

Title 12

STREETS, SIDEWALKS AND PUBLIC PLACES

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Chapter 12.04

EXCAVATIONS AND OBSTRUCTIONS OF
PUBLIC PLACES

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12.04.010 Definitions.

For the purposes of this chapter, the following terms, phrases, words and their derivations shall have the meaning given in this section. 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.

A. “Administrative authority” means the city manager or his delegated representative of the city.

B. “Excavation” means 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.

C. “Facility” means 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 in this subsection or not, which is or may be lawfully constructed, left, placed, maintained in, upon, along, across, under or over any public place.

D. "Person," as used in this chapter, means any individual, firm, copartnership, joint venture, association, corporation, estate, trust, the state, the county, incorporated cities, all public districts and other political subdivisions of the state except the city, and any group or combination acting as a unit.

E. "Public agency" includes the United States and any department or agency thereof, the state and any department or agency thereof, the county and any department or agency thereof, incorporated cities, and all public districts and other political subdivisions of the state except the city.

F. "Public place" means any public street, way, place, alley, sidewalk, park, square, plaza, or any other public property owned or controlled by any governmental agency in a governmental capacity.

G. "Substructure" means any pipe, conduit, duct, tunnel, manhole, vault, buried cable, or wire, or any other structure located below the surface of any public place. (Ord. 360 § A (part), 1979: prior code § 00-1)

12.04.020 Permit—Required.

It is unlawful for any person to dig up, plow, remove or break the earth, soil, stone, pavement or other surface of any public place, or to make, or cause to be made, any excavation, or to construct, place upon, maintain or leave any material or any obstruction to the use of, or travel upon, any public place, or to install or maintain, or cause to be installed or maintained any tank, pipe, conduit, duct, tunnel, curb, gutter, sidewalk, driveway, roadway surface, storm drain, culvert or any other structure or installation of any nature across, upon, in or under any public place in the city unless an excavation permit is first obtained pursuant to the provisions of this chapter. (Ord. 360 § A (part), 1979: prior code § 00-2)

12.04.030 Compliance required.

The administrative authority shall not issue, or permit to be issued, an excavation permit that does not fully comply with the provisions of this chapter, and no person shall make any excavation or fill any excavation in any public place without first

obtaining a permit except as provided in this chapter. (Ord. 360 § A (part), 1979: prior code § 00-3)

12.04.040 Exceptions.

A. The provisions of this chapter are not applicable to the installation of a mailbox. However, mailboxes shall be installed in accordance with the rules and regulations of the United States Post Office Department.

B. The provisions of this chapter are not applicable to a public agency which has the right under the laws of the state to perform work described in this chapter without following the procedure prescribed in this chapter. (Ord. 360 § A (part), 1979: prior code § 00-4)

12.04.050 Annual permits.

The administrative authority may issue an annual blanket permit on a form prescribed by him for the purpose of placing, replacing or repairing any facility within a public place where the opening or excavation does not exceed two feet in width and four feet in length, to the following:

A. A public utility regulated by the Public Utilities Commission of the state;

B. A person holding a franchise from the city. (Ord. 360 § A (part), 1979: prior code § 00-5)

12.04.060 Permit—Application contents.

A. Application for an excavation permit required by this chapter shall be made on a form prescribed by the administrative authority. The application shall be signed by either the applicant, or by the contractor if the proposed work is to be done by a contractor, and shall include the following information:

1. The name and address of the applicant;
2. The name and address of the contractor if the proposed work is to be done by a contractor;
3. The location, purpose, extent and nature of the proposed work, including the dimensions of the installation, removal or obstruction for which the permit is sought;
4. The period of time when the proposed work will be performed, and the length of time which

will be required to complete the work, including backfilling the excavation and removing all obstructions, material and debris;

5. Such other information, including plats, plans and specifications, and materials to be used in performing the work, as the administrative authority may require.

B. The application, when approved and signed by the administrative authority, shall constitute a permit. (Ord. 360 § A (part), 1979: prior code § 00-6)

12.04.070 Insurance required.

Before an excavation permit as provided in this chapter is issued, the applicant, or the contractor who is to perform the work, shall, at his own expense, secure from a reputable insurance company permitted to do business in the state, a policy of public liability and property damage insurance and provide evidence of same to the administrative authority.

A. The policy shall name the city and its officers, agents and employees as coinsureds and shall protect them from claims for damage or injury suffered by any person arising out of the work authorized by the permit and the manner of its installation or construction.

B. The insurance shall be in effect on the date that the work is commenced and shall expire not less than one year after the date on which the work is completed.

C. The policy of public liability and property damage insurance shall be in amounts not less than set forth by resolution of the city council. (Ord. 360 § A(part) 1979: prior code § 00-7)

12.04.080 Worker compensation insurance.

Before an excavation permit as provided in this chapter is issued, the contractor who will perform the work shall, at his own expense, file with the administrative authority a certificate of insurance evidencing worker's compensation insurance coverage. (Ord. 360 § A (part), 1979: prior code § 00-8)

12.04.090 Bond.

A. Before an excavation permit as provided in this chapter is issued, the applicant, or the contractor who will perform the work, shall, at his own expense, file a bond with, and in a form approved by, the administrative authority. The bond shall be a surety bond and shall be issued by a corporation duly and legally licensed to transact business in the state. The bond shall guarantee the performance of the work authorized in accordance with all of the provisions of the application, the permit and this chapter, and shall indemnify the city against faulty or improper workmanship or materials that may be discovered during the performance of the work and for the term of one year after the completion of the work.

B. If an applicant, or the contractor performing the work, intends to perform more than one project requiring a permit under this chapter, the bond may be written so as to apply to more than one excavation permit, and it shall indemnify the city against faulty or improper workmanship or materials that may be discovered during the period of one year after the completion of the work authorized by each permit.

C. The following bond amounts and bonding exceptions shall apply to both singular and multiple excavation permit applications:

1. The administrative authority shall fix the amount of the bond based on his estimate of the maximum cost or damages which the city might incur in connection with the work authorized by the permit or permits; provided, however, that the administrative authority shall not fix an amount less than two thousand dollars.

2. Public utilities operating under the supervision of the Public Utilities Commission, public utilities holding a franchise from the city, city departments and other governmental agencies may be relieved of the obligation of submitting such a bond by the administrative authority. (Ord. 360 § A (part), 1979: prior code § 00-9)

12.04.100 Hold harmless agreement.

Each applicant for an excavation permit shall agree to hold the city and its officers, agents and employees harmless from any and all causes of action, penalties, liabilities or loss resulting from claims or court actions arising out of any accident, loss or damage to persons or property occurring as a result of any work performed pursuant to the permit. (Ord. 360 § A (part), 1979: prior code § 00-10)

12.04.110 Permit—Issuance.

If the applicant for an excavation permit complies with all of the provisions of this chapter and with all other applicable laws and ordinances, the administrative authority may issue the permit to the applicant. The permit granted by the administrative authority shall refer to this chapter and shall be granted subject to all of the terms and conditions which are set forth in this chapter. (Ord. 360 § A (part), 1979: prior code § 00-11)

12.04.120 Permit—Conditions.

When the administrative authority grants an excavation permit pursuant to this chapter, he may impose thereon such terms and conditions concerning the location, dimension or character of the work as he may deem necessary for the protection of the public place and to assure the safety of persons using it. (Ord. 360 § A (part), 1979: prior code § 00-12)

12.04.130 Permit—Denial appeal.

If the applicant does not comply with all of the requirements of this chapter and with all other applicable laws and ordinances, the administrative authority shall deny the application for the excavation permit. If the administrative authority denies an application for an excavation permit, or issues a permit subject to conditions which the applicant believes to be unreasonable, the applicant may appeal to the city council for issuance of the permit. The city council shall thereafter determine whether the permit shall be issued to the applicant and the terms and conditions under which it shall be issued.

