ORDINANCE 329-11

AN ORDINANCE AMENDING THE WEST BOUNTIFUL MUNICIPAL CODE TITLE 12 BY CLARIFYING REGULATORY LANGUAGE.

NOW, THEREFORE BE IT ORDAINED BY THE GOVERNING BODY OF THE MUNICIPALITY OF WEST BOUNTIFUL CITY, DAVIS COUNTY, STATE OF UTAH, THAT THE WEST BOUNTIFUL MUNICIPAL CODE SHALL BE AMENDED AS INDICATED IN THE ATTACHED EXHIBIT A.

The attached changes will take effect immediately upon adoption.

Adopted this 21 day of June, 2011.

By: _____
Ken Romney, Mayor

Attest:

_____
Heidi Voordeckers, City Recorder

WEST BOUNTIFUL CITY CORPORATE SEAL DAVIS COUNTY UTAH

Voting by the City Council:	Aye	Nay
Councilmember Preece	X	
Councilmember Shaw	X	
Councilmember Bruhn	X	
Councilmember Baza	ABSENT	
Councilmember Tovey	X	

Title 12 STREETS, SIDEWALKS AND PUBLIC PLACES

Chapters:

12.04 Construction and Repair

12.08 Excavations in Public Rights-Of-Way

12.12 Obstructions

12.16 Use of Streets and Sidewalks

12.20 Shade Trees

12.24 City Parks

12.28 Landscape Requirements

Chapter 12.04 CONSTRUCTION AND REPAIR

Sections:

12.04.010 Streets and sidewalks constructed by individuals.

12.04.020 Responsibility for repair of certain street improvements.

12.04.010 Streets and sidewalks constructed by individuals.

It is unlawful for any person, either as owner, agent, contractor or employee, to construct any street or sidewalk in this city unless a permit is first obtained from the city council to do so and unless such street or sidewalk is constructed to lines and grades and specifications as given and established by the city council or unless special permission to deviate from such lines and grades is first obtained from the city council.

All such streets and sidewalks shall be constructed under the supervision of an inspector to be appointed by the Ceity, but the cost of indicating grade and lines shall be borne by the person constructing the street or sidewalk. ~~(Prior code § 8-10-2)~~

12.04.020 Responsibility for repair of certain street improvements.

Whenever curbs, gutters, sidewalks or driveway approaches within this city are in need of repair, as determined by the city engineer, the cost of such repairs shall be borne by and paid as follows:

A. Repairs Required by Act or Omission. Whenever damage has been caused to any curb, gutter, sidewalk or driveway approach, or such improvements are in need of repair as a result of the act or omission of any person, the cost of such repairs shall be payable by such person.

B. Ordinary Repairs. Whenever the curbs, sidewalks or driveway approaches require ordinary repairs, as determined by the city engineer, the cost of such repairs shall be payable by the Ceity.

C. Extraordinary Repairs. Whenever curbs, gutters, sidewalks or driveway approaches require extraordinary repairs, as determined by the city engineer, the landowner abutting the portion of the curbs, gutters, sidewalks or driveway approaches requiring such repairs shall be liable for one-half of the cost of such repairs; provided, however, that if the Ceity, at its option, removes and disposes of the curbs, gutters, sidewalks or driveway approaches requiring repair, the abutting landowner shall be liable for the cost of installation of the new curbs, gutters, sidewalks or driveway approaches.

A levy of assessment may be made by the Ceity upon those portions of the land abutting the sections of curbs, gutters, sidewalks or driveway approaches requiring extraordinary repairs and benefited by the repair thereof, as determined by the city engineer.

D. Definitions. The terms "ordinary repairs" and "extraordinary repairs," as used in this section, are defined as follows:

Ordinary Repairs. When it is not necessary to replace any portion or section of curbs, gutters, sidewalks and driveway approaches in order to bring such improvements to an operational standard, then such repairs shall be deemed ordinary repairs.

Extraordinary Repairs. When it is necessary to replace any portion or section of curbs, gutters, sidewalks and driveway approaches in order to bring such improvements to an operational standard, then such repairs shall be deemed extraordinary repairs.

