

## Chapter 12.10

### RIGHT-OF-WAY IMPROVEMENTS

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Text Highlighted in Blue is to be  
Removed when the Manual is  
Adopted

#### **12.10.010 Authority.**

This ordinance is adopted pursuant to the powers granted and limitations imposed by Montana state law; Montana Code Annotated (MCA) and the City of Missoula's self-governing power. (reference MCA 7-14-41, MCA 7-15-41 and MCA 60-1-103)

#### **12.10.020 Purpose.**

This ordinance is adopted for the purpose of setting forth design, construction and inspection requirements for Right-of-Way Improvements.

#### **12.10.030 Applicability.**

This code shall apply to rights-of-way, public easements and private property within the City of Missoula and shall define and regulate the design, construction and inspection requirements for right-of-way Improvements as defined in this ordinance, including but not limited to installation / construction / reconstruction / repair / removal / replacement of curb/gutter, sidewalk, street / alley paving, grading, drainage structures and appurtenances, bridges (vehicular and/or pedestrian), railings, retaining walls, boulevard and/or median improvements, approaches/aprons, alley approaches, curb ramps, landscaping, street lighting, traffic management signage, traffic signals, curb and pavement marking, traffic management structures and utility connections, repairs, or replacements and other appurtenances related to their construction when/where required by Missoula Municipal Code (MMC).

#### **12.10.040 Conflicting Provisions.**

If the provisions of this section conflict with other provisions or regulations of federal, state or local government, then the most restrictive requirement(s) shall apply to the extent permitted by law.

#### **12.10.050 Right-of-Way Improvements Permit—Required**

Right-of-way improvements shall be performed only after first obtaining the appropriate permit from the City and paying the necessary permit fees found in the Engineering Fee Schedule. These permits shall expire after one hundred-eighty (180) days unless an inspection is conducted or an extension is requested by the permittee and granted by the Director.

#### **12.10.060 Permit Fees for Right-of-Way Improvements.**

The City Council shall establish and or amend fees for the following services by resolution after conducting a public hearing.

- A. Inspecting right-of-way improvements related to curb and gutter construction.
- B. Inspecting right-of-way improvements related to sidewalk and approach construction.
- C. Inspecting other repair work on curb and gutter, sidewalk and approach; grinding, saw cutting, crack sealing and other concrete work that does not require complete removal and replacement.
- D. Inspecting areas of street or alley paving construction work within/upon the right-of-way (Note: When both private and right-of-way paving permits are required, only a right-of-way paving permit will be issued and the higher of the two permit fees from the Engineering Fee Schedules will be applied.)
- E. Right-of-way/paving project administration and management on city initiated projects.

The fee for Development Services staff to review subdivision plan submittals for compliance for compliance with applicable codes shall be collected when the subdivision plan is submitted. The fee for Development Services staff to review building construction site plans for compliance with applicable codes shall be collected prior to the issuance of the building permit.

#### **12.10.070 Permit Fee Refunds.**

Refund of permit fees shall be given when permit errors or mistakes are caused by the City. Refunds shall be approved by the Development Services Director.

#### **12.10.080 Investigation Fee -- Work Without a Permit.**

Whenever any work for which a right-of-way Improvements or paving construction work permit is required by this ordinance has been commenced prior to obtaining a permit, an investigation shall be made before a permit may be issued for such work. An investigation fee, in addition to the permit fee, shall be collected whether or not a permit is then or subsequently issued. The investigation fee shall be equal to the amount of the permit fee required by this ordinance and paid before any permit is issued. The payment of such investigation fee shall not exempt any person from compliance with all provisions of this ordinance. In addition to the investigation fee the Development Services Director may require additional mitigation including but not limited to removal of the concrete and/or pavement. The Development Services Director may grant relief from the investigation fee upon written request from the contractor.

#### **12.10.090 Construction Specifications for Right-of-Way Improvements -- Material Requirements.**

All specifications for materials and procedures used in the construction of right-of-way improvements shall meet or exceed the standards set forth in the Missoula City Public Works Standards and Specifications Manual.

#### **12.10.100 Right-of-Way Improvements Shall Only be Performed by a City Licensed and Bonded Contractor.**

Only City licensed and bonded contractors, in accordance with MMC Chapter 12.08, shall construct any right-of-way improvements in any existing or proposed right-of-way, or other property owned by or dedicated to or used by the City. All licensed and bonded contractors' concrete placing/finishing crews shall have at least one American Concrete Institute (ACI) Certified Flatwork Finisher level or above on site at all times.