The decision of the city council shall be final. (Ord. 360 § A(part), 1979: prior code § 00-13)

12.04.140 Permit—Issuance not mandatory.

Nothing in this chapter shall be deemed to make it mandatory for the administrative authority or the city council to issue an excavation permit, and, upon an appeal to the city council, the decision whether the permit will be issued, and the terms and conditions on which it is issued, rest solely in the discretion of the council, and the permit may be denied without cause. (Ord. 360 § A (part), 1979: prior code § 00-14)

12.04.150 Permit—Fee.

A permit fee shall be charged by the administrative authority for the issuance of an excavation permit. The fee for a permit shall be fixed by resolution of the city council. (Ord. 360 § A (part), 1979: prior code § 00-15)

12.04.160 Permit—Display.

The excavation permit shall be kept at the site of the work and shall be shown, on demand, to all authorized representatives of the city and to all law enforcement officers. (Ord. 360 § A (part), 1979: prior code § 00-16)

12.04.170 Permit—Nontransferable.

An excavation permit issued pursuant to the provisions of this chapter shall not be assigned or transferred by the permittee to any other person and any permit which is assigned or transferred by the permittee shall automatically become null and void. (Ord. 360 § A (part), 1979: prior code § 00-17)

12.04.180 Permit—Revocation.

The administrative authority may revoke the excavation permit unless the work authorized therein is commenced within sixty days after the date of issuance of the permit, and is thereafter diligently prosecuted to completion. The administrative authority may revoke a permit pursuant to this section by sending written notice of the revoca-

tion to the permittee by ordinary mail at the address shown on the application for the permit, or by personal delivery of the written notice to the permittee. (Ord. 360 § A (part), 1979: prior code § 00-18)

12.04.190 Work commencement notice.

Immediately prior to the commencement of the work authorized by an excavation permit, the permittee shall notify the administrative authority by telephone or in person of the time when the work will actually be commenced. (Ord. 360 § A (part), 1979: prior code § 00-19)

12.04.200 Protection conditions prescription.

At any time prior to the completion of the work authorized by an excavation permit, the administrative authority may prescribe such additional conditions as he may deem necessary for the protection of the public place, and to assure the safety of persons using it. (Ord. 360 § A (part), 1979: prior code § 00-20)

12.04.210 Traffic movement.

A. The permittee shall take appropriate measures to assure that during the performance of the excavation work, traffic conditions as near normal as practicable shall be maintained at all times so as to cause as little inconvenience as possible to the occupants of the abutting property and to the general public; provided, that the administrative authority may 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.

B. The written approval of the administrative authority may require that the permittee give notification to various public agencies and to the general public. In such case, the excavation permit shall not be valid until the notice is given. (Ord. 360 § A (part), 1979: prior code § 00-21)

12.04.220 Warning devices.

A. Warning signs shall be placed far enough back of the construction operation to alert traffic within a public street and cones or other approved devices shall be placed to channel traffic.

B. Warning signs, barricades, lights, flagmen, etc., unless otherwise specified by the administrative authority, shall conform to the requirements of the "Manual of Warning Signs, Lights and Devices for Use in Performance of Work Upon Highways," published by the Department of Public Works of the state. It is the duty of every person cutting or making an excavation in or upon any public place to place and maintain the warning devices to protect the public safety. (Ord. 360 § A (part), 1979: prior code § 00-22)

12.04.230 Interference with water system.

The excavation work regulated by this chapter shall be performed and conducted so as not to interfere with access to fire hydrants, fire stations, fire escapes, water gates, underground vaults, valve housing structures, and all other vital equipment as designated by the administrative authority. (Ord. 360 § A (part), 1979: prior code § 00-23)

12.04.240 Traffic crossings.

The permittee shall maintain safe crossings for two lanes of vehicle traffic at all street intersections where possible and safe crossings for pedestrians at intervals of not more than three hundred feet. If any excavation is made across any public street, alley or sidewalk, at least one safe crossing shall be maintained when possible for vehicles and pedestrians. If the street is not wide enough to hold the excavated material without using part of the adjacent sidewalk, a passageway at least one-half of the sidewalk width shall be maintained along the sidewalk line. (Ord. 360 § A (part) 1979: prior code § 00-24)

12.04.250 Utility relocation and protection.

The permittee shall not interfere with any existing utility without the written consent of the administrative authority and the owner of the utility. If it becomes necessary to relocate an existing utility, this shall be done by its owner. No utility owned by the city shall be moved to accommodate the permittee unless the cost of the work is borne by the permittee. The cost of moving privately owned

utilities shall be similarly borne by the permittee unless it makes other arrangements with the person owning the utility. The permittee shall support and protect all pipes, conduits, poles, wires or other apparatus which may be in any way affected by the excavation work, and do everything necessary to support, sustain, and protect them under, over, along or across the work. In case any of the pipes, conduits, poles, wires or apparatus should be damaged, and for this purpose pipe coating or other encasement or devices are to be considered as part of a substructure, they shall be repaired by the agency or person owning them and the expense of the repairs shall be charged to the permittee, and his or its bond shall be liable therefor. The permittee shall be responsible for any damage to any public or private property by reason of the breaking of any water pipes, sewer, gas pipe, electric conduit or other utility and its bond shall be liable therefor. The permittee shall inform itself as to the existence and location of all underground utilities and protect them against damage. (Ord. 360 § A (part), 1979: prior code § 00-25)

12.04.260 Substructure—Abandonment notice.

Whenever the use of a substructure is abandoned, except the abandonment of a service line designed to serve a single property owner, the person owning, using, controlling or having an interest therein shall, within thirty days after such abandonment, file with the administrative authority a statement in writing giving in detail the location of the substructure so abandoned. If the abandoned substructure is in the way, or subsequently becomes in the way, of an installation of the city or any other public body, which installation is pursuant to a governmental function, the owner shall remove the abandoned substructure or pay the cost of its removal during the course of excavation for construction of the facility by the city or any other public body. (Ord. 360 § A (part), 1979: prior code § 00-26)

12.04.270 Adjoining property protection.

The permittee shall at all times and at his own expense preserve and protect from injury any adjoining property by providing proper foundations and taking other measures suitable for the purpose. Where in the protection of the property it is necessary to enter upon private property for the purpose of taking appropriate protecting measures, the permittee shall obtain a license from the owner of the private property for such purpose and if he cannot obtain a license from the owner, the administrative authority may authorize him to enter the private premises solely for the purpose of making the property safe. The permittee shall, at its own expense, shore up and protect all buildings, walls, fences or other property likely to be damaged during the progress of the excavation work and shall be responsible for all damage to public places or private property or highways resulting from its failure properly to protect and carry out such work. Whenever it may be necessary for the permittee to trench through any lawn area, the sod shall be carefully cut and rolled and replaced after ditches have been backfilled as required in this chapter. All construction and maintenance work shall be done in a manner calculated to leave the lawn area clean of earth and debris and in a condition as nearly as possible to that which existed before the work began. The permittee shall not remove, even temporarily, 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. (Ord. 360 § A (part), 1979: prior code § 00-27)

12.04.280 Tree removal.

The administrative authority shall not issue an excavation permit to remove a tree from a public place unless he determines that there is a good and sufficient reason for the removal of the tree. When a tree is removed pursuant to a permit, the entire stump shall be taken out for a distance of at least two feet below the ground surface unless otherwise specified in the permit and the hole shall be backfilled and tamped. All resulting debris shall be re-

moved from the site and the public place shall be restored to its former condition. (Ord. 360 § A (part), 1979: prior code § 00-28)

12.04.290 Excavated material disposal and trench and tunnel safety.

A. All material excavated from trenches and piled adjacent to the trench or in any street shall be piled and maintained in such manner as not to endanger those working in the trench, pedestrians or users of the streets, and so that as little inconvenience as possible is caused to those using streets and adjoining property. Where the confines of the area being excavated are too narrow to permit the piling of excavated material beside the trench, such as might be the case in a narrow alley, the administrative authority shall have the authority to require that the permittee haul the excavated material to a storage site and then rehaul it to the trench site at the time of backfilling. It shall be the permittee's responsibility to secure the necessary permission and make all necessary arrangements for all required storage and disposal sites.

