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## **Title 12**

### **STREETS AND SIDEWALKS**

Chapters:

**12.04 Street Improvements**

**12.08 Street Excavations**

**12.12 Dedication of Graded Streets**

**12.16 Street Grades**

**12.20 Street Sweeping**

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## **Chapter 12.04**

### **STREET IMPROVEMENTS\***

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\*For the statutory provisions regarding the power of cities to establish, lay off, open, widen, straighten, narrow, vacate, extend, improve, and repair streets, highways, avenues and alleys, see ICA 389.1 for provisions generally regarding street improvements, see ICA Chapters 391 and 391A.

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Sections:

**12.04.010 Authority of council to order street improvement.**

**12.04.020 Ordered under state law.**

**12.04.030 Special assessments.**

**12.04.040 Deficiency, how paid.**

**12.04.050 Cost at intersections.**

**12.04.060 Special assessment bonds.**

**12.04.070 Ordering by resolution or ordinance.**

**12.04.010 Authority of council to order street improvement.**

The City Council of the city of Fort Dodge proceeding in the manner as by law provided shall have authority to improve any street, highway, avenue or alley in said city by grading, parking, curbing, paving, graveling, macadamizing and guttering the same or any part thereof and to authorize the making and re-construction of such street, improvements and assess the cost on the abutting property, as provided by the laws of the State of Iowa; but the construction of permanent parking, curbing, paving, graveling, macadamizing or guttering shall not be done until after the bed therefor shall have been graded so that such improvement when fully completed will bring the street, highway, avenue or alley up to the established grade; provide also that in preparing the street, avenue, alley or highway for said improvement only so much of the cost of the removal of the earth and other material as lies between the subgrade and established grade shall be assessed to abutting property.  
(Ord. 517 § 1).

**12.04.020 Ordered under state law.**

In ordering the construction or re-construction of any such street, improvement, the City Council shall proceed in all particulars as provided by and set forth in the laws of the State of Iowa, including resolution of necessity, preliminary notice thereof, resolution or ordinance ordering the making or re-construction of such improvement, advertising for bids, making contract for labor and material, assessment of cost thereof against abutting property and against railways and street railways, and all other matters and proceedings required by the laws of the State of Iowa, but the construction or re-construction of such improvement shall not be ordered made until two-thirds of all the members of the City Council shall by vote assent thereto, unless the same be petitioned for by the owners of the majority of the linear front feet of the property abutting thereon; but a majority of the council may provide for repairing of said improvement.  
(Ord. 517 § 2).

**12.04.030 Special assessments.**

Any special assessment levied for any public improvement authorized by this chapter and the laws of the State of Iowa, against any lot or tract of land, shall be in proportion to the special benefits conferred upon the property thereby and not in excess of such benefits. Such assessment shall not exceed twenty-five per centum of the actual value of the lot or tract at the time of levy, and the last preceding assessment roll shall be taken as prima facie evidence of such value. Said assessment shall be governed by the laws of the state of Iowa applicable thereto.  
(Ord. 517 § 3).

**12.04.040 Deficiency, how paid.**

If the special assessment which may under the laws of the state be levied upon any lot or tract of land shall be insufficient to pay the cost of such improvement the deficiency shall be paid as provided by the laws of the state of Iowa.  
(Ord. 517 § 4).

**12.04.050 Cost at intersections.**

The cost of any street improvement at the intersection of streets, highways, avenues and alleys, and one-half of the cost of the same, at spaces opposite streets, highways, avenues and alleys intersecting, but not crossing, and at spaces opposite property owned by the city or the United States, except that part of be constructed by, paid for by, or assessed to railway and street railways, shall be assessed against the property abutting or fronting upon that portion of the street, highway, avenue or alley so improved, in proportion to the linear front feet fronting or abutting upon such improvement. Except as the assessments of said cost may be otherwise provided for by the laws of the State of Iowa. Provided that such special assessment shall in all cases be in proportion to the special benefits conferred upon said property by said improvement, as hereinbefore provided by this chapter, and as provided by the laws of the State of Iowa,

and not in excess of such benefits and not to exceed twenty-five per centum of the actual value of the lot or tract of land at the time of the levy.  
(Ord. 517 § 5).

#### **12.04.060 Special assessment bonds.**

Special assessment bonds shall be issued payable to bearer, in payment or part payment therefor, including railways and street railways, and the owners thereof, liable to assessment for the cost of the same. Such bond shall transfer to the bearer or assigns, all the right and interest of the city in each such assessment or part thereof described therein, and shall authorize such bearer or assigns to collect and receive every assessment embraced in such bond, by or through any of the methods provided by law for their collection, as the same mature. Said bond shall bear interest at a rate not exceeding seven percent per annum, payable annually or semi-annually, as shall be fixed by the city council, and may be paid by the taxpayer, to the county treasurer who shall receipt for the same and cause the amount paid to be applied to the payment of the bond issued therefor. No bonds shall be issued or negotiated by the city for less than its par value, with accrued interest up to the date of the delivery or transfer thereof. In the matter of issuing such bonds the city council shall proceed in all respects as authorized by the laws of the state of Iowa.  
(Ord. 517 § 6).

#### **12.04.070 Ordering by resolution or ordinance.**

Every ordinance or resolution ordering any street improvement, or making or authorizing the making of any contract; shall be complete in the form in which it is finally passed and remain on file with the city clerk for public inspection at least one week before the final passage or adoption thereof.  
(Ord. 517 § 7).

### **Chapter 12.08**

#### **STREET EXCAVATIONS\***

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\* **Editors Note:** Ord. No. 2121, § 19, adopted May 10, 2010, repealed the former Ch. 12.08, §§ 12.08.010--12.08.170 and enacted a new Ch. 12.08 as set out herein. The former Ch. 12.08 pertained to street excavations and derived from Ord. 1514 §§ 1--17, 1979.

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Sections:

12.08.010 Short title.  
12.08.020 Definitions.  
12.08.030 Excavation permit.  
12.08.040 Application--Permit.  
12.08.050 Excavation permit fees.  
12.08.060 Surety bond--Insurance.  
12.08.060A Registration of contractors.  
12.08.060B Revocation of registration.  
12.08.070 Plans and specifications.  
12.08.070A Prohibited acts and supplementary conditions.  
12.08.080 Driveway approach.  
12.08.090 Protection of traffic.  
12.08.100 Relocation and protection of utilities.  
12.08.110 Protection of watercourses and paved surfaces.  
12.08.120 Protection of adjoining property.  
12.08.130 Noise, dust and debris.  
12.08.140 Clean up.  
12.08.150 Emergency action.  
12.08.160 Inspections.  
12.08.170 Liability of city.  
12.08.180 Penalties.  
12.08.180A Work without a permit.