E. Hearing. Any property owner or other person referred to in this section who shall be aggrieved by any determination of the city engineer made pursuant to the provisions of this section shall be entitled to a hearing thereon in accordance with the provisions of Section 2.60.010. ~~(Prior code § 8-10-5)~~

Chapter 12.08 EXCAVATIONS IN PUBLIC RIGHTS-OF-WAY

Sections:

12.08.010 Permit required.

12.08.020 Application and bond.

12.08.030 Council may refuse or revoke permit.

12.08.040 Street to be restored to normal condition.

12.08.050 Barricades necessary.

12.08.010 Permit required.

It is unlawful for any person to make any excavation in any public street or way in the Ceity, or remove any pavement or other material forming any street or improvement thereon without a permit from the city council. ~~(Prior code § 8-9-1)~~

12.08.020 Application and bond.

A. No permit for any street excavation shall be issued until written application therefore has been made to the city council which application shall be signed by the applicant, or his or her agent. This permit shall not be issued unless the application is accompanied by a fee in an amount which shall be established periodically by resolution of the city council. The application shall state the location of the proposed excavation, its nature and extent, the purposes for which the excavation is necessary, the manner in which it shall be accomplished, the means to be employed to permit the unobstructed flow of traffic thereon, and the length of time the excavation will remain.

Excavation permits shall not be issued until the applicant has filed with the city council a bond of indemnity to the Ceity, with sureties approved by the city council as hereinafter provided. In lieu of a bond, the applicant may deposit with the Ceity a sum which shall be set periodically by resolution of the city council, provided the excavation does not exceed ten (10) feet in length in any direction in the street or way. The bond shall contain, and the deposit of money shall be subject to, the condition that the person responsible for making the excavation will:

1. Hold a valid license from the state of Utah, and maintain adequate public liability insurance;

2. Verify with the public works director or the utility companies concerned the location of all underground facilities which might be located within the limits of the excavation and will be responsible for, and will repair or pay for any damage to such underground facilities;

3. Not close any street or way or prevent or restrict the flow of traffic thereon without first obtaining permission therefor from the city council;

4. Erect and maintain about the excavation, during the excavation and until the street is restored to its normal condition, sufficient guards, signals, barricades and lights to prevent accidents;

5. As soon as reasonably possible after the completion of the work, restore the street to the same condition in which it existed prior to the excavation, including the removal of

rocks, dirt, rubbish and all other materials from the street which exist as a result of excavation, and be responsible for maintaining the surface of the excavated area from settlement and deterioration for a period of three years after first restoration;

6. In case the excavation is through asphalt or cement or beneath stone blocks, make the cut perpendicular at the sides and ends from the surface for the full length and width of all excavations to the necessary depth;

7. Notify the public works director at least four hours prior to backfilling, indicating the time the trench is to be backfilled;

8. Not permit any excavation to remain open in any street for a period of more than ten (10) days, or such lesser period as may be provided for in the permit;

9. Be responsible for maintaining and guarding the excavation area for a period of three years after first restoration;

10. Backfill according to standard specifications and use only material for that purpose which shall be properly tamped or use a sufficient quantity of water to properly settle the materials to the satisfaction of the public works director. In the event the material removed from the excavation cannot, in the judgment of the public works direction, be properly compacted, the excavation shall be compacted with sand or other porous material as directed by the public works director;

11. In cases when excavation is done by machine, excavate with either a trenching machine or pull shovel which does not have cleats, spikes or other protruding parts which will come in contact with the street surface when such machine is in motion, and which will not have a cutting width of not to exceed forty (40) inches;

12. Hold the Ceity harmless from any and all claims, liability, demands or damages for any and all injury to persons or property arising in any manner out of or by reason of such excavation; and

13. Respond to the Ceity in damages for failure to conform to any or all of the requirements set forth in this section.

~~14.~~ It is the intent of this title to hold franchised utilities responsible for all excavations, backfilling and paving. To this end all such work, whether done by a private or public entity, shall be commenced only pursuant to the issuance of an excavation permit as set forth in these ordinances. Curbs~~,~~ and fills shall be constructed according to standards established by the City and shall be subject to City~~, and~~ approval, ~~of the same shall be~~ evidenced by a release of responsibility signed by the city engineer after approval by the city council

B. The bond required herein shall be a corporate surety bond issued by a licensed surety in an amount sufficient to guarantee restoration of such street or way to its original condition, as determined by the city council. However, any person operating in or using any of the streets or ways under a franchise, or any person who, in the pursuit of his or her regular calling, has

frequent occasion to open or make excavations in the public streets or ways, may file a corporate sure-ty bond in a sum established periodically by resolution of the city council. This bond, once filed, shall cover all excavations made for a period of one year from date of filing. The city council may waive the requirement of a bond when the applicant is a municipal corporation or political subdivision. These bond proceeds shall be refunded to the applicant upon satisfactory compliance with the conditions upon which such deposit was made as herein above provided. ~~(Prior code § 8-9-2)~~