#### **12.10.110 Requirements for Right-of-Way Improvements.**

The City Engineer shall require right-of-way improvements to be shown on all site plans required for the issuance of the appropriate permit; and further, shall require right-of-way improvements to be installed prior to the issuance of a permanent certificate of occupancy. The location and construction specifications of right-of-way improvements shall be approved by the City Engineer, who shall also be responsible for reviewing and inspecting the construction of all improvements constructed within/upon right-of-way.

- A. Right-of-way improvements shall be installed where none currently exist for the following:
1. New construction of residential dwelling, commercial, and/or industrial building.
  2. Additions or changes to existing structures that will cause an increase in the required parking,
  3. Where new construction or additions to parking facilities occur.
  4. Where a Subdivision Exemption Affidavit for a boundary line relocation or family transfer is applied for and approved (except for a boundary line relocation that does not create additional building sites)
- B. Existing hazardous and/or deteriorated right-of-way improvements, as determined by the City Engineer, shall be replaced/repared or otherwise upgraded to present standards, including Americans With Disabilities Act (ADA) requirements for the following:
1. New construction of residential dwelling, commercial, and/or industrial building.

2. When the footprint of a residential dwelling, commercial, and/or industrial building is increased by 200 square feet or more.
  3. Where new approaches accessing city streets are constructed.
  4. Where a Subdivision Exemption Affidavit for a boundary line relocation or family transfer is applied for and approved (except for a boundary line relocation that does not create additional building sites)
- C. Substandard right-of-way improvements, as determined by the City Engineer, shall be replaced/repared or otherwise upgraded to present standards, including Americans With Disabilities Act (ADA) requirements, adjacent to the permitted on-site construction.
- D. Private Street- Required. An access that serves three or more single-family residential units, two or more duplex residential units, one or more multi-family (triplex or larger) unit or serves any non-residential use requires a private street. All private street improvements, including pavement, concrete curb/gutter, concrete sidewalks and storm water drainage / management shall be designed and constructed in accordance with Missoula City Public Works Standards and Specifications Manual as reviewed and approved by the City Engineer. **All private streets shall be placed on public access easements unless otherwise exempted by the City Engineer.** Private street paving construction work shall be completed along the entire length of a private street starting at the existing adjacent intersecting street.
- E. Homezones/woonerfs may be considered as a design alternative for developments.

**F. Street widths (Back of curb to back of curb minimum widths)**

- a. Local Residential streets
  - i. 35' with parking on both sides
  - ii. 29.5' with parking on one side
  - iii. 24' with no parking
- b. Additional width may be required if proposed traffic volumes exceed those of a local residential street numbers per the functional classification guidelines.

- G. All streets shall have a **5' minimum width** sidewalk on each side. The City Engineer may approve a deviation from this standard.
- I. All streets shall have curbing on both sides unless otherwise approved by City Engineer.
- J. Street names for developments
1. New streets that align with existing streets must have the same name as the existing street.
  2. Street names for non-continuing streets may not duplicate nor be named so as to be confused with existing street names.
  3. Street names shall be approved by Development Services.

K. Alleys –must meet the following standards:

1. When right-of-way improvements are required under this chapter, and vehicular access to the public street system is from the alley, the alley shall be controlled for dust (asphalt millings recommended) along the extents of the property frontage of the alley to the nearest intersecting street. If four or more parking spaces are proposed off the alley, the entire length of the alley to intersecting streets shall be controlled for dust.
2. All alleys in the Central Business District shall be paved with concrete.
3. **The minimum right-of-way or public access easement shall be 20'**
4. All alleys shall be designed and constructed to Missoula City Public Works Standard and Specifications Manual.
5. In areas where development patterns include alleys the developer is required to continue the circulation pattern inclusive of alley construction unless topographic constraints exist.
6. Alleys must not dead end.

## L. Connectivity Requirements

New or proposed developments shall be reviewed by the City Engineer for the purpose of establishing connectivity. Issues to be considered with this review include the safety and wellbeing of the residents of the development and their access to a sound multimodal transportation system as well as the ability to move about within the development and access adjacent destinations.

