

Draft dated: 2/11/2013

Ordinance

An ordinance generally amending Chapter 12.12 Missoula Municipal Code entitled "Curbs, Sidewalks and Paving to generally update and clarify the regulations for improvements in public rights-of-way and establishing and clarifying certain fees.

Chapter 12.12

CURBS, SIDEWALKS, AND PAVING

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12.12.001 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)

12.12.003 Purpose.

The Curbs, Sidewalks and Paving ordinance is adopted for the purpose of setting forth design, construction and inspection requirements for Right-of-Way Improvements and Paving Construction Work.

12.12.005 Applicability.

This code shall apply to public 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, roadway / street / alley paving, grading, drainage structures and appurtenances, bridges (vehicular and/or pedestrian), railings, retaining walls, boulevard and/or median improvements, driveway 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).

12.12.007 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.

12.12.009 Acronyms/references.

"ACI" = American Concrete Institute
"ADA" = Americans with Disabilities Act
"MCA" = Montana Code Annotated
"Missoula City-County Air Pollution Program"
"Missoula City Subdivision Standards"
"Missoula City Zoning Ordinance"
"MMC" = Missoula Municipal Code
"MPWSS" = Montana Public Works Standard Specifications
"MUTCD" = Manual on Uniform Traffic Control Devices

12.12.010 Definitions.

A. "Alley approach" means any ~~dedicated~~ alley right-of-way used to access private or public property.

B. "Alley approach improvements" means any asphalt or concrete improvements along the length of ~~the~~ an alley between the connected roadway(s)/street(s).

C. "Apron" means that portion of the "driveway approach" extending from the curb/gutter flow line or curb cut (laydown) to the property line and/or sidewalk ~~section~~.

D. "Boulevard" means an area of public right-of-way ~~yy~~ between the curb/gutter or edge of the public roadway/street, whether curbed or not, and the sidewalk and/or private property line. ~~In the Montana Code Annotated, a boulevard is sometimes referred to as a "parkway." (may also be referred to as a "parkway")~~

E. "Boulevard sidewalk" means sidewalks located so as to create a landscaped (boulevard) strip between the curb/gutter or edge of the paved roadway/street and the sidewalk.

F. "Construction" generally means and is synonymous with install, installation, reconstruct, reconstruction, remove and/or replace, and repair.

G. ~~"Curb returncut" means the~~ portion of curb at the "driveway approach" or "alley approach" constructed so as to facilitate the passage of vehicles to/from the public roadway/street to private property. (may also be referred to as a "laydown") ~~curved portion of a street curb at street intersections or the curved portion of a curb in the end slopes of a driveway approach.~~

~~FH.~~ "Driveway" means an area on private property where automobiles and/or other motorized and/or non-motorized vehicles are operated or permitted/ required/ allowed to stand be parked or stored. A "driveway" shall be paved for its entire length and width with asphalt, concrete or other material approved by the City Engineer, to reduce drag-on of debris to the roadway/street surface and/or airborne dust (fugitive particulate), as per Missoula City – County Air Pollution Control Program, Chapter 8 – Fugitive Particulate.

~~GI.~~ "Driveway approach" means an improved area of public right-of-way, construction, or improvement between the roadway of a public roadway/street and private property and, intended to provide access for vehicles from the roadway of a public street to a definite area of the private property, such as a parking area, a driveway, or a door at least seven feet wide, intended and used for the ingress and egress of vehicles. The component parts of the driveway approach are termed the apron, curb cut and the sidewalk section, which is intended and/or used to provide access for vehicles from a public roadway/street to the private property used, designated and/or established as a parking area, a driveway, or to a parking structure; garage, carport, etcetera. Component parts of a "driveway approach" include and are referred to as the "curb cut" (laydown), the "apron" and the "sidewalk section".

~~HJ.~~ "Paving construction work" includes public and/or private parking facilities, driveway, driveway approach, roadway/street, alley and alley approach, and refers to any asphaltic work, or approved alternative surface, whether upon and/or within private property, public right-of-way, or public access easement, that is required to be performed as a result of the building permit process, zoning compliance permit process, or to comply with any other federal, state or local law or code.-

K. "Public access easement" is an easement for public benefit and use. Public access easements may contain roadways/streets, curb/gutter, sidewalks, trails and other related features (these may also be designated as: public sidewalk easement, public right-of-way easement, public roadway/street easement). Public access easements shall be subject to the same specifications, fees, inspections and requirements as public right-of-way.