12.08.030 Council may refuse or revoke permit.

Failure on the part of any person to comply with any of the conditions of the bond provided for in Section 12.08.020, or any of the provisions of this chapter shall be sufficient reason for the city council to refuse or to revoke a permit to excavate in the streets or ways of the City. If any of the provisions of the bond, or of this chapter, are violated or not observed, the city council may do all things necessary or proper to repair such street or way at the expense of the person making the excavation. ~~(Prior code § 8-9-3)~~

12.08.040 Street to be restored to normal condition.

It is unlawful for any person having made an excavation in any street or way, whether under permit or franchise, to fail, neglect or refuse for a period of five days after notice from the city council, or its authorized representative, to restore the street or way to its normal condition. ~~(Prior code § 8-9-4)~~

12.08.050 Barricades necessary.

It is unlawful for any person by or for whom any excavation is made in a public street or way for any purpose to fail to cause a barricade, rail or other sufficient fence to be placed so as to enclose such excavation, together with the dirt, gravel or other material thrown therefrom, and to maintain such barricade during the whole time for which such excavation continues. It is unlawful for any person to fail to have lighted lanterns or some other proper and sufficient lights affixed to parts of such barricade, or in some proper manner over or near the excavation, and over and near the dirt, gravel or other material taken therefrom. These lights shall be illuminated from twilight to dawn of every night during the period of excavation. Furthermore, it is unlawful for any person maliciously or wantonly and without legal excuse, to extinguish, remove or diminish the lights or to tear down or remove any rail, fence or barricade fixed in accordance with this section. ~~(Prior code § 8-9-5)~~

Chapter 12.12 OBSTRUCTIONS

Sections:

12.12.010 Building line on street.

12.12.020 Location of poles on streets.

12.12.030 Height of awnings, porches and signs.

12.12.010 Building line on street.

No building or house erected on the boundary or edge of any street, lane, avenue or alley of this city shall extend further into the street than the outer edge of the lot or the inner edge of the sidewalk. ~~(Prior code § 8-10-1)~~

12.12.020 Location of poles on streets.

All sign posts, telegraph, telephone or light poles, awnings, porch posts or other obstructions shall be set at the outer edge of the sidewalk at such places as the chief of police, with the approval of the ~~c~~City council, may designate. No pole stubs shall be set on any telegraph, telephone, or light poles which are located on a public street or sidewalk within the ~~C~~city. ~~(Prior code § 8-10-3)~~

12.12.030 Height of awnings, porches and signs.

All awnings, porch tops, and sign boards crossing or extending over any sidewalk in this city must be at least eight feet above the grade of the sidewalk, unless otherwise provided in the zoning ordinance. ~~(Prior code § 8-10-4)~~

Chapter 12.16 USE OF STREETS AND SIDEWALKS

Sections:

12.16.010 General provisions.

12.16.020 Depositing material on streets and sidewalks prohibited.

12.16.010 General provisions.

A. It is unlawful for any person to destroy, deface or in any manner injure any public street or sidewalk.

B. It is unlawful for any person intentionally or carelessly to throw or put into any street, gutter, sidewalk, or public place any item which shall render such street unsafe or unsightly or shall interfere with travel thereon.

C. It is unlawful to obstruct the sidewalks, crosswalks, or streets of this city, or to place any earth or substance on these locations, or to permit any gate or other obstruction to swing across any sidewalk to the annoyance of another person. However, the chief of police may grant special permission to place obstructions on sidewalks or streets when necessary for improving the same or to provide protection when buildings are in the course of construction.

D. It is unlawful for any person to drag, tow or otherwise convey upon the streets of the ~~C~~city any stumps, trees, junk, machinery, or other matter which injures the street or which constitutes more than ordinary wear upon the street. ~~(Prior code § 7-1-16)~~

12.16.020 Depositing material on streets and sidewalks prohibited.

A. It is unlawful for any person intentionally or carelessly to throw, cast, put onto, drop or permit to fall from a vehicle and remain in any street, gutter, sidewalk or public place any stones, gravel, sand, coal, dirt, manure, garbage, leaves, lawn or hedge clippings or rubbish of any kind, or any other substance which shall render such highway or sidewalk unsightly or shall interfere with travel thereon.

B. Exception. Covering of concrete with dirt to prevent breakage while traversing over with heavy equipment during construction and/or improvement projects on adjoining property is allowed.

C. Penalty for violation of this section: see Section 1.16.030. (Ord. 240-96~~: prior code §§ 8-10-6, 8-10-7~~)

Chapter 12.20 SHADE TREES

Sections:

12.20.010 Short title.

12.20.020 Definitions.

12.20.030 Authority of public works department.

12.20.040 City Arborist.

12.20.050 Procedure in the handling of tree problems.

~~12.20.060 Permit required.~~

12.20.06~~7~~0 Consideration of trees in public projects.