### **12.08.010 Short title.**

This chapter shall be known and may be cited as the "Street Excavation Ordinance of the City of Fort Dodge, Iowa."  
(Ord. No. 2121, § 1, 5-10-10)

### **12.08.020 Definitions.**

For the purpose of this chapter, the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

- (1) "Excavation" shall mean any opening in the surface of a public place made in any manner whatsoever, except an opening into a lawful structure below the surface of a public place, the top of which is flush with the adjoining surface and so constructed as to permit frequent openings without injury or damage to the public place.
- (2) "Engineer" shall mean the Fort Dodge City Engineer, or his authorized representative.
- (3) "Public place" shall mean any public right-of-way, street, way, place, alley, sidewalk, park, square, plaza, or any other similar public property owned or controlled by the city of Fort Dodge and dedicated to public use.
- (4) "Facility" shall mean any sidewalk, curb drop, driveway approach, pipe, pipeline, tube, main, service, trap, vent, vault, manhole, meter, gauge, regulator, valve, conduit, wire, tower, pole, pole line, anchor, cable, junction box, transformer or any other material, structure, or object of any kind or character, whether enumerated herein or not, which is or may be lawfully constructed, left, placed or maintained in, upon, along, across, under or over any public place.

- (5) "Person" shall mean any person, firm, partnership, association, corporation, company or organization of any kind.
- (6) "Contractor" shall mean any person who shall offer, to the public for a fee, the service of excavation in a public place or the construction or repair of any facility therein.
- (7) "Utility" shall mean a private company and/or corporation or municipal department engaged in providing a particular service to the general public.
- (8) "Abandoned driveway approach" shall mean a driveway approach no longer used, or whose condition is such that it can no longer be used in accordance with the terms and conditions of this article.
- (9) "Driveway approach" shall mean any area between the right-of-way line of any public street and the traveled portion of said street, used for the purpose of providing access for motor vehicles from the traveled way of the said public street to any private property adjacent to said street.
- (10) "Curb drop" shall mean any depression in the curbing along the traveled portion of a street right-of-way originally designed or later created to facilitate passage of motor vehicles between such street and any private property adjacent to said street.

(Ord. No. 2121, § 2, 5-10-10)

#### **12.08.030 Excavation permit.**

No person shall make any excavation or fill any excavation or construct or repair any facility in any public place without first obtaining a permit to do so from the engineer except the following:

- (1) A public utility franchised to operate within the city.
- (2) A person performing work under a contract with the city.
- (3) Any department of a governmental authority.

(Ord. No. 2121, § 3, 5-10-10)

#### **12.08.040 Application--Permit.**

No excavation permit shall be issued unless a written application (on a form provided by the engineer) for the issuance of an excavation permit is submitted to the engineer. The application, when approved, shall constitute a permit.

Each permit issued hereunder shall be valid for a period of thirty days, unless a longer period is specified on the permit, and all work covered under said permit shall be completed within said time period.

The restoration of pavement surfaces shall be accomplished within fourteen days after the completion of the backfill unless a time extension is granted by the engineer.

The engineer may at any time revoke the permit for any violation of this chapter and may require that the work be stopped.

(Ord. No. 2121, § 4, 5-10-10)

#### **12.08.050 Excavation permit fees.**

A permit fee shall be charged by the engineer before the issuance of an excavation permit. The fees for excavation permits shall be as established by city council resolution.

(Ord. No. 2121, § 5, 5-10-10)

#### **12.08.060 Surety bond--Insurance.**

Before an excavation permit as herein provided is issued, the contractor applicant shall deposit with the city clerk, a surety bond in the penal sum of five thousand dollars, payable to the city. The surety bond shall be:

Conditioned upon the permittee's securing and holding the city and its officers harmless against any and all claims, judgments, or other costs arising from the excavation and other work covered by the excavation permit or for which the city, the city council, or any city officer may be made liable by reason of any accident or injury to person or property through the fault of the permittee, either in not properly guarding the excavations or for any other injury resulting from negligence of the permittee. Recovery of such bond for any injury or accident shall not exhaust the bond but it shall, in its entirety, cover any or all future accidents or injuries during the excavation work for which it is given. In the event of any suit or claim against the city by reason of the negligence or default of the permittee of such suit or claim, any final judgment against the city requiring it to pay for such damage shall be conclusive upon the permittee and his surety. An annual bond may be given under this provision which shall remain in force for one year conditioned as above in the amount specified above and in other respects as specified above, but applicable as to all excavation work in public places by the principal in such bond during the terms of one year from said date.

In addition to the bond requirement, the contractor applicant shall also deposit with the city clerk a certificate of insurance in types and coverage amounts to be determined by the city council by resolution. The insurance shall list the city of Fort Dodge, Iowa, its officers, employees, and agents, as additional named insured.

Provided, however, that public utilities holding a franchise from the city, city departments and other governmental agencies, and a property owner doing sidewalk repair adjacent to his own property shall be relieved of the obligation of submitting such a bond and insurance certificate.

(Ord. No. 2121, § 6, 5-10-10)

#### **12.08.060A Registration of contractors.**

Any contractor who shall offer, to the public for a fee, the service of excavation in a public place or the construction or repair of any facility therein shall be registered as a public right-of-way contractor with the city clerk of the city of Fort Dodge.

Any person desiring to be registered as a contractor shall register with the city clerk on forms provided

therefore and pay an annual registration fee as established by city council resolution. Annual registrations provided hereunder shall expire the last day of December of each year, but may be renewed prior to the expiration date. Contractors with expired registrations may not secure excavation permits.

(Ord. No. 2121, § 6A, 5-10-10)

#### **12.08.060B Revocation of registration.**

The engineer may revoke any registration if the provisions of this chapter have been violated. Before a registration may be revoked, the registrant shall be given notice in writing, either personally or as required by the applicable Iowa Rules of Civil Procedure, enumerating the charges against him/her. He/she shall be entitled to a fair hearing before the engineer neither sooner than five days, nor later than thirty days after receipt of the notice. The decision of the engineer may be appealed to the city council at its next regular meeting. The council may affirm, amend, remand, or reverse the engineer's decision. A person whose registration has been revoked shall not be permitted to apply for another registration within one year from the date of revocation.

(Ord. No. 2121, § 6B, 5-10-10)

#### **12.08.070 Plans and specifications.**

All pavement cuts, sidewalks, and driveway approaches and curb drops shall be constructed in accordance with the plans and specifications which shall hereafter be adopted by city council resolution for such work and filed in the office of the city engineer and the city clerk.