B. All materials excavated shall be laid compactly along the side of the trench and kept trimmed so as to cause as little inconvenience as reasonably possible to vehicular and pedestrian traffic, or as specified by the administrative authority. Whenever necessary, in order to expedite the flow of traffic or to abate the dirt or dust nuisance, toe boards or bins may be required by the administrative authority to prevent the spreading of dirt into traffic lanes.

C. All trench and tunnel excavations and construction shall conform with the safety requirements for shoring, bracing and ladders in trenches in accordance with "Trench and Tunnel Construction Safety Orders of the State of California," as they now or may hereafter exist. (Ord. 360 § A (part), 1979: prior code § 00-29)

12.04.300 Debris cleanup.

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

work. All cleanup operations at the location of the excavation shall be accomplished at the expense of the permittee and shall be completed to the satisfaction of the administrative authority. From time to time, as may be ordered by the administrative authority and in any event immediately after completion of such work, the permittee shall, at his own expense, clean up and remove all refuse and unused materials of any kind resulting from the work, and upon failure to do so within twenty-four hours after having been notified to do so by the administrative authority, the work may be done by the administrative authority and the cost thereof charged to the permittee, and the permittee shall also be liable for the cost thereof under the surety bond provided by this chapter. (Ord. 360 § A (part), 1979: prior code § 00-30)

12.04.310 Watercourse protection.

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 the curb at the gutter line. 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 runoff pumped from excavations or resulting from sluicing or other operations and shall be responsible for any damage resulting from its failure to so provide. (Ord. 360 § A (part), 1979: prior code § 00-31)

12.04.320 Pavement breaking or cutting.

A. Heavy duty pavement breakers may be prohibited by the administrative authority when the use endangers existing substructures or other property.

B. Saw cutting of portland cement concrete may be required by the administrative authority when the nature of the job or the condition of the public place warrants. When required, the depth of the cut shall be no less than one inch in depth; however, depths greater than one inch may be required by the administrative authority when cir-

cumstances warrant. Saw cutting may be required by the administrative authority outside of the limits of the excavation over cave-outs, overbreaks and small floating sections.

C. Approved cutting of bituminous pavement surface ahead of excavations may be required by administrative authority to confine pavement damage to the limits of the trench.

D. Sections of sidewalks shall be removed to the nearest score line or saw cut edge.

E. Unstable pavement shall be removed over cave-outs and overbreaks and the subgrade shall be treated as the main trench.

F. Pavement edges shall be trimmed to a vertical face and neatly aligned with the centerline of the trench.

G. Cutouts outside of the trench lines must be normal or parallel to the trench line.

H. Boring or other methods to prevent cutting of new pavement may be required by the administrative authority. (Ord. 360 § A (part), 1979: prior code § 00-32)

12.04.330 Substructure—Depth.

A. No person shall, without written permission of the administrative authority, install any substructure, except manholes, vaults, valve casings, culverts and catchbasins at a distance less than the following:

1. Streets. Thirty inches below the established flow line of the gutter. If the flow line is not established, then the depth shall be at a minimum of thirty inches below the surface of the outermost edge of the traveled portion of the street.

2. Parkway.

a. The minimum depth of any substructure shall be twenty-four inches below established gutter grade when the substructure parallels the parkway.

b. The minimum depth of any substructure shall be thirty inches below the top of the established sidewalk or curb when the substructure is at right angles to the parkway.

3. Other Public Places. The minimum depth of any substructure in any other public place shall be

thirty inches below the surface; provided, however, that the administrative authority may permit a lesser depth in special cases.

B. Nothing in this section shall impose a duty upon the permittee to maintain such specifications as required in this section upon subsequent changes of grade in the surface unless the grade in the substructure interferes with the maintenance of, or travel on, a public street. (Ord. 360 § A (part), 1979: prior code § 00-33)

12.04.340 Backfilling.

Fine material, free from lumps and stone, selected from the spoil shall be thoroughly compacted around and under the substructure to the upper level of the substructure. Above the upper level of the substructure, backfill material shall be placed to the subgrade of the pavements in lifts consistent with the type of soil involved and the method of consolidation being used. Broken pavement, large stones, roots and other debris shall not be used in the backfill. Each lift shall be flooded, jetted, rolled or tamped, or a combination of these methods shall be used, depending upon the type of soil involved, to compact the backfill material. The backfill shall be done in a manner that will permit the restoration of the surface to a condition equivalent to that in which it was prior to excavation. The administrative authority may require soil tests to be furnished by a recognized soil testing laboratory or registered professional engineer specializing in soil mechanics when, in his opinion, backfill for any excavation is not being adequately compacted. In order for the resurfacing to be permitted, the tests must show that the backfill material meets the minimum requirements as prescribed by the administrative authority. All expense of the tests shall be borne by the permittee. (Ord. 360 § A (part), 1979: prior code § 00-34)

12.04.350 Resurfacing—Required.

A. Permanent resurfacing of excavations may be made where the type of consolidation used in replacing the backfill is adequate, in the opinion of the administrative authority, to prevent settling and

when the moisture content of the backfill is not excessive. In the event the type of consolidation used in replacing the backfill is not adequate to prevent further settling or the moisture content is excessive, temporary resurfacing shall be provided. If temporary surfacing is provided, the top surface of the backfill shall be covered with two inches of bituminous material. The temporary paving material shall be cold mix, except that the permittee may use or the administrative authority may require hot mix. All temporary paving material shall conform closely enough to the level of the adjoining paving surface and shall be compacted so that it is hard enough and smooth enough to be safe for pedestrian travel over it as well as for vehicular traffic to pass safely over it at a legal rate of speed. The permittee shall maintain temporary paving for a period not exceeding ninety days after all backfilling is completed, unless additional time is required by the administrative authority, and shall keep it safe for pedestrian and vehicular traffic until the excavation has been resurfaced with permanent paving, except that if it is impracticable to maintain the surface of the temporary paving in a safe condition for pedestrian travel or vehicular traffic, then the permittee shall maintain barriers and lights where required by this chapter.

B. Acceptance or approval of any excavation work by the administrative authority shall not prevent the city from asserting a claim against the permittee and his or its surety under the surety bond required under this chapter for incomplete or defective work if discovered within twenty-four months from the completion of the excavation work. The administrative authority's presence during the performance of any excavation work shall not relieve the permittee of its responsibilities pursuant to this section. (Ord. 360 § A (part), 1979: prior code § 00-35)

12.04.360 Resurfacing—City work.

Upon completion of the backfilling, and when required, temporary resurfacing of an excavation within a public place for the installation or removal of substructures, the administrative authority, at his

option, may require the permittee to resurface that portion of the street surface damaged by the permittee's excavation, in which event resurfacing shall be done in a manner and under specifications prescribed by this chapter, subject to administrative authority inspection, and shall be completed within a period of ninety days after the authorization to complete final resurfacing. The administrative authority may elect to do the resurfacing with city forces, in which event the cost of resurfacing shall be borne by the permittee. (Ord. 360 § A (part), 1979: prior code § 00-36)

12.04.370 Resurfacing—Specifications.

A. Subgrades shall be restored to that existing prior to the excavation or in accordance with standards for the construction of public places or new streets used by the city.