“Paving work” includes parking lots, driveways, streets and alleys, and refers to any asphaltic or cement concreting work, whether on private property or City Right-of-Way, that is required to be performed as a result of the Building Permit process or Zoning Compliance Permit process. All such “paving work” shall be performed only upon payment of the required fees and issuance of a Paving Permit.

L. “Public right-of-way” is a general term denoting land, property, or any interest in land or property, usually in a strip, acquired or devoted to highway/road/street purposes.

M. “Repair” generally means reconstruct, reconstruction, remove and/or replace. Repair can include activities such as grinding, sawing, sealing, mud-jacking, etc.

N. “Right-of-way improvement(s)” or “ROW improvement(s)” includes all construction work in public right-of-way and/or public access easement(s). Construction work may include, but is not limited to; all materials, equipment and labor to install or repair curb/gutter, sidewalk, road/street paving, grading, drainage structures, bridges (vehicular and pedestrian), railings, retaining walls, boulevard or median improvements, driveway approaches, alley approaches, curb ramps, landscaping, street lighting, traffic management signs, traffic signals, curb and pavement markings, traffic management structures and utility connections, repairs, or replacements and other appurtenances related to their construction.

O. “ROW” means right-of-way, herein referring to the public right-of-way.

~~P. “Sidewalk section” in regard to driveway approaches; means that portion of a driveway approach lying between the back edge of the sidewalk and the apron and the driveway, within the public right-of-way or public access easement visually and functionally serving as the public sidewalk.~~

12.12.020 Repealed Right-of-Way Permit--Required

--Construction to be performed by licensed and bonded contractor.

Only licensed and bonded sidewalk and curb contractors can remove, alter or construct any curb, gutter, sidewalk, driveway approach, alley approach, pavement or other improvements in any public street, alley or other property owned by or dedicated to or used by this City and over which it has jurisdiction to regulate the matters covered by this chapter, after first obtaining a permit from Development Services and paying the necessary fees. Fees for the installation of curb, gutter, sidewalks, driveway approaches, alley approaches, and pavement are set forth in Section 12.12.100.

[Codifier’s note: In 2012, the portion of this section requiring public right-of-way construction to be performed by licensed and bonded contractors was moved to and codified as Section 12.12.075. The portion of this section relating to permit requirements was moved, amended and codified in 12.12.025]

12.12.025 Improvements and paving construction work permit—required

Right-of-way improvements and paving construction work shall be performed only after first obtaining the appropriate permit from the City and paying the necessary permit fees. Right-of-way improvements and paving construction work shall be performed in conformance with MMC Chapter 12.22 Parking Facilities where applicable. Right-of-way improvements and paving construction work permit fees are established in Section 12.12.110 Permit fees for right-of-way improvements and paving construction work. These permits shall expire after one hundred-eighty (180) days unless an extension is requested by the permittee and granted by the Development Services Director .

12.12.030 Repealed Right-of-Way Permit--Application. Application for permits to construct such improvements specified in Section 12.12.020 shall be made to the Development Services on forms provided for that purpose. These permits shall expire after 180 days unless an extension is granted by the Director.

12.12.040 Right-of-Way improvements and paving construction work Permits -- Application-- Approval by Development Services Director.

Before approving ~~the construction of right-of-way~~ improvements, ~~paving construction work~~ and issuing the permit required by Section 12.12.020, the ~~Director of Development Services~~ City Engineer shall determine that the proposed right-of-way improvements ~~and paving construction work~~ is-is in conformance with ~~the provisions and standards set forth in this chapter~~ Missoula City Standard Specifications, Administrative Rules, Standard Drawings and Montana Public Works Standard Specifications (MPWSS) most recent edition.