(Ord. No. 2121, § 7, 5-10-10)

#### **12.08.070A Prohibited acts and supplementary conditions.**

No person shall apply to any sidewalk, street, driveway approach or any other facility in the public right-of-way any paint, tape, dye, inlay, or any other method of coloring or texturing without first obtaining permission to do so from the engineer. The existence of the same shall not signify that it is acceptable nor allowed. Any method of coloring or texturing must comply with specifications adopted by the city.

The city shall not be responsible for restoring painted, colored, or textured hard surfaces in public right-of-way if disturbed by the city or by a city project. Disturbed property will be restored in a reasonable [manner] to city specifications.

(Ord. No. 2121, § 7A, 5-10-10)

#### **12.08.080 Driveway approach.**

No permit for a driveway approach shall be issued unless the proposed driveway approach shall lead to a space on private property upon which one or more vehicles predictable expected to use said approach may be parked without protruding into the street right-of-way.

The persons holding the legal title to or actual control of the land to which the approach runs shall maintain the driveway approach and any public sidewalk therewith or across which said approach runs, in a safe condition of repair and free from defects. The persons holding the legal title to the land to which the approach runs, shall remove such driveway approach and restore the curb, when such approach is abandoned.

The city specifically reserves the right and power to remove any driveway approach or part thereof if such removal is deemed necessary as a matter of public safety, or any abandoned driveway approach.

The engineer shall give notice to the present owner of the property served or formerly served by such a driveway approach that said driveway approach to his property is not in compliance with this article or other provision of law, specifying the deficiency, and if such owner after receiving such notice shall for a period of thirty days, neglect or refuse to correct such deficiency, the city council may order such removal and restoration. The actual cost of such work shall be assessed against such property and shall be collected in like manner as other special assessments.

(Ord. No. 2121, § 8, 5-10-10)

#### **12.08.090 Protection of traffic.**

It shall be the duty of every person cutting or making an excavation in or upon any public place, to place and maintain barriers and warning devices necessary for safety of the general public, in accordance with the requirements of the engineer.

The permittee shall take appropriate measures to assure the during the performance of the excavation work, traffic conditions as near normal as possible shall be maintained at all times so as to minimize inconvenience to the occupants of the adjoining property and to the general public.

When traffic conditions permit, the engineer may, by written approval, permit the closing of streets and alleys to all traffic for a period of time prescribed by him, if in his opinion, it is necessary. The written approval of the engineer may require that the permute give notification to various public agencies and to the general public. In such cases, such written approval shall not be valid until such notice is given.

(Ord. No. 2121, § 9, 5-10-10)

#### **12.08.100 Relocation and protection of utilities.**

The excavation work shall be performed and conducted so as not to interfere with access to fire hydrants, fire stations, fire escapes, water grates, underground vaults, valve housing structures, and all other vital equipment as designated by the engineer.

The permittee shall not interfere with any existing facility without the written consent of the engineer and the owner of the facility. If it becomes necessary to relocate an existing facility this shall be done by its owner. No facility owned by the city shall be moved to accommodate the permittee unless the cost of such work be borne by the permittee. The cost of moving privately owned facilities shall be similarly borne by the permittee unless it makes other arrangements with the person owning the facility. The permittee shall inform itself as to the existence and locations of all underground facilities and protect the same against damage.

(Ord. No. 2121, § 10, 5-10-10)

#### **12.08.110 Protection of watercourses and paved surfaces.**

The permittee shall maintain all gutters free and unobstructed for the full depth of the adjacent curb and for at least one foot in width from the face of such curb at the gutterline. Whenever a gutter crosses an intersecting street, an adequate waterway shall be provided and at all times maintained.



The permittee shall make provisions to take care of all surplus water, muck, silt, slickings, or other run-off pumped from excavations or resulting from sluicing or other operations and shall be responsible for any damage resulting from its failure to so provided.

Backhoe equipment outriggers shall be fitted with rubber pads whenever outriggers are placed on any paved surface. Tracked vehicles are not permitted on paved surfaces unless specific precautions are taken to protect the surface. The permittee will be responsible for any damage to existing pavement caused by operations of such equipment and, upon order of the engineer, shall repair such surfaces damaged by excavation equipment.

(Ord. No. 2121, § 11, 5-10-10)

#### **12.08.120 Protection of adjoining property.**

The permittee shall at all times and at his or its own expense, preserve and protect from injury and adjoining property and shall be responsible for all damage to public or private property or highways resulting from its failure properly to protect and carry out said work. Whenever it may be necessary for the permittee to trench through any lawn area and area shall be resodded. The permittee shall not remove any trees or shrubs which exist in parking strip areas without first obtaining the consent of the appropriate city department or city official having control of such property.

All trench and tunnel excavations and construction shall conform with the safety requirements for shoring, bracing, and ladders in trenches in accordance with current applicable OSHA standards.

(Ord. No. 2121, § 12, 5-10-10)

#### **12.08.130 Noise, dust and debris.**

Each permittee shall conduct excavation work in such manner as to avoid unnecessary inconvenience and annoyance to the general public and occupants of neighboring property. In the performance of the excavation work, the permittee shall take appropriate measures to reduce noise, dust and unsightly debris. No work shall be done between the hours of 10:00 p.m. and 6:00 a.m., except with the express written permission of the engineer, or in case of an emergency.

(Ord. No. 2121, § 13, 5-10-10)

#### **12.08.140 Clean up.**

As the work progresses, all streets shall be thoroughly cleaned of all rubbish, excess earth, rock and other debris resulting from such work.

(Ord. No. 2121, § 14, 5-10-10)

#### **12.08.150 Emergency action.**

Nothing in this chapter shall be construed to prevent the making of such excavations as may be necessary for the preservation of life or property, or for the locations of trouble in conduit or pipe, or for making repairs, provided that the person making such excavation shall apply to the engineer for such a permit on the first working day after such work is commenced.

(Ord. No. 2121, § 15, 5-10-10)

#### **12.08.160 Inspections.**

The engineer shall make such inspections as are reasonably necessary in the enforcement of this chapter. The engineer shall have the authority to promulgate and cause to be enforced such rules and regulations as may be reasonably necessary to enforce and carry out the intent of this chapter.

(Ord. No. 2121, § 16, 5-10-10)

#### **12.08.170 Liability of city.**

This chapter shall not be construed as imposing upon the city or any official or employee any liability or responsibility for damages to any person injured by the performance of any excavation work for which an excavation permit is issued hereunder, nor shall the city or any official or employee thereof be deemed to have assumed any such liability or responsibility by reason of inspection authorized hereunder the issuance of any permit or approval of any excavations work.