12.20.07~~8~~0 Public trees.

~~12.20.090 Private request.~~

~~12.20.100 License required.~~

12.20.08~~11~~0 Official tree planting list.

~~12.20.120 Master tree plan.~~

~~12.20.130 Interference with city employees and wilful injury to trees.~~

~~12.20.140 Penalties and other remedies.~~

12.20.010 Short title.

This chapter shall be known and may be cited as the shade tree ordinance of West Bountiful City. (Ord. 235-93 § 1)

12.20.020 Definitions.

For the purpose of this chapter the following terms, phrases, words and their deviations 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 include the singular, and words in the singular include the plural. The words "shall" is always mandatory and not merely directory.

"**City**" is the C~~c~~ity of West Bountiful.

"**Person**" is any person, firm, partnership, association, corporation, company or organization of any kind.

"**Shade tree**" or "**tree**" is a tree in any public place, except where otherwise indicated.

"**Tree planting strip**" means that area between the curb or place where the curb should be and the property line; or an area inside the property line where an easement is given for the purpose of permitting the planting of shade trees; also referred to as the "park strip."~~.~~ (Ord. 235-93 § 2)

12.20.030 Authority of public works department.

A. The public works department shall execute and enforce the provisions of this ordinance and all other plans, standards, and specifications for the regulation of matters pertaining to shade trees that may be officially adopted by the city council.

B. All problems related to and requests for action on trees and shrubs on any city property shall be referred to the public works department.

~~C. The public works department is authorized to conduct such maintenance programs on trees and shrubs on city property as it may deem appropriate. All such shall be done within current budget allotments.~~

~~D~~C. Wherein it is determined that a tree or shrub located on private property overhangs or projects into ~~such~~ city property, or constitutes an obstruction to vision or travel on any city sidewalk, property or street, the public works is authorized to remove the offending trees or branches or shrubs and to assess the actual costs against the property owner. However, except in case of manifest public danger and immediate necessity, no such trees or shrubs standing on any private property shall be cut down or removed unless ten (10) days notice shall be given to the owner or occupant of the property. If the owner or occupant of such property shall, within seven days after receiving such notice file with the city recorder his or her objections, in writing, to such removal, such tree or shrub shall not be cut down or removed unless the city council shall give such owner or occupant a reasonable opportunity to be heard in support of such

objection, and shall thereafter approve in writing the removal of the same, if the objection is not sustained.

D~~E~~. Where an emergency exists with regards to a shade tree, the public works department shall take such prompt and immediate action as is reasonably necessary to remedy the emergency condition. An emergency condition is such that renders life or property in immediate jeopardy.

E~~F~~. The public works department is given authority to trim or prune or to remove any tree shrub which has been planted or is maintained, on or within public property, in violation of any C~~c~~ity ordinance, without serving notice upon the owner of the abutting property. (Ord. 235-93 § 3)

12.20.040 City Arborist.

There is established a position of City Arborist which shall be a member of the public works department, as selected for the position by the mayor, or any other individual selected for such position by the mayor.

~~A. The City Arborist may establish rules of procedure and may select any other officers as it deems necessary.~~

~~B~~A. The duties of the City Arborist are advisory and ~~shall extend to all policies of tree culture~~ related to trees and shrubs now planted and growing or hereafter to be planted and grown upon any and all public properties and places in the C~~c~~ity, and shall include duties as assigned ~~to it~~ from time to time by the city council as well as the following:

1. Assist the city council in making recommendations on public relations matters, including but not limited to, programs such as arbor day, clean-up days, home beautification contests, and other tree related city activities;

2. Prepare for approval by the city council, an official tree planting list;

3. Prepare a draft master tree plan for submission to the planning commission for adding to the general plan in the manner prescribed by state law;

4. Make recommendations on arboricultural specifications and standards of practices for all trees and shrubs on city property, and recommend standards and specifications for the work of any person or organization engaged in the business of working on trees within the C~~c~~ity;

5. Make recommendations on the use of grounds immediately surrounding trees and shrubs on public property, as far as it is necessary to assure the proper growth, care and protection of the trees and shrubs;

6. Make recommendations on the care and treatment of trees and shrubbery, including planting, maintenance, pruning, spraying, and removal of the trees and shrubs in conformity to the master tree plan;

7. Make recommendations on qualifications for persons desiring to become licensed to engage in the business of trimming, pruning, crown reduction~~topping~~, treating or removing trees and shrubs in the C~~c~~ity;

8. Make recommendations on the identification, marking and preservation of historic or notable trees;

9. Make recommendations on the removal of "weed trees" on private property posing a hazard or nuisance to the C~~c~~ity. (Ord. 235-93 § 4, amended 16 Jan 2007)

12.20.050 Procedure in the handling of tree problems.

A. Tree problems shall be referred to the public works department for investigation and determination of required action under the policies stated in this chapter or which may otherwise be adopted by the city council.