New or proposed developments should also meet the applicable goals and policies of any relevant community plans including, but not limited to the following: Long Range Transportation Plan, Active Transportation Plan, Our Missoula Growth Policy, the Pedestrian Facilities Master Plan, The Bicycle Facilities Master Plan, and the Master Parks and Recreation Plan.

During Review, the City Engineer may require the following:

1. Street connections which can include one or more of the following:
  - a. Continue existing or planned street patterns adjacent to the Development.
  - b. Connect internal private streets to adjacent public or private streets.
  - c. Internal connections in compliance with the requirements of Chapter 12.17.
  - d. That connections be located within a right-of-way or public access easement.

M. Exceptions to these standards: The Director or the City Engineer may grant deviations from these standards if there is documentation provided by the developer that justifies the requested changes.

G. Failure to meet the above requirements shall be considered a violation of this chapter.

F. The location and construction specifications of right-of-way improvements shall be approved by the City Engineer, who shall also be responsible for reviewing and inspecting the construction of all improvements constructed within/upon right-of-way.

G. Property owners may finance the costs of right-of-way improvements adjacent to their property pursuant to this chapter payable in installments extending over a period of eight, twelve, or twenty years as specified by the property. If the property owner does not specify the number of years, the default term shall be twenty years.

### 12.10.120 Construction Locations for City Sidewalks

A. All sidewalks within the right-of-way shall be boulevard sidewalks. The width of the boulevard shall be a minimum of seven (7) feet. The Director may approve a deviation from this requirement if it is determined that one of the following criteria is met:

1. The installation of a boulevard sidewalk would significantly impact healthy mature trees, listed on the approved boulevard tree list, located in or adjacent to the right-of-way as determined by the City of Missoula Urban Forester.
2. The topography would make the installation of boulevard sidewalks unusually expensive.
3. Other features, including but not limited to; irrigation ditches, utility poles, traffic calming, etc. that prevent installation of boulevard sidewalks.

B. The following shall not be used as criteria for waiver of the boulevard sidewalk requirement:

1. Existing fences or private structures encroaching into the right-of-way.
2. Existing landscaping and underground irrigation, other than healthy mature trees.
3. Existing sidewalk locations adjacent to the proposed sidewalk.

### 12.10.130 Postponement of required right-of-way improvements

A. A postponement request shall be made to the Director in writing providing reasons for the requested postponement. The Director may approve postponement of the requirement for right-of-way improvements when any one of the following criteria is met:

1. The ultimate alignment and grade of the street has not been established. Properties with large frontage, high pedestrian need, drainage concerns, or parking and access control problems may be required to establish ultimate street alignment.
2. Where adverse conditions, including lack of right-of-way, adverse topography, major utility conflicts, or irrigation ditches exist. Existing landscaping, fences, or lack of existing curbs and sidewalks are not considered adverse conditions.
3. A City initiated right-of-way improvements construction project adjacent to the property is planned to be completed within two years of the postponement recordation.

B. The Director's letter of approval for postponement shall be filed with the Missoula County Clerk and Recorder by the person(s) requesting the postponement. Proof of filing shall be provided to Director.

C. The need for temporary pedestrian facilities may be required if the conditions in this chapter have resulted in a postponement of right-of-way improvements. Landscaping and grading in the right-of-way shall be constructed so as to facilitate the future installation of right-of-way improvements with a minimum of disruption to the right-of-way. The plans for temporary pedestrian facilities, if required, as well as plans for landscaping and grading in the right-of-way shall be approved by the Director prior to construction.

#### **12.10.140 Inspection by Development Services.**

All right-of-way improvements shall be inspected and perform to the approval of the Director. Development Services staff may at any time, when right-of-way improvements are not being constructed in accordance with this chapter, have authority to order the contractor constructing right-of-way improvements to suspend work until construction conforms with the specifications set forth in this chapter.

Sidewalk inspections will consist of a subgrade inspection before the base material is placed and a final inspection after the concrete placement. Upon request, the City will perform courtesy inspections of concrete forms; but this is not a required inspection.

The contractor will be required to request an inspection the day before, or prior to 7:00 AM on the day of the inspection. Inspections will occur Monday through Friday during normal working hours 8:00 AM to 5:00 PM, but will not occur on city-observed holidays.

The City of Missoula reviewed, stamped and approved set of plans shall be available on all construction site(s) at all time(s).