(Ord. No. 2121, § 17, 5-10-10)

#### **12.08.180 Penalties.**

Any person violating any provisions of this chapter shall, upon conviction, be subject to imprisonment not exceeding thirty days or a fine of one hundred dollars. Each and every day and such violation continues may constitute a separate offense.

(Ord. No. 2121, § 18, 5-10-10)

#### **12.08.180A Work without a permit.**

Whenever any work, for which a permit is required by this chapter, has been commenced without first obtaining said permit, a special investigation shall be made before a permit may be issued for such work. An investigation fee, in addition to the permit fee, shall be collected whether or not a permit is then or subsequently issued. The investigation fee shall be equal to the amount of the permit fee required by this chapter. The payment of such investigation fee shall not exempt any person from compliance with all other provisions of this chapter nor from any penalty prescribed by law. No permits shall be issued unless all previous permits and fees are paid to date.

(Ord. No. 2121, § 18A, 5-10-10)

### **Chapter 12.12**

#### **DEDICATION OF GRADED STREETS\***

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\*For the statutory provisions requiring grading according to established standards for permanent improvements, see ICA 391.3; for provisions regarding acceptance of street dedications by the city council, see ICA 389.2.

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#### **Sections:**

**12.12.010 Surface of streets dedicated.**

### **12.12.010 Surface of streets dedicated.**

Before any street, avenue, highway or alley which shall hereafter be dedicated to public use by the proprietors of the ground in the city of Fort Dodge, or any proposed addition thereto, is accepted by the city, the surface of such street, avenue, highway or alley shall be first graded to the established grade of the city, and where no grade is established at the time of the proposed dedication, then to such grade as may thereafter be established by the city upon such proposed public street, avenue, highway or alley.  
(Ord. 309 § 1).

## **Chapter 12.16**

### **STREET GRADES\*\***

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\*\* EDITOR'S NOTE: Street grades have been fixed by city ordinance. No ordinance relating to the establishment of street grades has been repealed. Each shall remain in full force and effect and is by reference made a part hereof unless specifically repealed herein or by subsequent ordinances. The following are the known ordinances relating to street grades: Ordinances Nos. 1201, 1207, 1271, 1281, 1297, 1317, 1318, 1326, 1335, 1349, 1356, 1381, 1382, 1395, 1398, 1412, 1423, 1428, 1429, 1431, 1432, 1434, 1436, 1446, 1447, 1448, 1465, 1470, 1473, 1484, 1493, 1494, 1500, 1509, 1515, 1516, 1523, 1524, 1527, 1530, 1544, 1549, 1559, 1560, 1564, 1579, 1633, 1843 and 1919. Each is available in the office of the clerk for the city of Fort Dodge.

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Sections:

## **Chapter 12.20**

### **STREET SWEEPING**

Sections:

**12.20.010 Districts for street sweeping.**

**12.20.020 Program for street sweeping.**

### **12.20.010 Districts for street sweeping.**

A map is on file in the office of the city clerk of the city of Fort Dodge, Iowa, dividing the streets within the corporate limits of the city into districts for the purpose of street sweeping and setting out the boundaries thereof.

(Ord. 1150 § 1).

### **12.20.020 Program for street sweeping.**

The commissioner of streets, public improvements, parks and public property shall cause notice to be given of the proposed street sweeping operations in any one district on a certain date in each week. He shall establish a program providing for the sweeping of the streets in each district on a certain day in each week, and he shall give notice of this program by filing a copy thereof in the office of the city clerk and by causing a notice to be published designating the day in the week when the streets in any certain district will be swept. Notice shall also be given by public announcement. The mayor may from time to time change the boundaries of the said designation of districts in the office of the city clerk and by publishing notice of said change.

(Ord. 1587 § 3 (part), 1982; Ord. 1150 § 2).

## Chapter 12.24

### USE OF PUBLIC STREETS FOR PRIVATE PURPOSES

#### Sections:

**12.24.010 Depositing building materials in.**

**12.24.020 Passageways maintained.**

**12.24.030 Signs and stands in.**

**12.24.040 Planting trees.**

**12.24.050 Opening, straightening or widening.**

**12.24.070 Unlawful to obstruct with vehicle, etc.**

**12.24.080 Council to regulate location, erection and maintenance of wires and poles.**

**12.24.090 Height of wires.**

**12.24.100 Wires below the limits.**

#### **12.24.010 Depositing building materials in.**

The city council may grant to persons erecting any building upon a lot fronting upon any public street or avenue the privilege of using one-half of the street in front of the lot whereon such building is being erected for depositing thereon the materials for such building, but such privilege shall not extend to any one person for a longer period than four months, provided it shall be lawful for the city council to extend such time by resolution and provided further that such material shall be removed from the street at any time when required by the city council or the mayor.

(Ord. 1587 § 3 (part), 1982; Ord. 520 § 1).

#### **12.24.020 Passageways maintained.**

Persons so using the streets or avenues as contemplated in Section 12.24.010 shall provide and maintain suitable passageways and driveways around the building material and keep said material and the excavation for said building carefully fenced and protected at all points where foot passengers travel or vehicles are driven, and at night such owner or owners shall place and maintain a sufficient number of lights around said material to insure the safety of persons and property on said streets and alleys.

(Ord. 520 § 2).

#### **12.24.030 Signs and stands in.**

No person shall erect along or upon any street or sidewalk any sign post or other post of any description, except such as may be erected by the city for public purposes, or by persons or corporations authorized to do so by ordinances of the city; and no sign, show case, stand or display of goods or merchandise or any description shall be attached to or fastened to the sidewalk or allowed to stand thereon extending more than four feet from the lot line into the street, nor be suspended within eight feet from the sidewalk when attached to any building.

(Ord. 520 § 3).

#### **12.24.040 Planting trees.**

It shall be unlawful for any person to plant trees in or upon any street, outside the line established as the curbline of sidewalks on such street, nor more than one foot from such curbline toward the outer line of the street. All trees now standing or growing within or between the curbines of any street or more than two feet

from the curblin toward the outer line of the street shall be removed whenever ordered by the city council.  
(Ord. 520 § 4).

#### **12.24.050 Opening, straightening or widening.**

The city council may proceeding in the manner as by law provided, by ordinance or resolution direct the opening, straightening, or widening of any street and the cost thereof shall be payable as by state law so provided.  
(Ord. 520 § 5).

#### **12.24.070 Unlawful to obstruct with vehicle, etc.**

It shall be unlawful for any person, not thereby in the regular and ordinary use of the streets and alleys of said city, to obstruct the same with implements, utensils, vehicles, buildings, erections or materials of any kind.  
(Ord. 520 § 7).