12.12.050- ~~Repealed.~~Construction specifications for City sidewalks and curbs-- ~~Generally.~~

~~All concrete sidewalks, curbs, driveway approaches and alley approaches, placed in the City right-of-way, shall be constructed in accordance with City of Missoula standard specifications and Standard Drawings and Montana Public Works Standard Specifications (MPWSS) most recent edition. If there is a conflict between the City and MPWSS standards, City standards shall govern except as modified in this ordinance.~~

12.12.055 Right-of-way improvements and paving construction work -- standards compliance required.

All right-of-way improvements and paving construction work placed in the public right-of-way and private property shall be constructed in accordance with the most recent/current published versions of Montana Public Works Standard Specifications (MPWSS), Missoula City Public Works Standard Specifications, Americans with Disability Act (ADA), Manual of Uniform Traffic Control Devices (MUTCD), and Missoula City-County Air Pollution Control Program requirements, where applicable. Paving construction work 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.

12.12.060 Construction Sspecifications for City public sidewalks-- ~~--~~ Location.

A. ~~All S~~sidewalks, constructed as a requirement for a building permit or zoning compliance permit, within public right-of-way shall be located so as to create a landscaped boulevard strip between the curb or edge of the paved roadway and the new sidewalk; these are defined as boulevard sidewalks. The City Engineer shall determine the width of this landscaped boulevard based on the following criteria:

- ~~1. Total public right-of-way width.~~
- ~~2. Location of mature trees.~~
- ~~3. Topography.~~
- ~~4. A minimum boulevard width of 5 feet.~~
- ~~5. A minimum sidewalk width 5 feet.~~

boulevard sidewalks. The Development Services Director may approve a deviation from this standard if it is determined that one (1) of the following criteria is met:

1. The public right-of-way width is insufficient to allow for the installation of a five (5') foot sidewalk and a minimum seven (7') foot boulevard.
2. The installation of a boulevard sidewalk would significantly impact healthy mature trees located in or adjacent to the public right-of-way as determined by the City of Missoula Urban Forester.
3. The topography would make the installation of boulevard sidewalks unusually expensive.
4. Other features, including but not limited to; irrigation ditches, utility poles, traffic calming, etc. that prevent installation of boulevard sidewalks.
5. Existing or planned sidewalks in the right-of-way on adjacent properties are not consistent with boulevard sidewalks.

B. The following, including but not limited to, shall not be used as criteria for waiver of the boulevard sidewalk requirement:

1. Existing fences or private structures encroaching into the public right-of-way.
2. Existing landscaping and underground irrigation, other than healthy mature trees.

3. Existing sidewalk locations on private property located adjacent to the proposed sidewalk.
B. Exceptions.—

1. ~~The City Engineer may waive the boulevard sidewalk requirement if it is determined that one of the following criteria is met:~~
 - a. ~~The public Right-of-Way width is insufficient to allow for the installation of a 5-foot sidewalk and a minimum 5 foot boulevard.~~
 - b. ~~The installation of a boulevard sidewalk would significantly impact the health of mature trees located or adjacent to the public Right-of-Way, as determined by the City of Missoula Urban Forester.~~
 - c. ~~The topography would make the installation of boulevard sidewalks unusually expensive.~~
 - d. ~~Other features such as ditches, power poles, traffic control, etc., prevent installation of boulevard sidewalk.~~
 - e. ~~Existing or planned sidewalks in the neighborhood are not consistent with boulevard sidewalks.~~
2. ~~The following shall not be used as criteria for waiver of the boulevard sidewalk requirement:~~
 - a. ~~Existing fences or private structures encroaching into the public Right-of-Way.~~
 - b. ~~Existing landscaping and underground irrigation, other than mature trees.~~
 - c. ~~Existing sidewalk locations on the property.~~

12.12.070 -Construction specifications for ~~sidewalks and curbs--Concrete requirements~~public right-of-way improvements -- materials requirements.

~~All concrete used in sidewalk, curb, driveway approach and alley approach construction placed in the City right-of-way shall meet the standards set forth in Montana Public Works Standard Specifications (MPWSS) Section 03310, for M-4000 Concrete. All specifications for materials and procedures used in the construction of right-of-way improvements shall meet or exceed the standards set forth in Missoula City Public Works Standard Specifications and Montana Public Works Standard Specifications (MPWSS).~~

12.12.075 Right-of-way improvements and paving construction work 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 and paving construction work in any public right-of-way, or other property owned by or dedicated to or used by the City.

- Effective January 1, 2012, all licensed and bonded City sidewalk and curb contractors' concrete placing/finishing crews shall have at least one (1), American Concrete Institute (ACI) Certified Flatwork Technician level or above, on site at all times.
- Effective January 1, 2013, all licensed and bonded City sidewalk and curb contractors' concrete placing/finishing crews shall have at least one (1), American Concrete Institute (ACI) Certified Flatwork Finisher level or above, on site at all times.