B. In cases where complete removal and/or replacement or planting are involved, the following shall apply:

1. If upon determining that the abutting property owner or occupant, the person making the request for action, the public works department, and such other parties as are known to have an interest in the problem are in agreement to the action to be taken and upon whom the responsibility for paying for the action should fall, the C~~c~~ity ~~may issue any permit,~~ may direct the necessary action, or may inform other persons or agencies of the action recommended. Such decisions and actions shall conform to any specific policies stated in this chapter or which may otherwise be adopted by the city council.

2. If there is a conflict or disagreement between interested parties as to the action that should be taken and or who should bear the responsibility of paying for such action, the public works department shall make a written report and shall then refer the matter to the City Arborist who shall arrive at an appropriate recommendation for action. All involved parties shall be notified of the decision. If any of the parties then wishes to appeal the decision to the city council, such appeal shall be made in writing to the city recorder within three working day of the date of notification. No action on the problem shall be taken pending the outcome of the appeal.

The city council shall hear all parties who wish to be heard on the matter and shall make a decision which shall be final. The city council shall notify all involved parties and shall order the public works department to take such actions as are necessary to execute the decision. (Ord. 235-93 § 5, amended 16 Jan 2007)

~~**12.20.060 Permit required.**~~

~~Other than for minor maintenance pruning and treatment of trees and shrubs in parking strips, it is unlawful to plant, move, spray, trim, prune, cut above or below ground, disturb or alter any tree or shrub on public property, or to cause such acts to be done by others without first obtaining a permit~~

~~from the city. The city may issue such permits if, in its judgment, the work is necessary, and if the proposed methods of workmanship are satisfactory. A permit fee may be established by resolution.~~

~~The person receiving the permit shall abide by the specifications and standards of practice adopted by the city and/or the specific conditions or methods listed on the permit.~~

~~As a condition to any permit to remove any public tree or shrub, the city may require that the permittee plant one or more trees or shrubs in place of the one removed.~~

~~Whenever such tree or shrub has been removed or destroyed pursuant to any such conditional permit, it shall be a misdemeanor for the permittee to fail, refuse or neglect to plant another tree(s) or shrub(s) of the type, size, and at the location specified in the permit, within the time specified in the permit. (Ord. 235-93 § 6)~~

12.20.0~~6~~70 Consideration of trees in public projects.

Plan for all lighting, sewer, irrigation, water, street and other public works projects shall be considered with the reference to their effect upon trees on public property prior to the beginning to of work on such projects. Every effort shall be made to preserve desirable trees and to minimize any damage to trees and shrubs on all projects. (Ord. 235-93 § 7)

12.20.0~~7~~80 Public trees.

A. The abutting property owner~~city~~ shall be responsible for relieving the following conditions caused by trees on city tree planting strips, public parks and other public properties:

1. Removal of dead trees or limbs, or trees or limbs that, as determined by the C~~c~~ity, appear to be a hazard or liable to fall;

2. Removal of trees or limbs from trees or shrubs that have actually fallen across a street, sidewalk or upon city property;

3. Removal of diseased or dying trees that are beyond reclamation;

4. Removal of trees or roots directly in the way of street widening projects, or sidewalk and curb repairs and/or installation;

5. Removal of trees, branches or roots that are found by the C~~c~~ity to be a nuisance such as by constituting obstruction to water or sewage lines, irrigation ditches or street lighting or public signs, that impair good visibility at street intersections, are obstructions to vision or travel on public property, or that are too closely space;

6. ~~Major~~ P~~p~~runing, crown reduction ~~topping~~ and treatment.

B. Property owners or occupants shall be responsible for watering, minor maintenance pruning and treatment of all trees and shrubs on the city tree planting strips adjacent to their property.

This shall not include city parks and recreation facilities and other types of public property. (Ord. 235-93 § 8)

C. The abutting property owner shall assume financial responsibility for replanting city tree planting strips with approved species.

