, 1996)

12.24.120 Revocation of permit.

The chief of police or duly authorized law enforcement officer may revoke any permit issued hereunder upon the failure of the permittee to comply with the terms and conditions of said permit or if the activity, because of the manner in which it is being conducted, or for any other reason, is jeopardizing those elements of the public safety or welfare set forth in Section 12.24.050 of this chapter. (Ord. 461 § 12, 1996)

12.24.130 Public conduct during a meeting, assembly or parade.

A. It is unlawful for any person to unreasonably obstruct, impede or interfere with any parade or public meeting or assembly or with any person, vehicle or animal participating in such a parade, meeting or assembly for which a permit has been granted in accordance with the provisions of this chapter.

B. The chief of police or duly authorized law enforcement officer shall have the authority, when reasonably necessary, to prohibit or restrict the parking of vehicles along a highway or part thereof constituting part of the route of a parade. The chief of police or duly authorized law enforcement officer shall post signs to such effect, and it shall be unlawful for any person to park or leave unattended any vehicle in violation thereof. (Ord. 461 § 13, 1996)