12.12.080 Inspection by Development Services.

~~All right-of-way improvements and paving construction work must shall be inspected by the City Engineer, or a designated agent, and must be performed done to the entire satisfaction approval of the City Engineer, or such inspector Development Services staff. The contractor must giveshall request that the City Engineer advanced notice to inspect the forms with advance notice of a minimum of four (4) working hours prior to placing and finishing concrete or placement of asphalt. The City Engineer, Development Services staff, or such inspector, shall at all times have direct supervision over the construction and repairing of all sidewalks, curbs and alley approaches, and may at any time, when sidewalks, curbs, or~~

~~alley approaches all ROW improvements, and may at any time, when ROW improvements are not being constructed or repaired in accordance with this chapter, have authority to order the contractor constructing or repairing such sidewalks, curbs, or alley approaches such ROW improvements to suspend work thereon until such construction or repairing thereon shall be made to conform in all respects with the specifications set forth in this chapter and must shall be done performed to the entire satisfaction approval of Development Services staff the City Engineer.~~

12.12.090 -Entrances to areaways--~~O~~outside stairways, awnings, utility meters, etc. – generally, to basements.

~~All facilities located upon, within or above the publicCity sidewalkright-of-way, including but not limited to: stairways, trap doors, fire escapes, awnings, elevated ramps, and utility meters, and other similar structures shall be subject to the approval of the Development ServicesCity Engineer prior to construction. These structures may require permits per MMC Chapters 12.12 and 12.14. Signs, other than governmental and/or traffic management devices shall not be permitted within/upon the public right-of-way without an Encroachment Permit, except within the Central Business District (CBD).~~

12.12.095 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.

12.12.100 -Bonds, fees and charges prerequisite to constructionPermit fees for right-of-way improvements and paving construction work.

~~A. No person shall remove, alter, or construct any curb, sidewalk, driveway approach, new parking lot, gutter or any combination thereof, upon first complying with the requirements of Section 12.08.030, nor shall such person remove, alter, or construct sidewalk, curb, driveway approach, or gutter without the payment to the city of the fees and charges provided in this section and without obtaining a permit from Development Services.~~

~~B.A.~~ The permit fee to inspect right-of-way improvements related to curb and gutter construction shall be:

Type and Quantity of Permitted Work		Permit Fee
1.	ROW curb / gutter permit: 0 – 30 lineal feet	\$ 184.00
2.	ROW curb / gutter permit: 31 – 250 lineal feet	\$ 513.00
3.	ROW curb / gutter permit: 251 – 1,000 lineal feet	\$ 776.00
4.	ROW curb / gutter permit: 1,001 lineal feet and greater –	
	base permit fee amount of	\$ 776.00
	plus an additional \$ 0.15 per lineal foot exceeding 1,001 lineal feet	\$ 0.15

~~C.B.~~ The permit fee to inspect right-of-way improvements related to sidewalk and driveway approach construction shall be:

Type and Quantity of Permitted Work		Permit Fee
1.	ROW sidewalk / driveway approach permit: 0 – 150 square feet	\$ 168.00
2.	ROW sidewalk / driveway approach permit: 151 – 500 square feet	\$ 450.00
3.	ROW sidewalk / driveway approach permit: 501 – 1,000 square feet	\$ 567.00
4.	ROW sidewalk / driveway approach permit: 1,001 square feet and greater – base permit fee amount of:	\$ 567.00
	plus an additional \$ 0.15 per square foot exceeding 1,001 square feet	\$ 0.15

C. The permit fee to inspect other repair work on curb and gutter, sidewalk and driveway approach; grinding, saw cutting, crack sealing and other concrete work that does not require complete removal and replacement shall be:

Type and Quantity of Permitted Work		Permit Fee
1.	ROW other repair work permit: 0 – 30 lineal feet	\$ 84.00
2.	ROW other repair work permit: 31 – 250 lineal feet	\$ 225.00
3.	ROW other repair work permit: 251 – 1,000 lineal feet	\$ 284.00
4.	ROW other repair work permit: 1,001 lineal feet and greater – base permit fee amount of	\$ 284.00
	plus an additional \$ 0.07 per lineal foot exceeding 1,001 lineal feet	\$ 0.07