B. Portland cement concrete used in the repair of trenches shall not have a slump in excess of four inches.

C. Portland cement concrete used in the repair of trenches in streets shall be replaced with a thickness equivalent to that removed, but in no case less than five inches. Bituminous pavement shall be replaced at the same thickness as the existing pavement.

D. Portland cement sidewalks shall be replaced with the thickness of that removed; but in no case less than three and one-half inches and shall be of a color and texture of the adjoining sidewalk.

E. Expansion joints in portland cement patches shall be matched with saw cut lines.

F. Portland cement shall be finished to match the texture of that of the adjoining pavement.

G. Concrete shall be compacted by tamping, rodding or mechanical vibration.

H. Repairs in rock and oil streets shall be made in accordance with the existing specifications for bituminous type pavement.

I. Seal coats may be required by the administrative authority when the street has been seal coated or when it is a general practice of the local jurisdiction to seal coat bituminous type pavement. (Ord. 360 § A(part), 1979: prior code § 00-37)

12.04.380 Diligent prosecution of work required.

After an excavation is commenced, the permittee shall prosecute with diligence and expedition all excavation work covered by the excavation permit and shall promptly complete the work and restore the public place to its original condition, or as near as may be, so as not to obstruct the public place or travel thereon more than is reasonably necessary. (Ord. 360 § A (part), 1979: prior code § 00-38)

12.04.390 Emergency completion schedule.

If in his judgment, traffic conditions, the safety or convenience of the traveling public or the public interest require the excavation work be performed as emergency work, the administrative authority shall have full power to order, at the time the permit is granted, that a crew of men and adequate facilities be employed by the permittee twenty-four hours a day to the end that the excavation work may be completed as soon as possible. (Ord. 360 § A (part), 1979: prior code § 00-39)

12.04.400 Permit—Emergency work.

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 of for the location of trouble in conduit or pipe, or for making repairs; provided, that the person making the excavation shall apply to the administrative authority for such a permit on the first working day after the work is commenced. (Ord. 360 § A (part), 1979: prior code § 00-40)

12.04.410 Noise, dust and debris control.

Each permittee shall conduct and carry out excavation work in such manner as to avoid unnecessary inconvenience and annoyance to the general public and occupants of neighboring property. The permittee shall take appropriate measures to reduce to the fullest extent practicable in the performance of the excavation work, noise, dust and unsightly debris and, during the hours of ten p.m. and seven a.m. shall not use, except with the express written permission of the administrative authority, or in

case of an emergency as otherwise provided in this chapter, any tool, appliance or equipment producing noise of sufficient volume to disturb the sleep or repose of occupants of the neighboring property. (Ord. 360 § A (part), 1979: prior code § 00-41)

12.04.420 Preservation of monuments.

Any monuments set for the purpose of locating or preserving the lines of any street or property subdivision, or a precise survey reference point, or a permanent survey benchmark within the city shall not be removed or disturbed or caused to be removed or disturbed without first obtaining permission from the administrative authority to do so. Permission to remove or disturb such monuments, reference points or benchmarks shall only be granted upon condition that the person applying for such permission shall pay all expenses incident to the proper replacement of them. (Ord. 360 § A (part), 1979: prior code § 00-42)

12.04.430 Inspections.

The administrative authority shall make such inspections as are reasonably necessary in the enforcement of this chapter. The administrative authority 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. 360 § A (part), 1979: prior code § 00-43)

12.04.440 Drawings of substructures.

Every person owning, using, controlling or having an interest in substructures, under the surface of any public place used for the purpose of supplying or conveying gas, electricity, communication impulse, water, steam, ammonia or oil in the city shall file with the administrative authority within one hundred twenty days after the adoption of this chapter a map or set of maps each drawn to a scale of not less than one inch to two hundred feet showing in detail the location, size, description and date of installation, if known, of all substructures, except a service line designed to serve a single property owner, beneath the surface of the public place

belonging to, used by or under the control of the person having any interest, and shall file with the administrative authority within fifty days after the first day of January of each and every year a corrected map or set of maps each drawn to such scale including all installations made during the previous year to and including the last day of such year; provided, however, that a public utility owner may at its option provide corrected atlas sheets at more frequent intervals. (Ord. 360 § A (part), 1979: prior code § 00-44)

12.04.450 City liability.

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 under this chapter, nor shall the city or any official or employee thereof be deemed to have assumed any such liability or responsibility by reason of inspections authorized under this chapter, the issuance of any permit or the approval of any excavation work. (Ord. 360 § A(part), 1979: prior code § 00-45)

12.04.460 Completion notice.

Upon the completion of the work authorized by an excavation permit, the permittee shall file with the administrative authority a notice of completion of the work on a form prescribed by the administrative authority. (Ord. 360 § A (part), 1979: prior code § 00-46)

12.04.470 Penalty for violation.

A. Any person, firm or corporation violating any of the provisions of this chapter shall be deemed guilty of an infraction, and, upon conviction thereof, shall be punishable in a manner satisfactory to the court.

B. Each day that violation of this chapter continues shall be considered a separate offense. (Ord. 360 § A (part), 1979: prior code § 00-47)

Chapter 12.08

SIDEWALK OBSTRUCTIONS

Sections:

12.08.010 Vehicles or articles on sidewalks.

12.08.020 Awnings over sidewalks.

12.08.010 Vehicles or articles on sidewalks.

A. It is unlawful to ride any bicycle or tricycle on the sidewalks of the city, or to wheel or propel any wheelbarrow, truck, cart or other vehicle thereon, except baby carriages. It is unlawful to place or cause to be placed or kept on the sidewalks any article of merchandise or use or boxes, stands, billboards, firewood, brick, lumber or anything that will prevent the free use of the entire sidewalk by pedestrians.

B. This section shall not be so construed as to prohibit the loading or unloading of any article of sale or use on the sidewalks in the usual course of business, when it is to be immediately removed; and this section shall not be so construed as to prohibit the temporary placing of lumber, brick or other building material on a sidewalk when it becomes necessary during the construction, alteration or repairing of any building; but, the consent of the street superintendent thereto shall first be obtained. If any such obstruction remains on any sidewalk overnight, the person placing or causing it to be placed there shall place or cause to be placed on the sidewalk at night a light at each end of the obstruction. (Prior code § 18-2)

12.08.020 Awnings over sidewalks.

It is unlawful for any person, either as owner, lessee or agent, having charge of any building or structure to place or have any awning extending over any public street, lane, avenue or alley in the city, which at its lowest point is not of a less height than seven feet from the sidewalk or paving. (Prior code § 18-6)

Chapter 12.12**CAMPING IN PUBLIC PLACES****Sections:****12.12.010 Permit required.****12.12.010 Permit required.**

It is unlawful for any person to camp, or to erect any tent or other structure for the purpose of camping or living, in any public park, or upon any public grounds within the city, without first obtaining a permit from the chief of police so to do; and the person shall vacate the property or place of the camp at the expiration of the permit unless a renewal of the permit is obtained from the chief of police, and then upon expiration of the renewal. (Prior code § 15-3)

Chapter 12.16

USE OF STREETS

Sections:

12.16.010 Leaving dangerous objects on streets.

12.16.020 Playing in streets.

12.16.010 Leaving dangerous objects on streets.

It is unlawful for any person to throw, deposit or leave on any street, lane or alley within the city any nails, tacks, broken crockery, scrap iron, tin, wire, bottles or glass or anything liable to cut or puncture the tire of any bicycle, tricycle, motorcycle, carriage, automobile or other vehicle. (Prior code § 18-3)