#### **12.24.080 Council to regulate location, erection and maintenance of wires and poles.**

All telegraph, telephone, electric light and electric power wires and poles now or hereafter placed upon the streets, alleys or public grounds of this city, shall be subject at all times to reasonable regulations in respect to the location, erection and maintenance of poles and wires, and the height at which such wires shall be strung; and the council may at any time in the interest of public convenience and safety order the relocation of poles, and the stringing of wires at a greater height than has heretofore been required by the city, regardless of any franchise provisions now or heretofore existing or granted.

#### **12.24.090 Height of wires.**

No telegraph, telephone, electric light or power wires shall hereafter be strung, or shall hang, lower than twenty feet above the street grade, except trolley wires, and the council may, upon thirty days' notice, in writing, given to the owner or person or persons in charge and control of such wires which are now or may hereafter be on the streets, alleys or public grounds, require such wires to be placed at a height not less than herein required, notwithstanding the provisions of any franchise under which said wires were placed.

#### **12.24.100 Wires below the limits.**

Any wires in, upon or across any street or alley of the city at a height lower than the limits hereinbefore required, shall be subject to the rights of building movers lawfully using any such streets or alleys for the moving of buildings, and to the rights of all persons lawfully using the streets and alleys, and no compensation shall be held to accrue under any ordinance of the city to any person or company placing or maintaining such wires below the limits in case said wires are interfered with or damaged by such building mover or other person lawfully using said streets and alleys, provided such interference and injury is occasioned because of said wires being placed or maintained at a height lower than twenty feet, and provided, also, that such interference and injury is not caused by the negligence of such building mover or other person.

## **SIDEWALK CONSTRUCTION\***

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\*For the statutory provisions regarding temporary sidewalks, see ICA 389.31; for provisions generally pertaining to sidewalks, see ICA 389.31--389.38; for provisions regarding construction and repair procedures for sidewalk improvement, see ICA Chapters 391 and 391A.

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### Sections:

- 12.28.010 Laying or relaying of temporary sidewalk.**
- 12.28.020 Permanent sidewalk--Repairs.**
- 12.28.030 Notice to property owner not required.**
- 12.28.040 Specifications for construction.**
- 12.28.060 Removal.**
- 12.28.070 Publication of resolution and notice.**
- 12.28.080 Contract.**
- 12.28.090 Supervision of construction.**
- 12.28.100 Statement of cost--Assessment of cost.**
- 12.28.110 Objections to.**
- 12.28.120 Signing of waiver.**
- 12.28.130 Certification of assessment.**
- 12.28.140 Payment.**
- 12.28.150 Sidewalk certificates.**
- 12.28.160 Filing with county auditor.**

### **12.28.010 Laying or relaying of temporary sidewalk.**

The city may by resolution order the laying, relaying and repairing of temporary sidewalks upon any street, avenue, alley, public ground or market place of the city and prescribe a uniform width thereof and regulate the grade of the same and order the assessment of the cost thereof against the property in front of which the same shall be laid, relaid or repaired, in proportion to the special benefits conferred upon the property thereby and not in excess thereof, and the city clerk shall certify the amount of such assessment to the county auditor and it shall be collected the same as other taxes.

(Ord. 512 § 1).

### **12.28.020 Permanent sidewalks--Repairs.**

The city council may by resolution order the construction, reconstruction and repair of permanent sidewalks upon any street, highway, avenue, public ground or market place within the limits of the city; but the construction of a permanent sidewalk shall not be made until the bed of the same shall have been graded so that when completed such sidewalk will be at the established grade; and to assess the cost thereof on the lots or parcels of land in front of which the same shall be constructed in proportion to the special benefits conferred upon the property thereby and not in excess thereof; and the city clerk shall certify the amount of such assessment to the county auditor and it shall be collected the same as other taxes. But unless the owners of a majority of the linear feet of the property fronting on the improvements referred to in this section petition the council therefor, the same shall not be made unless two-thirds of all the members of the council shall by vote order the making thereof.

(Ord. 512 § 2).

### **12.28.030 Notice to property owner not required.**

It shall be lawful for the city council to order any sidewalk repaired without notice to the property owner and to assess the expense thereof against the property in front of which said repairs are made, in proportion to the benefit resulting to said property and said assessment shall be certified by the city clerk to the county auditor and collected the same as other taxes.  
(Ord. 512 § 3).

#### **12.28.040 Specifications for construction.**

All sidewalks, both temporary and permanent, shall be constructed according to specifications adopted therefor by the city council and on file in the office of the city clerk, and such additional specifications as may from time to time be adopted by said council.  
(Ord. 512 § 4).

#### **12.28.060 Removal.**

Any sidewalk constructed contrary to the provisions of this chapter regulating the width thereof or contrary to the specifications adopted for the construction of sidewalks in the city, shall be removed by the street commissioner upon the order of the city council at the expense of the abutting property owner after giving the property owner ten days' notice to remove and reconstruct the walk according to the provisions of this chapter and the specifications therefor. The cost of removing such walk and of reconstructing the same, if reconstructed by the city, to be assessed against the abutting property as hereinbefore provided for the assessment of the cost of constructing sidewalks.  
(Ord. 512 § 6).

#### **12.28.070 Publication of resolution and notice.**

Whenever the city council shall order the construction of any permanent sidewalk, the resolution ordering the same shall be published for ten days with two publications in a newspaper in the city of Fort Dodge, and the city council shall advertise for bids for the construction of the improvement by notice published in a newspaper in the city for at least ten days with two publications thereof, asking for sealed bids and stating the extent of the work, the time when the work shall be commenced and completed and the time at which the proposal will be acted upon by the city council; that the work will be let to the lowest bidder and that bond for the faithful performance of the contract in an amount equal to fifty percent of the contract price be required of the contractor and also stating the length of time that the contractor must keep the improvement in repair, and also that the council reserves the right to reject any and all bids. The published notice to bidders shall also state the manner and time of payment for the improvement and that the cost of the same will be assessed against the abutting property in the manner as by law provided and assessment certificates issued to the contractor in payment in whole or in part of the contract price for constructing the improvement and stating also how the deficiency, if any, remaining shall be paid.  
(Ord. 965 § 2).