D. In addition to the inspection fees listed in this section, the fee for right-of-way and paving project administration and management shall be:~~The fee to design and stake curb and gutter shall be three hundred seventy-six dollars (\$376.00) and an additional fee of three (\$3) dollars per lineal foot shall be charged for curb and gutter construction exceeding a length of fifty feet.~~

1.	<u>Fee to review design plans , construction specifications and the contract documents for ROW improvement projects by Development Services Staff but administered by other City Agencies with preliminary and construction engineering being provided by the consultant.</u> <u>This fee shall be based on the construction cost estimate for street improvements* and added to any applicable ROW permits.</u>	<u>3%</u>
2.	<u>Fee for project administration and review of design plans, construction specifications and the contract documents for ROW improvement projects where the funding sources are paying for the consultant to perform preliminary engineering services but the construction engineering services are performed by Development Services staff.</u> <u>This fee shall be based on the construction cost estimate for street improvements *and added to any applicable ROW permits.</u>	<u>9%</u>
3.	<u>Fees for project administration by Development Services staff; including preliminary and construction engineering services for ROW improvement projects ordered by the City Council through the construction order process. This fee shall include any applicable ROW permits.</u>	<u>19%</u>

* Note for the purpose of this fee “street improvements” are defined as all Public Right of Way construction improvements including but not limited to: Work associated with all surface improvements, drainage– not included are: landscaping, non-storm drainage utilities, engineering, and non-construction related costs.

E. The ~~costs and permit fees~~ permit fee to inspect areas of paving construction work within/upon private property shall be as follows–areas of paving work shall be as follows:

	<u>Type and Quantity of Permitted Work (paving within/upon private property)</u>	<u>Permit Fee</u>
1.	Single-family dwelling residential, <u>any/all square footage:</u>	\$ 115.00
2.	Duplex, Multi-family dwelling residential/commercial/industrial less than <2,000 square feet:	\$ 327.00
3.	Paving permit, duplex, multi-dwelling/commercial/industrial 2,000 to 50,000 square feet:	\$ 341.00
4.	Paving permit duplex, multi-dwelling/commercial/industrial greater than >50,000 square feet:	\$ 341.00
	plus \$0.01 per each additional square foot	\$0.01

F. The permit fees to inspect areas of roadway/street and / or alley paving construction work within/upon the public right-of-way shall be as follows: (Note: If both private and right-of-way paving permits are required, only a right-of-way paving permit will be issued at the higher of the two fee schedules.)

	<u>Type and Quantity of Permitted Work (paving within/upon public right-of-way)</u>	<u>Permit Fee</u>
1.	<u>Roadway/street and / or alley paving 0 – 2,000 square feet:</u>	<u>\$ 115.00</u>
2.	<u>Roadway/street and / or alley paving 2,001 – 50,000 square feet:</u>	<u>\$ 341.00</u>
3.	<u>Roadway/street and / or alley paving 50,001 square feet and greater –</u>	
	<u>base permit fee amount of</u>	<u>\$ 341.00</u>
	<u>plus an additional \$ 0.01 per square foot exceeding 50,001 square feet</u>	<u>\$ 0.01</u>

G. The fee for ~~the engineering~~Development Services staff to review ~~of~~ building construction site plans for compliance with applicable codes shall be collected prior to the issuance of the building permit and the review fee shall be:

	<u>Type of Plan Review</u>	<u>Review Fee</u>
1.	Miscellaneous small structure plan review:check (sheds, shops, pole barns, sign bases taking 30 minutes or less):	\$50.00
2.	Single-family residential plan review:check 0 – 4.9% slope:	\$109.00
3.	Single-dwelling residential plan review 5.0% – 9.9% slope:	<u>\$ 141.00</u>
4.3.	Single-dwelling residential plan review 10% slope and greater: Hillside single-family residential plan check:	\$172.00
4.	Multi-family residential plan check 2-4 units:	\$123.00
5.	Multi-family residential plan check 5-20 units:	\$187.00
6.	Multi-family residential plan check 21-50 units:	\$279.00
7.	Multi-family residential plan check <u>51 units and greater</u> than 50 units:	\$379.00
8.	Commercial/industrial plan check 0-20,000 square feet:	\$187.00
9.	Commercial/industrial plan check 20,001-100,000 square feet:	\$233.00
10.	Commercial/industrial plan check greater than 100,00 <u>10</u> square feet <u>and greater:</u>	\$357.00