Repair work that does not require complete removal and replacement requires an inspection.

For asphalt paving, inspections are required at (1) subgrade installation, (2) subbase/base installation, and (3) **final inspection**.

#### **12.10.150 Right-of-Way/ Public Easement Paving Construction Work -- Application, approval, and permit required**

- A. Application for permit(s) for paving construction work improvements specified in this chapter shall be made to the City Engineer on permit application form(s) provided for such permitting purposes.
- B. City staff shall review and determine whether the proposed improvements are in conformance with the provisions and standards set forth in Missoula Municipal Code and all other applicable federal, state and local regulations and requirements.

#### **12.10.160 Right-of-Way/Public Easement Paving Construction Work -- Standards compliance required.**

- A. All paving construction work for parking facilities, sidewalks, curb and gutter, driveway and alley approaches, that are placed in the right-of-way shall be constructed in accordance with the most current published version of:
  - 1. Americans with Disabilities Act (ADA) Accessibility Standards
  - 2. Manual on Uniform Traffic Control Devices (MUTCD)
  - 3. Montana Pollutant Discharge Elimination System (MPDES)
  - 4. Montana Public Works Standard Specifications (MPWSS)
  - 5. Missoula City – County Air Pollution Control Program requirements.
    - a. All contractors, engineers, architects and designers shall specifically examine and closely observe the requirements of the Missoula City – County Air Pollution Control Program, Chapter 8 - Fugitive Particulate during all phases of paving construction work.
  - 6. Missoula City Public Works Standards and Specifications Manual including Standard Drawings.
- B. In the event of conflict or discrepancy between the MUTCD, MPDES, MPWSS and any Missoula City Public Works Standards and Specifications Manual, documentation and / or related specifications, the most stringent requirement shall prevail and govern.

#### **12.10.170 Driveway approaches onto right-of-way -- approval.**

- A. All new approaches onto right-of-way shall be referred to the City Engineer for approval.
- B. Upon approval by the City Engineer, a right-of-way permit shall be required before construction can begin.
- C. Approaches shall conform to the City Public Works Standards and Specifications and MMC Title 20 – Zoning. Any deviation from this section must be approved by the City Engineer.

#### **12.10.180 Approaches onto Right-of-Way -- Locations**

Approaches shall be located at the discretion of and by the approval of the City Engineer or designee.

#### **A. Approaches are permitted in the following scenarios:**

- 1. From Streets:
  - a. Existing paved or approach and driveway.
  - b. Existing unpaved approach or driveway serving an existing garage or other parking facility.
  - c. Where a building permit has been submitted and approved for the construction of on-site parking facility.
  - d. To access to an approved parking facility located outside the front and side street setbacks.
  - e. Where the approved parking facility is at least 20 feet from the most restrictive of these elements: (1) the property line (2) edge of access easement on public street frontages or (3) from the edge of asphalt, back of curb, or back of sidewalk (if present or required) on private streets within a public access easement.
  - f. A minimum of 30' feet of distance between single or paired driveway approaches is required and constitutes the width of an on-street parallel parking space.
  - g. Existing through lots whose backyard fronts a public right of way may have an additional approach to the back yard.
- 2. From Alleys
  - a. A parking facility with a minimum 26 feet of backing distance, which may include right-of-way or public access easement.

- b. An approach from the alley may be added if there is an existing access meeting the requirements of this chapter from the public street.

**B. Approaches are prohibited in the following scenarios:**

1. To access to unpaved areas such as backyards, side yards etc.
2. To access to illegal or nonconforming parking areas such as the area within the right-of-way or in building setbacks as defined in zoning regulations.
3. Multiple approaches connected by a driveway (e.g. loop driveways, through lot approaches)
4. Locations with adverse sight distance, proximity to intersections, or safety concerns as determined by City Engineer.
5. Within 'no parking' areas (typically within 30 feet of a controlled intersection, 20 feet of an uncontrolled intersection, 20 feet of a crosswalk)
6. Where physical conditions exist, which do not allow the approach grade to be 8% or less, but may be a maximum of 10% with approval of the City Engineer and Fire Marshall.
7. Approach locations that do not meet the requirements for sight distance, grade, proximity to intersection(s) or any other hazardous or unsafe traffic condition as determined by the City Engineer may be mitigated by controlling the driveway approach configuration (ie. right-in, right-out).
8. Approach locations must be a minimum of 5 feet from property lines for curbside sidewalk and 1 foot for boulevard sidewalks unless the driveway is shared.