12.16.020 Playing in streets.

It is unlawful to play baseball, handball or any such game in any public street or alley in the city. (Prior code § 18-7)

Chapter 12.20**TREES AND SHRUBS****Sections:**

- 12.20.010 Trimming.**
- 12.20.020 Obstructing view of motorists.**
- 12.20.030 Failure of owner to trim.**

12.20.010 Trimming.

All trees and shrubs adjacent to the streets of the city shall be pruned and trimmed by the adjacent property owner in such a manner that the branches thereof shall not hang below a height of eight and one-half feet above the top of the curb of the city street, and seven feet over the top of the sidewalk. (Prior code § 18-21)

12.20.020 Obstructing view of motorists.

All shrubs and trees, plants or vines of any kind or description whatsoever that interfere with or obscure the vision of motor vehicle operators traveling in and about the city streets shall be pruned or trimmed in such a manner as to allow adequate vision in and about the city streets and intersections in and about the city, and if they are unable to be pruned or trimmed in such a manner, they shall be removed. (Prior code § 18-22)

12.20.030 Failure of owner to trim.

In the event that the landowner adjacent to the city street does not so prune or trim the trees and shrubs or remove them in accordance with the provisions of Sections 12.20.010 and 12.02.020, the city superintendent is empowered to prune and trim or remove the trees or shrubs in order to conform with the provisions of Sections 12.20.010 and 12.20.020. (Prior code § 18-23)

Chapter 12.24

UNDERGROUND UTILITIES

Sections:

- 12.24.010 Definitions.**
- 12.24.020 Council hearing.**
- 12.24.030 Public works director report.**
- 12.24.040 District designation.**
- 12.24.050 Overhead installations prohibited.**
- 12.24.060 Emergency exception.**
- 12.24.070 Exemptions.**
- 12.24.080 Notice of district formation.**
- 12.24.090 Utility company responsibility.**
- 12.24.100 Owner responsibility.**
- 12.24.110 City responsibility.**
- 12.24.120 Time extension.**
- 12.24.130 Penalty for violation.**

12.24.010 Definitions.

Whenever in this chapter the words or phrases defined in this section are used, they shall have the respective meanings assigned to them in the following definitions:

A. "Commission" means the Public Utilities Commission of the state.

B. "Person" means and includes individuals, firms, corporations, partnerships and their agents and employees.

C. "Poles, overhead wires and associated structures" means poles, towers, supports, wires, conductors, guys, stubs, platforms, crossarms, braces, transformers, insulators, cutouts, switches, communication circuits, appliances, attachments and appurtenances located above ground within a district and used or useful in supplying electric, communication or similar or associated service.

D. "Underground utility district" or "district" means that area in the city within which poles, overhead wires and associated overhead structures are prohibited as such area is described in a resolution adopted pursuant to the provisions of Section 12.24.030.

E. "Utility" includes all persons or entities supplying electric, communication or similar or associated service by means of electrical materials or devices. (Ord. 305 § 1, 1968)

12.24.020 Council hearing.

The council may from time to time call public hearings to ascertain whether the public necessity, health, safety or welfare requires the removal of poles, overhead wires and associated overhead structures within designated areas of the city and the underground installation of wires and facilities for supplying electric, communication or similar or associated service. The city clerk shall notify all affected property owners as shown on the last equalized assessment roll and utilities concerned by mail of the time and place of the hearings at least fifteen days prior to the date thereof. Each such hearing shall be open to the public and may be continued from time to time. At each such hearing all persons interested shall be given an opportunity to be heard. The decision of the council shall be final and conclusive. (Ord. 380 § 1, 1982; Ord. 305 § 2, 1968)

12.24.030 Public works director report.

Prior to holding the public hearing, the director of public works shall consult with all affected utilities and shall prepare a report for the hearing by the city council containing, among other information, the extent of the utilities' participation and estimates of the total costs to the city and affected property owners. The report shall also contain an estimate of the time required to complete the underground installation and removal of overhead facilities. (Ord. 305 § 3, 1968)

12.24.040 District designation.

If, after any such public hearing, the council finds that the public necessity, health, safety or welfare requires such removal and the underground installation within a designated area, the council shall, by resolution, declare the designated area an underground utility district and order the removal and underground installation. The resolution shall

include a description of the area comprising the district and shall fix the time within which the removal and underground installation shall be accomplished and within which affected property owners must be ready to receive underground installation, having due regard for the availability of labor, materials and equipment necessary for the removal and for the installation of the underground facilities as may be occasioned thereby. (Ord. 305 § 4, 1968)

12.24.050 Overhead installations prohibited.

Whenever the council creates an underground utility district and orders the removal of poles, overhead wires and associated overhead structures therein as provided in Section 12.24.040, it shall be unlawful for any person or utility to erect, construct, place, keep, maintain, continue, employ or operate poles, overhead wires and associated overhead structures in the district after the date when the overhead facilities are required to be removed by the resolution, except as the overhead facilities may be required to furnish service to an owner or occupant of property prior to the performance by the owner or occupant of the underground work necessary for the owner or occupant to continue to receive utility service as provided in Section 12.24.100, and for such reasonable time required to remove the facilities after the work has been performed, and except as otherwise provided in this chapter. (Ord. 305 § 5, 1968)

12.24.060 Emergency exception.

Notwithstanding the provisions of this chapter, overhead facilities may be installed and maintained for a period, not to exceed sixty days, without authority of the director of public works in order to provide emergency service. The director of public works may grant special permission, on such terms as the director of public works may deem appropriate, in cases of unusual circumstances, without discrimination as to any person or utility, wires and associated overhead structures. (Ord. 305 § 6, 1968)

12.24.070 Exemptions.

This chapter and any resolution adopted pursuant to Section 12.24.040 shall, unless otherwise provided in the resolution, not apply to the following types of facilities:

A. Any municipal facilities or equipment installed under the supervision and to the satisfaction of the city engineer;

B. Wiring to poles or electroliers used exclusively for street lighting;

C. Overhead wires (exclusive of supporting structures) crossing any portion of a district within which overhead wires have been prohibited, or connecting to buildings on the perimeter of a district, when the wires originate in an area from which poles, overhead wires and associated overhead structures are not prohibited;

D. Poles, overhead wires and associated overhead structures used for the transmission of electric energy at nominal voltages in excess of thirty-four thousand five hundred volts;

E. Overhead wire attached to the exterior surface of a building by means of a bracket or other fixture and extending from one location on the building to another location on the same building or to an adjacent building without crossing any public street;

F. Antennae, associated equipment and supporting structures used by a utility for furnishing communication services;

G. Equipment appurtenant to underground facilities, such as surface-mounted transformers, pedestal mounted terminal boxes and meter cabinets and concealed ducts;

H. Temporary poles, overhead wires and associated overhead structures used in providing power or communications to construction projects. (Ord. 305 § 7, 1968)

12.24.080 Notice of district formation.

A. Within ten days after the effective date of a resolution adopted pursuant to Section 12.24.030, the city clerk shall notify all affected utilities and all persons owning real property within the district created by the resolution of the adoption thereof.

The city clerk shall further notify the affected property owners of the necessity that, if they or any person occupying the property desire to continue to receive electric, communication or similar or associated service, they or the occupant shall provide all necessary facility changes on their premises so as to receive the service from the lines of the supplying utility or utilities at a new location subject to the applicable rules, regulations and tariffs of the respective utility or utilities on file with the commission.