D-H. ~~H.~~ The fee for ~~the engineering~~Development Services staff to review ~~of~~ subdivision plan submittals for compliance with applicable codes shall be collected when the subdivision plan is submitted and the fee shall be:

	Type of Plan Review	Review Fee
1.	Subdivision – Engineering plan review minor subdivision:	\$ 366.00
2.	Subdivision – Engineering plan review major subdivision	\$ 790.00

Codifier's note: In 2012, this section was renamed from "Bonds, fees and charges prerequisite to construction" to "Permit fees for right-of-way improvements and paving construction work."

~~12.12.110 **Repealed Investigation Fees;** Work without a Permit. Whenever any work for which a Right-of-Way or Paving Permit is required by this ordinance has been commenced without first obtaining said permit, a special investigation shall be made before a permit may be issued for such work. An investigation fee, in addition to the permit fee, shall be collected whether or not a permit is then or subsequently issued. The investigation fee shall be equal to the amount of the permit fee required by this ordinance. The payment of such investigation fee shall not exempt any person from compliance with all provisions of this ordinance.~~

12.12.120 -Permit ~~F~~ee ~~R~~efunds.

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

12.12.130 -Right-of-~~W~~ay ~~I~~mprovements ~~R~~equired.

A. Construction of right-of-way improvements Sidewalks, curbs and gutters on the public right-of-way shall be required for all new construction of single dwelling, multifamily~~multi-dwelling~~, (duplex and larger), commercial and industrial structures. ~~Sidewalks, curbs and gutters on the public right-of-way shall be required for all new construction of residential structures when filling in missing links of curbs and sidewalks, or existing patterns of curbs and sidewalks are established on the street. Where and where~~ additions to existing structures are made, such that the land use housed within the structure or structures is increased in its intensity so as to cause an additional parking requirement, or the footprint of the structure is increased by two-hundred (200) square feet or more, or where construction, reconstruction, changes or additions to parking lots and access drives are made, sidewalks, curbs and gutters~~right-of-way improvements~~ shall be installed where ~~no sidewalks, curbs and gutters~~none currently exist.

B. Existing hazardous, deteriorated and otherwise substandard right-of-way improvements, as determined by the City Engineer, shall be replaced/repaired or otherwise upgraded to present standards, including Americans With Disabilities Act (ADA) requirements for new construction of single dwellings, multi-dwellings (duplex or larger), commercial and industrial structures and where additions to existing structures are made, such that the land use housed within the structure or structures is increased in its intensity so as to cause an additional parking requirement, or the footprint of the structure is increased by two-hundred (200) square feet or more, or where construction, reconstruction, changes or additions to parking lots and access drives are made.

~~B-C.~~ This requirement shall be enforced by ~~the City Engineer~~Development Services staff who shall require sidewalks, curbs and gutters to be shown on all site plans required for the issuance of a building permit or zoning compliance permit; and further, shall require sidewalks, curbs and gutters to be installed prior to the issuance of a permanent certificate of occupancy. Failure to meet these requirements shall cause the City Engineer to proceed with ordering the required sidewalk, curb and gutter construction, and the full cost of the required sidewalk, curb and gutter construction shall be assessed against the adjacent property as provided in this chapter.

~~C.D.~~ The location and construction specifications of ~~sidewalks, curbs and gutters, driveway approaches and alley approaches right-of-way improvements~~ shall be approved by the City Engineer, who shall also be responsible for ~~monitoring reviewing and inspecting the construction~~ installation of all ~~sidewalks, curbs and gutters, driveway approaches and alley approaches constructed on City Rights-of-Way improvements constructed within/upon public right-of-way.-~~

~~D.E.~~ Property owners may finance the costs of ~~sidewalks, curbs and gutters, driveway approaches and alley approaches right-of-way improvements adjacent to their property constructed~~ pursuant to this chapter by special improvement assessment payable in installments extending over a period of eight ~~(8)~~ years, twelve ~~(12)~~ years, or twenty ~~(20)~~ years as provided by Sections 12.12.310 through 12.12.340. Owners may specify the period of years to pay assessments. If the property owner does not specify the number of years, the default ~~option term~~ shall be twenty ~~(20)~~ years..