~~**12.20.090 Private request.**~~

~~In cases where an abutting property owner or occupant to city tree planting strips, or other public property requests actions on trees located on city property, the abutting property owner or occupant shall assume financial responsibility for the following actions:~~

~~A. Removal of trees in the way of house moving or construction projects;~~

~~B. Removal of undesirable species as established in the master tree plan, or those not on the tree planting list;~~

~~C. Removal of trees or roots or the pruning of branches for the improvement of appearance where no hazard nuisance is found by the city;~~

~~D. Removal of pruning where a low priority hazard or nuisance is found by the city to exist, but where the abutting property owner or occupant desires more rapid action than can, because of a backlog of higher priority work, be furnished by the public works department;~~

~~E. Replanting with approved species. (Ord. 235-93 § 9)~~

~~**12.20.100 License required.**~~

~~It is unlawful for any person to engage in the business or occupation of trimming, pruning, topping or removing trees or shrubs within the city without first obtaining a business license; provided, however, that no license shall be required of any public service utility company engaged in trimming, topping, pruning or removing trees or shrubs in public areas in pursuit of those public service endeavors, according to approved standard practices.~~

~~The license fee shall be established by resolution. Each person desiring such business license shall show proof of liability and injury insurance of at least one hundred thousand dollars ($100,000.00) and shall indemnify the city against any claim resulting from the pursuit of such business.~~

~~The applicant shall meet minimum qualifications as may be recommended by the City Arborist and approved by the city council. (Ord. 264-00: Ord. 235-93 § 10, amended 16 Jan 2007)~~

12.20.08~~10~~0 Official tree planting list.

After receiving a recommendation from the City Arborist, the city council shall adopt an official tree planting list which shall designate which species may be planted in city tree planting strips and which trees are recommended for other public places.

Copies of the official tree planting list shall be kept in the city recorder's office for distribution to the public.

The City Arborist may from time to time recommend to the city council amendments to the official tree planting list. (Ord. 235-93 § 11, amended 16 Jan 2007)

~~**12.20.120 Master tree plan.**~~

~~The City Arborist shall prepare a draft master tree plan which shall include an inventory of existing trees, plans for various public areas such as the entrances to the city, city parks, main transportation corridors and others, in regards to the planting of trees for beautification, noise dampening, visual screening, weather protection, erosion control and other control and other factors. The plan may include recommendations on any of the items in Section 12.20.040 that the City Arborist deems appropriate and may include other information desired by the City Arborist.~~

~~The City Arborist may from time to time, on their own initiative or at the direction of the planning commission or city council, prepare amendments to the master tree plan for submission to the planning commission and city council for approval following the requirements of state law. (Ord. 235-93 § 12, amended 16 Jan 2007)~~

~~**12.20.130 Interference with city employees and wilful injury to trees.**~~

~~A. No person shall prevent, delay or interfere with any city employee in the execution or enforcement of this chapter.~~

~~B. No person shall wilfully injure or destroy any tree on any city property by any means, including by not limited to the following:~~

~~1. Constructing a concrete, asphalt, brick or gravel sidewalk or otherwise filling up the ground area around any tree so as to shut off air, light or water from the roots except under written permission from the city council;~~

~~2. Piling building material, equipment or other substance around any tree so as to cause injury;~~

~~3. Pouring any injurious material on or around any tree, or on the ground around it or any lawn or sidewalk;~~

~~4. Posting any sign on any tree, tree-stake or guard, or by fastening any guy wire cable or rope to any tree, tree-stake or guard; provided, however, that warning and parking signs and official notices may be installed, by the city, or any tree trunks which are suitably located;~~

~~5. Injuring any tree, tree-stake or guard with any vehicle or animal, or in any other manner causing injury to any tree or lawn on public property.~~

~~C. Tree stakes or guards may be placed around trees by abutting property owners, provided the same are placed near a tree for the purpose of protecting or training such trees. (Ord. 235-93 § 13)~~

~~**12.20.140 Penalties and other remedies.**~~

~~A. Violation of any of the provision of this chapter shall be punishable as a Class C misdemeanor, either:~~

~~1. As a Class C misdemeanor; or~~

~~2. By imposing a civil penalty as per Chapter 8.12 of this code.~~

~~B. In addition to the penalties and abatement procedures outlined above, the city may initiate any or all of the following actions: injunctions; mandamus; proceedings to prevent, enjoin, abate or remove, or other such court actions. (Ord. 235-93 § 14)~~

Chapter 12.24 CITY PARKS

Sections:

12.24.010 Restrictions on use.

12.24.010 Restrictions on use.

A. Until and unless changed by resolution of the city council, the parks of the C~~c~~ity shall be kept open for public use from six a.m. to ten thirty p.m. seven days each week. Anyone desiring to use any of the city's parks beyond the normal hours of use may make application to the C~~c~~ity, setting forth the use for which the park is desired, the person responsible for the use, the approximate number of people involved, and the hours during which said use is contemplated, and upon written authorization therefore, may use the same within the limits set forth in the permission granted by the C~~c~~ity.