#### **12.28.080 Contract.**

The city council shall in all cases let under contract the work of constructing permanent sidewalks, after advertising for bids as provided in this chapter. The contracts shall be let to the lowest responsible bidder therefor. Whenever the city council orders a temporary sidewalk as herein provided, it shall be the duty of the

city clerk to cause to be served a copy of the resolution on the owner or owners of the lot, lots or parts of lots or lands fronting on such proposed improvement, and when the owner is absent or a nonresident or cannot be found in the city, upon the agent of or attorney for the owner of the property, if any, in the city, and in case service cannot be made as herein provided, then by publication of the resolution for ten days by two publications in some newspaper of general circulation published in the city of Fort Dodge. If any owner shall fail to construct the temporary sidewalk in the manner and within the time required by the order of the city council and the provisions of this chapter, then the city may have the walk constructed under contract, after advertising for bids as hereinbefore provided for permanent sidewalks, and assess the cost and expense against the abutting property and issue assessment certificates to the contractor as herein provided for the cost of constructing permanent sidewalks.  
(Ord. 512 § 7 1/2).

#### **12.28.090 Supervision of construction.**

All sidewalks shall be constructed under the supervision of the city engineer and the manager of the city and also under the supervision of an inspector that may be appointed by the city council to inspect the improvement as the same is being constructed.  
(Ord. 2045 § 2 (part), 2005; Ord. 1587 § 3 (part), 1982; Ord. 512 § 8).

#### **12.28.100 Statement of cost--Assessment of cost.**

The city engineer shall return to the city council a detailed statement of the cost thereof abutting each lot or parcel of ground or any part thereof fronting upon or lying along the street, avenue or public ground upon which any sidewalk has been constructed, reconstructed or repaired, and thereupon the city council shall by resolution declare a special assessment against each of the lots or parcels of ground, or parts thereof, in the manner provided by law and after proceeding as herein provided, of the cost of such improvement, not in excess of the benefits conferred thereby and after giving notice of such special assessment in the manner provided by law for the making of special assessments for street improvements.  
(Ord. No. 512 § 9).

#### **12.28.110 Objections to.**

All objections to the cost of construction of permanent sidewalks, as provided by the laws of the state and the provisions of this chapter, against the lots or parcels of land in front of which the same are constructed, and all objections to the prior proceedings on account of errors, irregularities, or inequalities must be made in writing and filed with the city clerk prior to the date fixed for the assessment; and all objections not so made shall be deemed waived except where fraud is shown.  
(Ord. 512 § 10).

#### **12.28.120 Signing of waiver.**

If the owner of any lot or parcel of land against which an assessment for permanent sidewalk is made shall, at the time of making such special assessment, promise and agree in writing endorsed on the certificate, or in separate agreement, that in consideration of having the right to pay his assessment in installment, he will not make any objection of illegality or irregularity as to the



print\_specs>assessment or levy of such tax upon and against his property, and will pay such assessment with interest thereon at a rate not exceeding six percent per annum, such tax so levied against the lot or parcel of land of such owner shall be payable in seven equal installments, the first of which shall mature and be payable on the date of the assessment and the others with interest on the whole amount unpaid annually thereafter, at the same time and in the same manner as the March semiannual payment of ordinary taxes; but where no such promise and agreement in writing shall be made by the owner of any lot or parcel of land then the whole of such assessment so levied, upon and against the property of such owner, shall be assessed and collected as by law provided. All such taxes, with interest, shall become delinquent on the first day of March next after their maturity and shall bear the same rate of interest with the same penalties as ordinary taxes.  
(Ord. 512 § 11).

#### **12.28.130 Certification of assessment.**

A certificate of levy of such special assessment, fixing the number of installments and the time when payable, certified as correct by the city clerk, shall be filed with the county auditor and thereupon such special assessment shall be placed on the tax list of the county, and the taxes and special assessment with all interest and penalties thereon shall become and remain a lien upon such lot or parcel of land until the same is paid, and shall have precedence over all other liens except ordinary taxes.  
(Ord. 512 § 12).

#### **12.28.140 Payment.**

Each installment of the special assessment shall bear interest from the date of the assessment not to exceed six percent per annum which shall become due and payable at the March semi-annual payment of ordinary taxes. The owner of any property against which such special assessment is made and levied shall have the right to pay the same, or the unpaid installments, thereof, with all interest up to the time of such payment, with any penalties and the cost of any proceedings for the sale of the property for such special assessment or installments.  
(Ord. 512 § 13).

#### **12.28.150 Sidewalk certificates.**

It is lawful for the city to issue permanent sidewalk certificates in the same manner and to the same effect as street improvement and sewer certificates are now issued under the ordinances of the city and the laws of the state.  
(Ord. 512 § 14).

#### **12.28.160 Filing with county auditor.**

After contract has been made by the city for the construction or reconstruction of any sidewalk, the city clerk shall file with the auditor of Webster County a written or printed copy of the resolution ordering the same, with a true copy of the proof of publication thereof together with a certificate of such clerk that a resolution has been adopted directing the making or reconstruction of such improvement. Thereupon, all special taxes for the cost thereof or any part of such cost, which is to be assessed and levied against real property or against any railroad or street railway, together with all interest and penalties, shall become and remain a lien on such property from the date of the filing of the papers with the county auditor until paid, as provided by the laws of

the state of Iowa.  
(Ord. 512 § 15).

## **Chapter 12.36**

### **RESERVED**

**Editors Note:** Ord. No. 2120, § II, adopted May 10, 2010, repealed Ch. 12.36, §§ 12.36.010--12.36.040 which pertained to sidewalk inspection and derived from Ord. 2045 § 2 (part), 2005; Ord. 1587 § 3 (part), 1982; Ord. 513 §§ 1--4).

## **Chapter 12.40**

### **SNOW AND ICE REMOVAL\***

Sections:

**12.40.004 Purpose.**

**12.40.008 Definitions.**

**12.40.012 Removal of snow and ice from sidewalks.**

**12.40.016 City's right to remove.**

**12.40.020 Assessment of costs.**

**12.40.024 Cost of removal.**

**12.40.030 Deposit on public property.**

\* For the statutory provisions regarding the removal of snow and ice accumulations from sidewalks and the abutting property owner's responsibility therefor, see ICA 368.33.

#### **12.40.004 Purpose.**

The purpose of the ordinance codified in Sections 12.40.004 through 12.40.024 is to provide for the health, welfare and safety of the public by ensuring the removal of snow and ice from the public walkways. (Ord. 1610 § 1, 1982).

#### **12.40.008 Definitions.**

For the purpose of Sections 12.40.004 through 12.40.024, the following words shall have the following meanings:

"Abutting property owner" means the record title holder of the real property abutting the right-of-way wherein the sidewalk lies.