- C. Each single dwelling unit shall be limited to one approach unless additional approaches are approved by the City Engineer.

1. Approach shall be located per the following:

1. Mid-block parcels shall prioritize approaches in the following order:
  - a. Alley access
  - b. Fronting street access
2. Corner parcels shall prioritize approaches in the following order:
  - a. Alley access
  - b. Side street or lowest traffic volume street access
  - c. Fronting street or highest traffic volume street access
3. Through lots shall prioritize approaches in the following order:
  - a. Side street or lowest traffic volume street access
  - b. Fronting street or highest traffic volume street access

**D. Driveway approaches shall be constructed at a ninety degree (90°) angle. If site conditions make this requirement impractical the approach must be reviewed by the City Engineer on an individual basis.**

- E. An existing curb cut and approach shall be removed, the curb restored to full height, and the previous parking area shall be landscaped if the parking facility is or has been removed. Whenever the use of any existing approach is planned to or will be discontinued by reason of a change in the use or design of the private property, the owner of the property shall repair the sidewalk, curb/gutter and boulevard affected by the abandoned approach as directed by the City Engineer unless the existing driveway meets the requirements set forth in MMC Chapter 12.17 Parking Facilities. If the owner of the property fails to repair the sidewalk or curb/gutter, and boulevard, the City Engineer may order the repair and the cost thereof be assessed against the private property
- F. Existing approaches impacted by city-initiated right-of-way improvement projects shall be reviewed and approved by City Engineering.

#### **12.10.190 Approaches onto right-of-way – approach width.**

Approach width specifications are detailed in the Missoula City Standards and Specifications.

Property frontage referred to in this section includes all private property immediately adjacent to right-of-way or property which is under the control of the applicant and any such area as may be adjoining which is used for approach purposes by right of recorded access easement.

Approach width or 'throat' is measured at the curb line or edge of street asphalt, not including the width of the transition, or radius on each side of the apron,

Approaches for new driveways shall meet the following:

1. The minimum width shall be nine (9) feet.
2. The maximum width shall be twelve (12') feet for single driveways.
3. The maximum width shall be twenty-four (24) feet for double driveways.
4. The approach width may equal the driveway width when greater than twenty-four (24) feet wide, but shall not exceed thirty (30) feet.
5. The basis for the width of a driveway approach must correlate to the width of the driveway it leads to.
  - a. Driveway width shall be measured at the location of conforming parking.

For new multi-dwelling, commercial, and industrial driveways, when one (1) or more driveway approaches serve a given property frontage, no single apron shall exceed thirty feet (30') in width. Total driveway width shall not exceed thirty percent (30%) of the frontage. Commercial driveways exceeding thirty feet (30') in width or exceeding thirty percent (30%) of the frontage shall require approval of the City Engineer. Commercial and industrial driveway approaches shall have a minimum separation of twenty feet (20').

2. Commercial curb cannot be saw cut, must be removed and re-poured. – from STD-162/3

#### **12.10.200 Rights-of-way – vehicles to be parked within private property lines.**

Rights-of-way shall not be used for private or commercial purposes unless the use is specifically authorized by this Title or the Director. A permit for the construction of new approach(es) shall not be issued unless vehicles to be served or serviced can be parked entirely within the private property lines and meets all applicable requirements of MMC Title 12 and/or MMC Title 20 - Zoning.

**12.10.210 Condemnation by City Engineer.** All right-of-way improvements which, by reason of natural deterioration or decay, or by reason of unevenness, steps, rapid slopes, or from any cause whatsoever, has or will in the near future become hazardous/dangerous to the public safety, may be condemned by the City Engineer, and may be immediately removed/replaced or otherwise repaired, and the cost thereof shall be assessed to the adjacent property.

Any property whose access adversely effects the public use or public infrastructure shall be required, to mitigate the adverse effects by taking measures to prevent accelerated deterioration of the public infrastructure in order to maintain the current level of use.

**12.10.220 Defective sidewalks -- failure of owner to repair.**

Upon the failure of the owner of any property to make repairs to the sidewalk adjacent their property after notice is provided pursuant to this Chapter, and when, in the opinion of the City Engineer, immediate repairs are necessary to prevent accidents, the City Engineer may immediately proceed with the same, and the full cost of such repairs shall be assessed against the property, as provided in MMC Chapter 12.10.