B. It is unlawful to use a city park or to be or remain therein beyond the limits herein set forth, or to use or permit the use of snowmobiles or other off-highway type vehicles or horses therein, or to use the park for golfing, putting or driving golf balls. It shall also be unlawful to park or drive or permit others to park or drive automobiles or other motor vehicles within any city park in other than designated-parking or driving areas, or to allow motor vehicles to remain in said prohibited areas. It shall also be unlawful for the owner, or any person keeping, harboring, maintaining or in control of a dog, to permit the same to enter into or remain in a city park. ~~(Prior code § 7-1-12)~~

Chapter 12.24 LANDSCAPE REQUIREMENTS

Sections:

12.24.010 Purpose.

12.24.020 Enforcement of landscape requirements.

12.24.030 Landscape plan.

12.24.040 Landscape plan materials--Selection.

12.24.050 Landscape plan materials--Installation.

12.24.060 Landscape plan materials--Maintenance.

12.24.010 Purpose.

The landscaping requirements specified in this chapter are intended to foster aesthetically pleasing development which will protect and preserve the appearance, character, health, safety and general welfare of the public. These regulations are intended to increase the compatibility of adjacent uses and, in doing so, minimize the harmful impacts of noise, dust, debris, heat, wind and air; lessen the problems of motor vehicle light glare or other artificial light intrusions; reduce the level of carbon dioxide and return pure oxygen to the atmosphere; provide shade and lessen energy consumption; buffer and screen undesirable uses and appearances from adjacent properties; eliminate the blighted appearance of parking lots; and act as a natural drainage system and lessen storm water drainage problems. (Ord. 267-00 § 1)

12.24.020 Enforcement of landscape requirements.

Wherever the submission and approval of a landscape plan is required by this code, such landscape plan shall be an integral part of any application for a building permit, conditional use permit or subdivision approval. No permit shall be issued without City approval of a landscape plan as required in this chapter. The requirements of this chapter may be modified by the planning commission, on a case-by-case basis, in response to input from the city police department regarding the effects of required landscaping on crime prevention. (Ord. 267-00 § 2)

12.24.030 Landscape plan.

A. The requirements of this chapter shall be considered a minimum, except in those cases where otherwise noted (i.e. specified ranges or specific numbers). The following code sections make reference to landscape plans and requirements: 17.20.090 Agricultural District, 17.28.080(B-) Neighborhood Commercial, 17.32.080(B) General Commercial, 17.36.080(B) Light Industrial, 17.40.080(B) General Industrial, 17.52.060(-C-) Off-street Parking, 17.72.030(E) and (H), Mobile Home Parks, 15.12~~6~~.040(D) Movement of Buildings and 17.76.030(B), Swimming Pools.

B. A landscape plan shall be drawn in conformance with the requirements specified in this chapter. Landscape plans ~~must be approved~~are subject to approval by the planning commission.

C. All landscape plans submitted for approval shall contain the following information:

1. The location and dimensions of all existing and proposed structures, property lines, easements, parking lots and drives, roadways and rights-of-way, sidewalks, bike paths, ground signs, refuse disposal and recycling areas, bicycle parking, fences, freestanding electrical equipment, tot lots and other recreational facilities, and other freestanding structural features as determined necessary by the planning commission;

2. The location, quantity, size and name, both botanical and common names, of all proposed trees, shrubs and ground cover plants;

3. The location, size and common names of all existing plants including trees and other plants in the parkway, and indicating plants to be retained and removed;

4. Water irrigation system, with efficiency controls and design;

5. Summary data indicating:

a. The area of the site in acres or square feet;

b. The area of landscape improvements in square feet and percent;

c. The area of domestic turf grass in square feet and percent;

d. The area containing drought-tolerant plant species, in square feet;

6. Landscape Distribution.

~~a. A minimum of seventy-five percent (75%) of the total required landscape shall be placed on the property in front of the building(s);~~

~~b~~a. The minimum landscape width for any parcel fronting onto 500 West Street or 500 South Street shall be eight feet and shall extend across the entire frontage, excluding drive approaches;

b~~c~~. A corridor of trees shall be placed along all properties abutting Interstate Highway 15 (I-15). The spacing of the trees shall be determined by the type selected and as specified in this chapter. Clustering of trees shall be allowed, provided~~ing~~ the net number of -trees equals or exceeds the spacing requirement;

c~~d~~. A corridor of trees shall be placed in drainage swales. (Ord. 267-00 § 3)

12.24.040 Landscape plan materials--Selection.

Plants used in conformance with the provisions of this chapter shall be of good quality, and capable of withstanding the extremes of individual site micro-climates.