B. Notification by the city clerk shall be made by mailing a copy of the resolution adopted pursuant to Section 12.24.040, together with a copy of the ordinance codified in this chapter, to affected property owners as they are shown on the last equalized assessment roll and to the affected utilities. (Ord. 305 § 8, 1968)

12.24.090 Utility company responsibility.

If underground construction is necessary to provide utility service within a district created by any resolution adopted pursuant to Section 12.24.040, the supplying utility shall furnish that portion of the conduits, conductors and associated equipment required to be furnished by it under its applicable rules, regulations and tariffs on file with the commission. (Ord. 305 § 9, 1968)

12.24.100 Owner responsibility.

A. Every person owning, operating, occupying or renting a building or structure within a district shall construct and provide that portion of the service connection on his property between the facilities referred to in Section 12.24.090 and the termination facility on or within the building or structure being served, all in accordance with the applicable rules, regulations and tariffs of the respective utility or utilities on file with the commission. If the above is not accomplished by any person within the time provided for in the resolution enacted pursuant to Section 12.24.040, the director of public works shall give notice in writing to the person in possession of the premises, and a notice in writing to the owner thereof as shown on the last equalized

assessment roll, to provide the required underground facilities within ten days after the receipt of the notice.

B. The notice to provide the required underground facilities may be given either by personal service or by mail. In case of service by mail on either of such persons, the notice must be deposited in the United States Mail in a sealed envelope with postage prepaid, addressed to the person in possession of the premises at the premises, and the notice must be addressed to the owner's last known address as it appears on the last equalized assessment roll, and when no address appears, to General Delivery, City of Lindsay. If notice is given by mail, the notice shall be deemed to have been received by the person to whom it has been sent within forty-eight hours after the mailing thereof. If notice is given by mail to either the owner or occupant of the premises, the director of public works shall, within forty-eight hours after the mailing thereof, cause a copy thereof, printed on a card not less than eight inches by ten inches in size, to be posted in a conspicuous place, on the premises.

C. The notice given by the director of public works to provide the required underground facilities shall particularly specify what work is required to be done, and shall state that if the work is not completed within thirty days after the receipt of the notice, the director of public works will provide the required underground facilities, in which case the cost and expense thereof will be assessed against the property benefited and become a lien upon the property.

D. If upon the expiration of the thirty-day period, the required underground facilities have not been provided, the director of public works shall forthwith proceed to do the work; provided, however, if the premises are unoccupied and no electric or communications services are being furnished thereto, the director of public works shall in lieu of providing the required underground facilities, have the authority to order the disconnection and removal of any and all overhead service wires and associated facilities supplying utility service to the property. Upon completion of the work by the di-

rector of public works, he shall file a written report with the city council setting forth the fact that the required underground facilities have been provided and the cost thereof, together with a legal description of the property against which the cost is to be assessed. The council shall thereupon fix a time and place for hearing protests against the assessment of the cost of the work upon the premises, which time shall not be less than ten days thereafter.

E. The director of public works shall forthwith, upon the time for hearing the protests having been fixed, give a notice in writing to the person in possession of the premises, and a notice in writing thereof to the owner thereof, in the manner provided in this chapter for the giving of notice to provide the required underground facilities, of the time and place that the council will pass upon the report and will hear protests against the assessment. The notice shall also set forth the amount of the proposed assessment.

F. Upon the date and hour set for the hearing of protests, the council shall hear and consider the report and all protests, if there are any, and then proceed to affirm, modify or reject the assessment.

G. If any assessment is not paid within five days after its confirmation by the council, the amount of the assessment shall become a lien upon the property against which the assessment is made by the director of public works, and the director of public works is directed to turn over to the assessor and tax collector a notice of lien on each of the properties on which the assessment has not been paid, and the assessor and tax collector shall add the amount of the assessment to the next regular bill for taxes levied against the premises upon which the assessment was not paid. The assessment shall be due and payable at the same time as the property taxes are due and payable, and if not paid when due and payable, shall bear interest at the rate of six percent per year. (Ord. 305 § 10, 1968)

12.24.110 City responsibility.

The city shall remove at its own expense all city-owned equipment from all poles required to be re-

moved under this chapter in ample time to enable the owner or user of the poles to remove them within the time specified in the resolution enacted pursuant to Section 12.24.040. (Ord. 305 § 11, 1968)

12.24.120 Time extension.

In the event that any act required by this chapter or by a resolution adopted pursuant to Section 12.24.040 cannot be performed within the time provided on account of shortage of materials, war, restraint by public authorities, strikes, labor disturbances, civil disobedience or any other circumstances beyond the control of the actor, then the time within which the act will be accomplished shall be extended for a period equivalent to the time of the limitation. (Ord. 305 § 12, 1968)

12.24.130 Penalty for violation.

It is unlawful for any person to violate any provision or to fail to comply with any of the requirements of this chapter or failing to comply with any of its requirements shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding five hundred dollars or by imprisonment not exceeding six months, or by both such fine and imprisonment. Each such person shall be deemed guilty of a separate offense for each day during any portion of which any violation of any of the provisions of this chapter is committed, continued or permitted by the person, and shall be punishable therefor as provided for in this chapter. (Ord. 305 § 13, 1968)

Chapter 12.28

CURB, GUTTER AND SIDEWALK CONSTRUCTION

Sections:

- 12.28.010 Sidewalk construction—Agreement.**
- 12.28.020 Sidewalk construction—Cost payment.**
- 12.28.030 Sidewalk construction agreement—Noncontracting property owner's liability.**
- 12.28.040 Sidewalk construction—Petition for waiver of provisions.**
- 12.28.050 Curb and gutter installation—Required when.**
- 12.28.060 Satisfactory curb and gutter defined.**
- 12.28.070 Nonconforming curb and gutter—Replacement required.**
- 12.28.080 Curb and gutter installation—Joint agreement.**

12.28.010 Sidewalk construction—Agreement.

At such time as two-thirds of all the property owners in any given block on one or both sides of any given city street or right-of-way in the city, file or cause to be filed with the city clerk an agreement whereby the city and the property owners agree to the installation of sidewalks upon such street, it shall be mandatory that sidewalks be installed for the entire block of the city street or right-of-way as the case may be. (Ord. 255B § 1(a), 1970: Ord. 255A § 2, 1969: Ord. 255 (part), 1956)

12.28.020 Sidewalk construction—Cost payment.

The cost of installation of the sidewalks shall be borne by the property owner of the real property adjacent to and abutting the street along which the installations are made. The payments therefor shall be made in accordance with the terms of the agreement entered into by the property owners and

the city, or may be made in accordance with the provisions of the ordinance codified herein. (Ord. 255B § 1(b), 1970: Ord. 255A § 3, 1969: Ord. 255 (part), 1956)

12.28.030 Sidewalk construction agreement—Noncontracting property owner's liability.

All noncontracting property owners upon or adjacent to whose property sidewalks may be installed in accordance herewith will be billed for the cost of the sidewalks so installed adjacent to or abutting their real property by the city clerk, upon the completion of such installation. The assessment shall be payable in full on or before thirty days after date of mailing the same. The property owners may avail themselves of the provisions of the ordinance codified herein, for the payment of such assessment, the city may place a lien upon the real property being the subject of the unpaid assessment in accordance with the provisions of the ordinance codified herein. (Ord. 255B § 1(c), 1970: Ord. 255A § 4, 1969: Ord. 255 (part), 1956)

12.28.040 Sidewalk construction—Petition for waiver of provisions.

In the event that the operation of the provisions codified in this section and Sections 12.28.010 through 12.28.030 should cause major undue financial hardship upon any property owners in a given block, the property owner may petition the city council for a waiver of the operation of this section and Sections 12.28.010 through 12.28.030 and the city council may hold a hearing upon the petition and grant or deny the petition after the receipt of and consideration of any and all evidence introduced for and on behalf of the petitioner. (Ord. 255B § 1(d): Ord. 255A (part), 1969: Ord. 255 (part), 1956)