**12.10.230 Temporary sidewalk and construction traffic control.**

A. All persons engaged in the construction or repairing of right-of-way improvements shall, when ordered so to do by the Development Services staff, construct and maintain a temporary sidewalk. The temporary sidewalk shall be constructed to the requirements stated on City standard drawings with a hard, durable, non-slip all-weather surface, not less than four feet (4') in width extending from sidewalk to sidewalk, around such sections of sidewalk or alley approach in the course of construction or repair. All temporary sidewalks shall conform to standards contained in the Americans with Disabilities Act. Such temporary sidewalk shall be constructed before any work whatsoever is commenced on the permanent sidewalk or alley approach and shall not be removed until the permanent sidewalk or alley approach is open to traffic. Where a traffic hazard exists, the City Engineer may require additional protective structures be placed adjacent to the temporary sidewalk. A right-of-way occupancy permit may also be required per MMC Chapter 12.14.

B. Where overhead hazards exist the Development Services staff may require protective structures be placed over the temporary sidewalk. These structures must be approved by the Development Services staff and in place prior to opening the temporary sidewalk.

C. Construction traffic control. Prior to the issuance of a permit the contractor shall provide a traffic control plan or reference a Traffic Control Plan Number from the City of Missoula Guidelines for Traffic Control, if applicable, and obtain approval of the traffic control plan from the Development Services Director, or a designated agent. The contractor shall be responsible for maintaining safe travel corridors for all vehicle, bicycle and pedestrian traffic as part of the approved traffic control plan. Traffic control devices shall conform to the current version/revision of the Manual on Uniform Traffic Control Devices (MUTCD) and shall be installed in accordance with an approved traffic control plan before beginning construction operations, and shall be properly maintained and operated during the entire time that the need exists. They shall remain in place only so long as they are needed and shall be immediately removed thereafter. Where operations are performed in stages, there shall be in place only those devices that apply to the conditions present. Devices or signs that do not apply to existing conditions shall be removed, covered or turned so as to not be readable by oncoming traffic. Barricade and sign support shall be constructed and erected in a proper manner. Weeds, tree shrubbery, construction materials, equipment, spoil piles, etc., shall not obscure any traffic control device or present a site visibility obstruction as defined in MMC Section 12.28.110. Excavated material that is stockpiled on right-of-way shall be safeguarded by means of flashing barricades, flares, proper traffic regulatory signing and shall protect the storm water system from those stockpiled materials. All traffic control and safeguarding of excavation projects shall conform to the Manual on Uniform Traffic Control Devices for Streets and Highways, U.S. Department of Transportation Federal Highway Administration.

#### **12.10.230 City council to order construction and/or repair.**

Whenever it is deemed necessary to construct any right-of-way improvements in the City, the City Council may, by resolution duly passed and approved, order the construction of such right-of-way improvements, specifying in the order the name of the street along which and the number of the lot or lots, and blocks in front of which, the right-of-way improvements are to be constructed or repaired.

#### **12.10.240 Notice--Required.**

Upon the City Council ordering the construction of any right-of-way improvements, the City Engineer shall give written notice thereof within 60 days to the holder of the record title of the property adjacent to which the right-of-way improvements have been ordered constructed or repaired.

#### **12.10.250 Notice--Service.**

Service of the written notice provided in Chapter 12.10 must be made either by certified or registered letter directed to the owner at his/her last known place of residence and deposited in the United States post office within the City, with all necessary postage and registry fees prepaid thereon, or by publication thereof once a week for two successive weeks in a newspaper of general circulation in the city.

#### **12.10.260 Notice--Service by publication.**

If service of notice be made by publication, all right-of-way improvements ordered constructed or repaired by the City Council on the same date may be included in one notice, and the notice when published shall not be directed to any person but shall be entitled "Notice to Construct Right-of-Way Improvements."