Size and density of plants, both at the time of planting and at maturity, are additional criteria which shall be considered by the planning commission when approving the landscape plan. The use of drought-tolerant plants is preferred when appropriate to the site conditions.

A. Tree Species to be Planted. The following list constitutes the recommended species for trees to be planted on land in the park-strip areas, drainage swales or abutting property lines on either side of all streets within the City:

Large Trees* as follows: Medium Small

Hackberry, Thornless Honey Locust, Bur Oak, Red Oak, Norway Maple, Red maple, Littleleaf Linden, Crimena Linden, Japanese Zelkova, Ginko, Chinese Pistache

Medium Trees as follows:

Golden Raintree, Japanese Pagoda, Flowering Plum, Flowing Pear

Small Trees as follows:

Lavelle Hawthorne, English Hawthorne, Washington Hawthorne, Dolgo Crabapple, Dorothea Crabapple, Japanese Flowering Crabapple, Hopo Crabapple, Bechtel's Crabapple, Radiant Crabapple, Snow Drift Crabapple, Rebud Crabapple

* (not allowed in park strip or drainage swales; refer to 12.20.080 for park strip tree requirements)

B. Spacing. The spacing of street trees will be in accordance with the three species size classes listed above, and no trees may be planted closer together than the following: small trees, thirty (30) feet; medium trees, forty (40) feet; and large trees, fifty (50) feet; except in special plant systems designed or approved by a landscape architect.

C. Shrubs, Less Than Four Feet Mature Height. The following list constitutes the recommended species for shrubs to be planted in landscape areas within the City. In most instances, shrubbery will not be allowed in park strips, drainage swales or other locations within the street right-of-way:

Japanese red leaf barberry

Crimson pygmy barberry

Arnold dwarf forsythia

Emerald mound Honeysuckle

Snowmound spirea

D. Ground Cover / Turf Grass. The following list constitutes the recommended species for ground cover and turf grass to be planted on land in the park-strip area, drainage swales or abutting property lines on either side of all streets within the Ceity:

Ground ivy

Matrimony vine

Snow-in-summer

Maiden Pink

Myrtle periwinkle

NOTE: spreading ground cover is not allowed in drainage swale areas.

Kentucky bluegrass - common blend

E. Prohibited Materials in Park Strips and Drainage Swales.

1. Rocks and gravel are hazardous to pedestrians and bicyclists, are difficult to walk across, may be kicked into streets or onto walking paths, and clog drainage systems;

2. Asphalt is inconsistent with the Ceity's rural design;

3. Concrete may be installed in park strip areas with concrete sidewalks and concrete curbs and gutters, but are generally discouraged;

4. Thorn-bearing plants are hazardous to pedestrians, bicyclists and animals and are difficult to walk through or past. Roses may be acceptable if approved by the planning commission;

5. Ground cover or shrubs are prohibited from the rural street drainage swale areas. Ground cover less than eighteen (18) inches in height may be installed in the park strip area providing adequate spacing is provided for pedestrian access and as approved by the planning commission. (Ord. 267-00 § 4)

12.24.050 Landscape plan materials--Installation.

All landscaping shall be installed in accordance with the current planting procedures established by the American Association of Nurserymen. The installation of all plants required by this chapter may be delayed until the next optimal planting season, as determined by the planning commission. (Ord. 267-00 § 5)

12.24.060 Landscape plan materials--Maintenance.

A. Responsibility. The owner of the premises shall be responsible for the maintenance, repair and replacement of all landscaping materials and barriers, including refuse disposal areas, as may be required by the provisions of this chapter.

B. Landscaping Materials. All landscaping materials shall be maintained in good condition so as to present a healthy, neat and orderly appearance, and plants not in this condition shall be replaced when necessary and shall be kept free of refuse and debris.

C. Irrigation Systems. Irrigation systems shall be maintained in good operating condition to promote the conservation of water while providing adequate coverage for the plants.

D. All landscape improvements installed within the City's right-of-way are placed by permission of the City but the City shall not be responsible for the maintenance and upkeep of said improvements.

E. This requirement shall take effect when building permits are required for the following situations in the affected zone(s):

1. All new construction on vacant parcels;

2. Any substantial modification to an existing site or structure in which the estimated construction cost is greater than fifty thousand dollars ($50,000) in either a single application or any number of applications within a ten (10) year period;

3. Subdivision approval in an A-I zone with rural street design approval.

F. The required landscaping percentage shall be strictly followed. (Ord. 267-00 § 6)