"Sidewalk" means that portion of the right-of-way between the street curblineline or traveled portion of the roadway and the adjacent lateral property line upon which a hardened surface has been applied for the purpose of providing a public walkway for pedestrians. (Ord. 1610 § 2, 1982).

#### **12.40.012 Removal of snow and ice from sidewalks.**

Abutting property owners shall remove snow and ice from the sidewalks abutting their property within twenty-four hours of the cessation of the snowfall or ice formation. (Ord. 1610 § 3, 1982).

#### **12.40.016 City's right to remove.**

Whenever snow or ice has been allowed to remain upon any sidewalk within the city of Fort Dodge, Iowa, for a period of more than twenty-four hours following the cessation of snowfall or ice formation, the city shall have the right to remove the snow and/or ice in such manner as it deems most effective.  
(Ord. 1610 § 4, 1982).

#### **12.40.020 Assessment of costs.**

Whenever any snow or ice is removed from any sidewalk by the city as provided in Section 12.40.016, such removal shall be reported to the city council together with a description of the property and the number of square feet of snow or ice so removed from the sidewalk along with the name of the abutting property owner for the purpose of assessing the cost of such removal against the property. A hearing shall be set, the property owner notified thereof; following such hearing, the council may direct the assessment of the case thereof against the abutting property as by law provided and at the rate set out in Section 12.40.024.  
(Ord. 1610 § 5, 1982).

#### **12.40.024 Cost of removal.**

The cost of removal of snow and ice from public walks as set out in Section 12.40.016 shall be determined annually at a rate per square foot. The city engineer shall determine such rate and establish same by department of engineering regulation subject to council approval.  
(Ord. 1610 § 6, 1982).

#### **12.40.030 Deposit on public property.**

Prohibition. No person, partnership, corporation or association shall deposit or cause to be deposited any snow or ice removed from private property upon any public sidewalk, street, alley, right-of-way or other publicly owned property.  
(Ord. 1999, 2003: Ord. 1590 §§ 2, 3, 1982).

### **Chapter 12.44**

#### **WATER OVERFLOW ON SIDEWALKS**

Sections:

**12.44.010 Permitting water to flow over.**

**12.44.020 At street intersections.**

#### **12.44.010 Permitting water to flow over.**

No person, firm or corporation owning real property, or having the care and control of real property, within the limits of the city of Fort Dodge, Iowa, shall permit the water to flow from the roof of any building on such property, upon or across the surface of any public sidewalk within this city, nor shall he or they permit any drain of any kind or nature to be so constructed or to so exist upon such real estate as to discharge water or liquids of any kind upon or across the surface of any public sidewalk within the city of Fort Dodge, Iowa.  
(Ord. 515 § 1).

### **12.44.020 At street intersections.**

That part of any street or alley intersecting with any other street or alley and commonly used by pedestrians shall for the purpose of this chapter be deemed a part of the sidewalk.  
(Ord. 515 § 2).print\_specs>

## **Chapter 12.48**

### **ORNAMENTAL SIDEWALK AREA IN RESIDENTIAL DISTRICTS**

Sections:

**12.48.010 Designated--Parking.**

#### **12.48.010 Designated--Parking.**

All that portion of streets and avenues in residence parts of the city between the outside line of the sidewalk and the curblineline of the street is hereby set apart to the use of the abutting lot owners for ornamental purposes, and the owner or owners of the abutting lots may grade and park the same to a level with the grade of the sidewalk adjacent thereto, or in cases where the sidewalk is higher than the street such owner may at his option terrace the same. The grade of such parking shall be so made as to conform to the regulations adopted by the city and to grade lines established.

(Ord. No. 523 § 1).

## **Chapter 12.52**

### **ABUTTING PROPERTY MAINTENANCE**

Sections:

**12.52.010 Purpose.**

**12.52.020 Definitions.**

**12.52.030 Maintenance requirement.**

**12.52.040 Notice.**

#### **12.52.010 Purpose.**

The purpose of the ordinance codified in this chapter is to implement Section 364.12(2)(c) of the 1982 Code of Iowa by requiring abutting property owners to maintain all property outside the lot and property lines of their premises and inside the curblines upon the public streets.

(Ord. 1599 § 1, 1982).

#### **12.52.020 Definitions.**

The following words shall have the following meanings:

"Maintenance" means the cutting or removal of all weeds and grass, the backfilling to grade of all excavation performed by the abutting property owner or at the abutting property owner's request and the removal of all objects not placed upon the public right-of-way by a governmental body or authorized for

impacement thereon by a governmental body.

"Object emplacement authorization procedure" means that procedure adopted by department of public works regulation and approved by resolution of the city council.

"Reasonable time" means seventy-two hours from and after simple notification of the abutting property owner by the city or such greater time as may be expressly authorized in such notifications. (Ord. 1782 § 1, 1990; Ord. 1599 § 4, 1982).

#### **12.52.030 Maintenance requirement.**

All owners of real property abutting the public streets are required and shall be responsible for maintaining all that property outside of their lot and property lines and inside the curblines upon the public streets, except for the removal of diseased trees or dead wood therefrom. (Ord. 1599 § 2, 1982).

#### **12.52.040 Notice.**

All such owners of real property abutting the public streets are hereby notified that if they do not perform the maintenance as required within a reasonable time, the city may perform the required maintenance and assess the costs against the abutting property for collection in the same manner as a property tax. (Ord. 1599 § 3, 1982).

### **Chapter 12.56**

#### **MAINTENANCE OF PUBLICLY-OWNED TREES AND SHRUBS**

Sections:

- 12.56.010 Purpose.
- 12.56.020 Definitions.
- 12.56.030 Planting and control of trees.
- 12.56.040 Permit required to plant or maintain trees or shrubs.
- 12.56.050 Permit contents.
- 12.56.060 Fastening materials to trees.
- 12.56.070 Placing materials on public property.
- 12.56.080 Conflict with utility wires.
- 12.56.090 Public nuisances.
- 12.56.100 Interference with the city forester.

#### **12.56.010 Purpose.**

The purpose of the ordinance codified in this chapter is to provide rules and regulations for the planting and maintenance of publicly-owned trees and shrubs, prescribing penalties for the violation thereof and repealing ordinances in conflict therewith. (Ord. 1603 § 1, 1982).

#### **12.56.020 Definitions.**

The following words shall have the following meanings:

- (1) "Maintenance" means and includes moving, spraying, fertilizing, bracing, trimming, cutting above or below ground, or otherwise disturbing any tree or shrub.
  - (2) "Park" means any park, memorial area, playground, recreation area or facility owned and/or operated by the city of Fort Dodge.
  - (3) "Person" means and includes firms, corporations and persons.
  - (4) "Public place" means and includes all other publicly-owned property not otherwise included in subsections (2) or (5) of this section.
  - (5) "Streets" means and includes all property outside the lot and property lines and inside the curblines abutting upon any public street, boulevard or alley.
  - (6) "Trees and shrubs" means and includes all woody vegetation.
- (Ord. 1603 § 2, 1982).