#### **12.10.270 Notice--Contents.**

The notice shall refer to the order or date of the City Council meeting ordering the construction or repair of right-of-way improvements and shall describe the nature of work ordered constructed or repaired, designating the name of the street along which and the number of the lot or lots and blocks in front of or along which the right-of-way improvements have been ordered constructed or repaired

#### **12.10.280 Notice--To contain statement as to noncompliance.**

The notice shall further state that if the holder of the record title of the property adjacent to which the right-of-way improvements have been ordered constructed or repaired fails to construct such right-of-way improvements for a period of 30 days from the date of the mailing of such notice, if service of the notice shall be made by mail, or for a period of 30 days from the date of the first publication of the notice, if service thereof be made by publication, the right-of-way improvements will be constructed or repaired by a City sidewalk and curb contractor, and the cost of the construction/repair of the same, together with all associated expenses connected therewith, will be assessed against the property adjacent to which the same has been ordered constructed or repaired and will become an assessment thereon.

#### **12.10.290 Notice--Filing of copies to be conclusive proof of service.**

Copies of all notices mailed with the registry or certified mail receipts attached thereto, and copies of all notices published with the publisher's affidavit of publication attached thereto shall be filed by the City Engineer in his/her office and shall be conclusive proof of the service thereof.

### **12.10.300 Construction by City--On noncompliance with notice.**

If the owner of any property adjacent to which any right-of-way improvement has been ordered constructed or repaired in the manner provided by this chapter, fails to construct the same for a period of 30 days after the date of the first publication of such notice, or for a period of 30 days after the date of the mailing of the notice, the City Engineer shall let a contract for the construction of all right-of-way improvements ordered to be constructed or repaired. The cost of the construction or repairs, together with all expenses in connection therewith, shall be assessed against the property adjacent to which the right-of-way improvements is constructed or repaired and shall be collected in the manner now or hereafter to be provided by the provisions of this code or other City ordinance.

### **12.10.310 Construction by city--Regulations generally.**

The City shall let a contract or contracts for the construction of all right-of-way improvements which shall be ordered constructed during the ensuing year and which the owners of the property, adjacent to which the right-of-way improvements have been ordered constructed or repaired, fail to construct, or where the property owner petitions the City Engineer to have the right-of-way improvements installed adjacent to their property, or where the City Engineer may order the construction or repair of any right-of-way improvements.

### **12.10.320 Payment to be made by City Check.**

Payment for right-of-way improvements construction or repair shall be made by check drawn upon the appropriate City accounts as determined by the City Finance Officer. Prior to final payment or the releasing of any retainage or holdback of funds due, the contractor shall satisfy the City Engineer that all bills incurred for the labor and materials are fully paid.

### **12.10.330 Assessment for construction -- when work completed by City contractor.**

The total cost of all work associated with right-of-way improvements constructed or repaired by the City contractor, in accordance with the orders of the City Council, (which total cost shall include that of the sidewalk, approach, curb or alley approach, asphalt repairs, as well as that of any notice, publication, inspection, grade, engineering, contract administration, fill, retaining walls, hand-railing, manholes, manhole covers, trap doors, private crossings, traffic control devices, pavement markings or striping, utility connections, repairs or replacements which are located within the limits of the construction installations, and all other necessary expenditures), shall be assessed against the property adjacent to the right-of-way improvements thereto, are installed lying within the right-of-way.

### **12.10.340 Assessment for construction-- when work completed by private contractor.**

The cost of any right-of-way improvements constructed or repaired by a City licensed and bonded contractor, initiated by any property owner and not included within the provisions of Section 12.10.330, may be assessed to the property adjacent to which any right-of-way improvements are constructed or repaired, lying within the right-of-way; provided, that such contractor shall, within 30 days after the completion of such right-of-way improvements, file with the City Engineer an itemized statement of such work, accompanied with a written request of the property owner that the cost of such right-of-way improvements be assessed against his/her property. Such City licensed and bonded contractor shall be paid as provided in Section 12.10.320.

### **12.10.350 Assessment for construction--May be paid in full.**

Assessments may be paid in full at any time following the first tax notice by payment of the whole amount thereof remaining unpaid, together with the interest thereon to the first day of January following.

### **12.10.360 Assessment for construction—Payable in installments.**

Assessments are payable in installments extending over a period of years, and become due and payable each year when City taxes become due and payable. The following table shows the principal amount due annually:

<b>Period of Years Financed</b>	<b>Principal Amount Due</b>
Twenty (20) years (default if no other period is selected by the property owner)	1/20 (one twentieth)
Twelve (12) years	1/12 (one twelfth)
Eight (8) years	1/8 (one eighth)