12.28.050 Curb and gutter installation—Required when.

Where no satisfactory curb and gutter exist and as a condition to the granting of lot splits, parcel maps, approval and/or building permits for new

construction within the city, the city shall require that the applicant or permittee in all cases shall install curbs and gutters upon the street upon which the real property or any part or portion thereof abuts. (Ord. 255C § 1(a), 1973: Ord. 255 (part), 1956)

made pursuant to such agreement. (Ord. 255C § 1(d), 1973: Ord. 255 (part), 1956)

12.28.060 Satisfactory curb and gutter defined.

“Satisfactory curb and gutter” are defined as curb and gutter that is installed as to location, type and grade approved by the public works director. Such curb must conform to existing curb and gutter in design and grade in accordance with the requirements of the public works director. (Ord. 255C § 1(b), 1973: Ord. 255 (part), 1956)

12.28.070 Nonconforming curb and gutter— Replacement required.

In the event of existing nonconforming curb and gutter, the curb and gutter shall be removed and replaced in accordance with the provisions of this chapter and Chapter 3.20. (Ord. 255C § 1(c), 1973: Ord. 255 (part), 1956)

12.28.080 Curb and gutter installation— Joint agreement.

In the event that a program for installation of curb and gutter is being actively undertaken pursuant to the provisions of Sections 12.28.010 through 12.28.040, the applicant or permittee may satisfy the provisions of this section and Sections 12.28.060 and 12.28.070 by joining in such undertaking and executing an agreement for such installation as may be required thereby, and the installation of such curb and gutters may be undertaken as part of and in accordance with the terms of the agreement, and the applicant or permittee may at its, his or her option avail itself, himself or herself of the financing provisions set forth in the provisions of the ordinance codified herein for the installation of such curb and gutter. The applicant or permittee shall not be required to make any installation of curb and gutter pursuant to the agreement until such time as all other installations are being

Chapter 12.32

PARKING AND BUSINESS IMPROVEMENT AREA

Sections:

- 12.32.010 Establishment of area.**
- 12.32.020 Area boundaries.**
- 12.32.030 Assessment and charge.**
- 12.32.040 Uses of revenues collected.**
- 12.32.050 Annual determination of uses of revenues.**
- 12.32.060 Administration board.**
- 12.32.070 Collection of assessments and charges.**
- 12.32.080 Termination of reestablishment of assessments and charges.**
- 12.32.090 Enforcement of provisions.**
- 12.32.100 Criminal penalties.**
- 12.32.110 Liberal construction—Partial invalidity.**

12.32.010 Establishment of area.

There is created and established a parking and business improvement area of the city, hereinafter in this chapter for brevity and convenience referred to as "Area." (Ord. 417 § 4 (part), 1987)

12.32.020 Area boundaries.

The description of the boundaries of the proposed Area are as follows:

Beginning at the Southwest corner of Block 127 of the City of Lindsay, per map recorded in Volume 17, page 57, Maps, in the office of the County Recorder, County of Tulare, State of California, said point also being an angle point in the existing City Limits of the City of Lindsay and also being the intersection of the West line of the Southeast quarter of the Southwest quarter of Section 7, Township 20 South, Range 27 East, Mount Diablo Base & Meridian and the North line of Lindmore Street; thence East, along the North line of Lindmore Street to the

centerline of Harvard Avenue, the centerline of Harvard Avenue also being the East line of said Section 7; thence North along the centerline of Harvard Avenue to the Northeast corner of said Section 7; thence continuing North along the centerline of Harvard Avenue and its Northerly prolongation to an angle point in the Northerly City Limits, said point also being the Northeast corner of the Southeast quarter of Section 6, Township 20 South, Range 27 East; thence West along said Northerly City Limits and North line of the Southeast quarter of said Section 6 to the centerline of the AT&SF Railroad; thence Southerly along the centerline of the AT&SF Railroad to the centerline of Tulare Road, said centerline also being the South line of the Southeast quarter of said Section 6; thence West along the centerline of Tulare Road to the centerline of Elmwood Avenue; thence North and Northeasterly along the centerline of Elmwood Avenue to the point of intersection with the centerline of Parkside Avenue; thence North along the centerline of Parkside Avenue to the Northeast corner of the Southeast quarter of the Southwest quarter of Section 6; thence West along the North line of the South half of the Southwest quarter of said Section 6 to the Easterly line of the Southern Pacific Railroad; thence Northwesterly along the Easterly line of the Southern Pacific Railroad to the Easterly prolongation of the North line of Lot 16 of Hostetter's Subdivision, per map recorded in Book 8, page 56, of Maps in the office of the County Recorder of said County; thence West along said Easterly prolongation and the North line of said Lot 16 to the East line of the West 330 feet of the Southwest quarter of said Section 6; thence South along the East line of the West 330 feet of the Southwest quarter of said Section 6 to the South line thereof, said South line of the Southwest quarter being the centerline of Tulare Road; thence West along the centerline of Tulare Road to the Northeast corner of Section 12, Township 20 South, Range 26 East, Mount Diablo Base & Meridian; thence continuing

West along the centerline of Tulare Road to the point of intersection with the centerline of Oak Avenue (Avenue 208); thence South along the Southerly prolongation of the centerline of Oak Avenue to the Southwesterly line of State Highway 65, said Southwesterly line of State Highway 65 also being the Westerly City Limits line; thence Southeasterly along the Southwesterly line of State Highway 65 to a point on the North line of the South half of the Southwest quarter of the Northeast quarter of said Section 12, said point being an angle point in the Westerly line of said City Limits; thence West along said City Limits to an angle point in the Westerly line of said City Limits, said angle point being the Northwest quarter of the East 11 feet of the South half of the Southeast quarter of the Northwest quarter of said Section 12; thence south along the Westerly line of said City Limits to the intersection of the South line of Hermosa Avenue (Avenue 228) with the Southerly prolongation of the West line of the East 11 feet of the South half of the Southeast quarter of the Northwest quarter of said Section 12; thence East along the South line of Hermosa Avenue to a point in the West line of Parcel Map No. 3372, per map recorded in Book 34, page 74, of Parcel Maps in the office of the County Recorder of the County, said point also being an angle point in the Westerly line of said City Limits; thence South along the West line of said Parcel Map No. 3372 to the Southwest corner thereof; thence East along the South line of Parcel 1 of said Parcel Map No. 3372 to the Southeast corner thereof; thence North along the East line of said Parcel 1 to the Southwest corner of Parcel 3 of said Parcel Map No. 3372; thence East along the South line of said Parcel 3 and the Easterly prolongation thereof to the Easterly line of Fremont Drive, also being the Westerly City Limits line; thence Southeasterly along the Easterly line of Fremont Drive and the Westerly City Limits to the Southwest corner of Lot 7, Block 126 of said City of Lindsay; thence East along the South line of said Lot 7 and the southerly line of

said City Limits to the Southeast corner of said Lot 7; thence South along the West line of Lot 8, Block 126 of said City of Lindsay to the Southwest corner thereof; thence East along the South line of said Lot 8 and the Southerly line of said City Limits to the Southeast corner of said lot 8; thence South along the West line of Block 127 of said City of Lindsay to the point of beginning. (Ord. 417 § 4 (part), 1987)

12.32.030 Assessment and charge.

A. There is hereby fixed, levied, determined and established a system of assessment and charge upon all businesses located within the prescribed Area which are required to obtain and maintain a city business license, which such assessment and charge shall be two hundred percent of the amount that each business entity is required to pay to the city for a business license for such business.

B. During the month of April in each fifth year, commencing with the month of April, 1993, the city council shall conduct an election to determine whether the assessment or charge is to continue past the thirtieth day of June in that year. The election shall be conducted by mailing ballots to all businesses required to pay the assessment or charge hereby levied for the then-current year.