#### **12.56.030 Planting and control of trees.**

The department of forestry shall have charge, custody and control of all trees and shrubs growing now or hereafter on any street, park or public place; and shall have the power to plant, care for and otherwise maintain such trees and shrubs; and shall develop for council approval by resolution such departmental rules and regulations as are necessary for the effective implementation hereof.

(Ord. 1603 § 3, 1982).

#### **12.56.040 Permit required to plant or maintain trees or shrubs.**

No person shall plant, move, spray, fertilize, brace, trim, cut above or below ground, or otherwise disturb any tree or shrub in any street, park or public place of the city, nor cause such acts to be done by others contrary to the provisions of this chapter or the duly adopted rules and regulations of the department of forestry and without first obtaining a written permit from the city forester therefor. The forester shall issue the permit if in his judgment the desired work is necessary and the proposed method and workmanship thereof are of a satisfactory nature and are in conformity with the provisions of this chapter and the rules and regulations of the department of forestry; and provided further, that no permit shall be required for the trimming or maintaining of shrubbery growing now or hereafter along any street, if such shrubbery does not constitute a public nuisance. The city forester may require the posting of a bond whenever he deems it necessary before a permit is granted. The bond shall be of sufficient amount to cover any reasonable damage that may occur to a life or property while the provisions of the permit are being carried out.

(Ord. 1603 § 4, 1982).

#### **12.56.050 Permit contents.**

Every permit granted by the city forester shall describe the work to be done, define the species, size and location of all trees or shrubs concerned and contain a definite date of expiration. Any permit may be declared void if the terms thereof are violated.

(Ord. 1603 § 5, 1982).

#### **12.56.060 Fastening materials to trees.**

No person shall fasten any sign, box, wire, rope or other material to or around or through any tree or shrub in any street, park or public place in the city except by permission of the city forester or when such materials are designed to preserve such tree or shrub and have been placed thereon pursuant to a permit granted by the city forester.

(Ord. 1603 § 6, 1982).

#### **12.36.070 Placing materials on public property.**

(a) No person shall deposit, place, store or maintain upon any highway or on any street, park or public place of the city any stone, brick, sand, concrete or other material which will impede the free passage of water, air and fertilizer to the roots of any tree or shrub growing therein except by permission of the city forester or when such materials are designed for the construction of sidewalks, pavings, gutters or other public improvements and have been placed thereon under permit granted by the city of Fort Dodge.

(b) No person shall break, deface, injure, kill or destroy any tree or shrub or set fire or permit any fire to burn where such fire or the heat thereof will injure any portion of any tree or shrub in any street, park or public place of the city; nor shall any person knowingly permit any leak to exist in any gas pipe or main within the root zone of any such tree or shrub; nor shall any person knowingly permit any wire designed to carry electric current to come into contact with any tree or shrub unless protected by approved methods. No person shall permit any toxic chemical to seep drain or be emptied on or about any tree or shrub in any street, park or public place.

(Ord. 1603 § 7, 1982).

#### **12.56.080 Conflict with utility wires.**

Whenever the city forester determines it to be necessary in order to prune or remove any tree or shrub in any street, park or public place in the city, or for any other reason to temporarily protect, move or cut off any electric or communications service wire, he shall serve written notice on the owner of such wire to protect such wire and the owner of such wire shall comply with such order within twenty-four hours after service of the notice.

(Ord. 1603 § 8, 1982).

#### **12.56.090 Public nuisances.**

Any tree or shrub, or part thereof, located in or overhanging or interfering with the use of any street, park or public place in the city allowing free passage of less than ten feet over sidewalks, twelve feet over the traveled portion of the streets or less than sixteen feet over the traveled portion of arterial streets or which in the opinion of the city forester endangers the life, health, safety or property of the public shall be declared a public nuisance. The tree or shrub shall be maintained or removed in compliance with this chapter and the rules and regulations of the department of forestry. If the tree or shrub is privately owned, the owner thereof shall be given written notice to abate the nuisance within ten days. If the owner fails to abate the nuisance, the city may take the necessary action to cause such abatement and assess the costs thereof as provided for in Section 364.12

of the Code of Iowa.  
(Ord. 1603 § 9, 1982).

### **12.56.100 Interference with the city forester.**

It is unlawful for any person, firm or corporation to hinder, obstruct or otherwise interfere with the city forester, his agents or employees engaged in carrying out the provisions of this chapter. Nothing herein shall be construed as an attempt to prohibit the pursuit of any legal or equitable remedy in any court of competent jurisdiction for the protection of property rights by the owner of any property within the city.  
(Ord. 1603 § 10, 1982).

## **Chapter 12.60**

### **USE OF ALLEYS BY ABUTTING PROPERTY OWNERS**

Sections:

**12.60.010 Purpose.**

**12.60.020 Authorization.**

**12.60.030 Permit and conditions.**

#### **12.60.010 Purpose.**

The purpose of this chapter is to permit and regulate abutting property owners in commercial districts to place improvements on the alley fronts of the property that incur into the alley right-of-way.  
(Ord. 1836 § 1, 1993).

#### **12.60.020 Authorization.**

Abutting commercial property owners may upon application and permit, construct, erect or place overhead and/or surface structures on alley fronts that incur into the alley right-of-way.  
(Ord. 1836 § 2, 1993).

#### **12.60.030 Permit and conditions.**

(a) The director of public works is authorized to issue permits allowing for the construction, erection or placement of overhead and surface structures to abutting commercial property owners that incur into the alley right-of-way upon the following terms and conditions:

- (1) That the permit fee be paid therefore;
- (2) That said incurring structure be in compliance with the department of public works regulation for alley improvements;
- (3) That said structure meet all applicable city sign, building, electrical and other codes;
- (4) That said structure does not restrict the primary purpose of alleys;



(5) Executes a city-approved hold harmless agreement.

(b) The director of public works shall issue a department of public works regulation, subject to council approval establishing minimum height, distance and structural standards for alley incursions, a permit fee and application, permit and hold harmless agreement forms therefore.

(c) No building permit may be issued by the department of inspections for such structures until a public works permit has been issued.

(d) Permits issued hereunder may be revoked by the director of public works for violation of this chapter or the rules hereunder and may require the work stopped and/or the structure removed.

(Ord. 1836 §§ 3--6, 1993).