C. At each election, if a majority in number representing a majority in amount of the total assessment or charge votes to continue the assessment, the same shall continue until otherwise terminated hereunder. Otherwise, the city council shall enact legislation terminating the assessment as of June 30th of that year.

D. In all such elections, a failure to timely vote shall be counted as a vote in favor of continuing the assessment or charge. All ballots shall be mailed by the city to the address to which the business license is issued before the fifteenth day of April in the year of an election hereunder, and shall be returned to the city no later than the close of business on the last business day of April of such year.

E. The city clerk shall conduct the election, subject to the terms of this chapter, and shall prescribe the form of ballot and the rules of procedure

to be followed in conducting the election. (Ord. 417 § 4 (part), 1987)

12.32.040 Uses of revenues collected.

The revenues generated from the collection of the assessments and charges set out in this chapter may be utilized within the Area, as determined by the city council, for any of the following purposes:

- A. Acquisition, construction or maintenance of parking facilities for the benefit of the Area;
- B. Decoration of any public place in the Area;
- C. Promotion of public events which are to take place on or in public places in the area;
- D. Furnishing of music in any public place in the Area; and
- E. The general promotion of business activities in the Area. (Ord. 417 § 4 (part), 1987)

12.32.050 Annual determination of uses of revenues.

The city council shall determine each year, prior to July 1st, the percentage of the total assessments and charges that are to be used for the purpose of constructing physical improvements which will benefit the Parking and Business Improvement Area, and the percentage which will be used for the purpose of providing services and programs which will benefit the Area. The amounts determined to be used to construct physical improvements shall be determined to be assessments, and the amounts determined to be used for the purpose of providing services and programs shall be considered to be charges, and the levies on the businesses within the Area for the following year shall be identified accordingly. (Ord. 417 § 4 (part), 1987)

12.32.060 Administration board.

The city council shall contract with the Chamber of Commerce, under the provisions of Section 36503 of the Streets and Highways Code, for the administration of the program for which the Parking and Business Improvement District was formed, and the budgeting and expenditure of funds generated by the assessments and charges. (Ord. 417 § 4 (part), 1987)

12.32.070 Collection of assessments and charges.

The collection from businesses within the Area of the assessments and charges imposed by this chapter shall be made at the same time and in the same manner as the city collects its business license tax from such businesses, pursuant to the applicable provisions of the Lindsay Municipal Code. (Ord. 417 § 4 (part), 1987)

12.32.080 Termination of reestablishment of assessments and charges.

After April, 1990, in the event that a validated petition which purports to represent a majority in number representing a majority in amount of the total assessments or charges within the parking and business improvement area has been filed with the city council, within forty-five day after filing, the city council shall conduct an election pursuant to Section 12.32.030 of this chapter to determine whether or not:

- A. The assessments and charges shall be discontinued for the ensuing year;
- B. The District shall be disestablished pursuant to Sections 36580 and 36581 of the Streets and Highways Code;
- C. The charges and assessments shall be reinstated beginning the ensuing year. (Ord. 417 § 4 (part), 1987)

12.32.090 Enforcement of provisions.

It shall be the duty of the director of finance and his/her deputies to collect all assessments and charges levied pursuant to this chapter. All assessments and charges required to be paid under the provisions of this chapter shall be deemed a debt owed by the business to the city. Any business, and the owners thereof, owing money to the city under the provisions of this chapter, shall be liable to an action brought in the name of the city for recovery of such amount. (Ord. 417 § 4 (part), 1987)

12.32.100 Criminal penalties.

It is unlawful for any business entity, and all owners thereof, to violate any of the provisions of

this chapter. Any such violation of the provisions of this chapter shall constitute an infraction and shall be punished pursuant to the penalty provisions of the Lindsay Municipal Code. (Ord. 417 § 4 (part), 1987)

12.32.110 Liberal construction—Partial invalidity.

The ordinance codified in this chapter is intended to be construed liberally, and in the event that any section, or part of any section thereof should be held invalid, the remaining provisions shall remain in full force and effect. (Ord. 417 § 4 (part), 1987)

Chapter 12.36

USE OF WHEELED MECHANICAL DEVICES

Sections:

- 12.36.010 Purpose.**
- 12.36.020 Definition.**
- 12.36.030 Posting of privately owned property open to the public.**
- 12.36.040 Prohibited use of wheeled mechanical devices.**
- 12.36.050 Penalty.**

12.36.010 Purpose.

A. The operation of skateboards, roller skates, coasters, scooters, toy vehicles, or other similar mechanical devices upon specific sidewalks, roadways, alleyways, and upon privately owned property open to the public within the city creates serious safety problems for the pedestrian citizens, particularly in the downtown region of the city.

B. State law allows a local authority to adopt regulations by ordinance prohibiting persons from riding or propelling skateboards and roller skates on sidewalks or roadways within the jurisdiction of the local authority.

C. This chapter is necessary to prohibit the operation of such wheeled mechanical devices upon sidewalks, roadways, alleys, and off-street parking areas within certain areas of the city and on privately owned property open to the public which has been posted by the owner or person in possession thereof with a sign prohibiting the operation of such wheeled mechanical devices upon such property. (Ord. 418 § 1 (part), 1988)

12.36.020 Definition.

As used in this chapter, "wheeled mechanical device" is defined as a skateboard, roller skates, coaster, scooter, toy vehicle, or other similar mechanical device which is used to propel a person along a sidewalk, parking facility, alley or other roadway. The term "wheeled mechanical device" shall not include any wheelchair or other medical

supply used to transport handicapped or other persons, nor shall it include carriage, stroller, buggy or other device used to transport infants and other small children, nor shall it include bicycles. (Ord. 418 § 1 (part), 1988)

12.36.030 Posting of privately owned property open to the public.

To have the provisions of this chapter apply to privately owned property open to the public, the person or persons having the right of possession of said property, or the owner thereof, shall erect and maintain upon said property not less than two signs having all of the following characteristics:

- A. The sign shall be not less than eighteen inches by twenty-four inches in size;
- B. There shall not be less than two signs posted upon the property with one located at each entrance to the property from a public sidewalk;
- C. All lettering upon the signs shall be not less than one inch high and shall state the following:

Riding skateboards and roller skates on this property prohibited by Lindsay Municipal Code Section 12.32.040

- D. All posted signs shall be black lettering on a white background and shall be unobstructed and clearly visible to the public. (Ord. 418 § 1 (part), 1988)

12.36.040 Prohibited use of wheeled mechanical devices.

No person shall ride or propel a skateboard, roller skates, coaster, scooter, toy vehicle, or other similar wheeled mechanical device upon the premises of privately owned property located in the city upon which has been posted a sign referred to in Section 12.32.030 of this code or upon any and all roadways, alleyways, sidewalks, or city-owned or operated parking facilities within the city described as follows:

Commencing at the intersection of the centerlines of Gale Hill Avenue and Frazier Street;

thence running Southwesterly along the centerline of Frazier Street and its Southwesterly projection to the centerline of the Southern Pacific Railroad right-of-way; thence Southeasterly along the centerline of the Southern Pacific Railroad right-of-way to a point therein which is the intersection of the projected centerline of Apia Street and the centerline of the said Railroad right-of-way; thence Northeasterly along the projected centerline of Apia Street and thence continuing along the centerline of Apia Street to the intersection of the centerline of Apia Street with the centerline of Gale Hill Avenue; thence Northwesterly along the centerline of Gale Hill Avenue to the centerline of Frazier Street, the point of beginning.

(Ord. 418 § 1 (part), 1988)

12.36.050 Penalty.

Any violation of this chapter shall constitute an infraction. (Ord. 418 § 1 (part), 1988)