12.12.140- Variance--Deferment of requirementsPostponement of required right-of-way improvements

A. ~~The postponement request shall be made to the Development Services Director in writing providing reasons for the requested postponement.~~ The Development Services Director may ~~issue a variance for approve~~ postpone the requirement for ~~right-of-way improvements curbs and sidewalks~~ when any one of the following criteria is met, ~~and the installation of the curb and sidewalk would result in a substantial design or construction burden for the property owner and the City:~~

1. The ultimate alignment and grade of the road 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 road 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~~ City initiated public curb and sidewalk construction right-of-way improvements construction project ~~adjacent to the property~~ is ~~scheduled~~planned and ~~will to~~ be completed within ~~one~~two (2) years ~~of the postponement recordation.~~
4. ~~Construction of a sidewalk is not warranted because pedestrian generators or destinations do not exist in the area, or other pedestrian facilities, such as trails or adjacent sidewalks are preexisting. The City Council may defer the sidewalk requirement based on its judgment and review of the specific request. The City Council does not give up its rights to cause sidewalks to be installed in the future when in t Council's judgment the conditions have changed.~~

B. ~~The variance request~~ Development Services Director's letter of approval for postponement shall be ~~made in writing providing reasons requested for the variance filed with the Missoula County Clerk and Recorder by the person(s) requesting the postponement. Proof of filing shall be provided to the Development Services Director.~~

C. The need for temporary pedestrian facilities ~~shall be reviewed~~may be required by ~~the~~ Development Services staff if the conditions from ~~section 12.12.130 (A)MMC Chapter 12.12~~ have resulted in a postponement of ~~right-of-way improvements~~sidewalks. Landscaping and grading in the right-of-way shall be constructed so as to ~~permit facilitate~~ the ~~installation of future~~future installation of ~~curbs and sidewalks~~right-of-way improvements with a minimum of disruption to ~~the public~~ right-of-way. The plans for temporary pedestrian facilities, ~~if required~~, landscaping and grading in the ~~public~~ right-of-way shall be approved by the Development Services staff prior to construction.

[Codifier's note: In 2012, this section was renamed to "Postponement of required right-of-way improvements" from "Variance—deferral of requirements."]

12.12.150 -Condemnation by City Engineer.

All ~~sidewalks, driveway approaches, curbs or alley approaches~~ 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, ~~remodeled or repaired/replaced or otherwise repaired, as determined to be most expedient,~~ and the cost thereof shall be assessed ~~against and collected as a special improvement tax lien upon the lot or lots abutting upon such sidewalks, driveway approaches, curbs or alley approaches~~ to the adjacent property.

12.12.155 Defective sidewalks -- failure of owner to repair.

Upon the failure of the owner of any property to make repairs to the sidewalk adjacent the property, 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 12.12.

12.12.160 Approval of driveway approaches onto City Right-of-Way **Driveway approaches onto public right-of-way -- approval.**

- A. All ~~applications for new~~ driveway approaches onto ~~City public right-of-way~~ shall be referred to the City Engineer for approval.
- B. Upon approval by the City Engineer, a ~~r~~Right-of-~~w~~Way ~~p~~Permit shall be required before construction can begin.
- C. Driveway approaches shall conform to ~~Section 12.12.160 and 12.12.170~~ MMC Title 12 – Streets, Sidewalks and Public Places and MMC Title 20 – Zoning, and City Engineering Standards. Any deviation from this section must be approved by the City Engineer.

[Codifier's note: In 2012, this section was renamed to "Driveway approaches onto public right-of-way—approval" from "Approval of driveway approaches onto City right-of-way."]

12.12.170 Driveway approaches onto public right-of-way -- Prohibited Locations for projects initiated through building permit, zoning compliance permit or other owner-initiated improvements.

Driveway approaches are prohibited in the following locations:

- A. ~~Along the street no~~ No new driveway approaches ~~will shall~~ be allowed unless a permanent asphalt, ~~or concrete or impervious material~~ driveway ~~previously existed~~ exists or where building plans have been ~~finalized to build~~ approved to construct and/or reconstruct a permanent parking structure, ~~pad,~~ carport or parking pad conforming to zoning regulations. Driveways ~~approaches~~ shall meet the requirements of MMC Chapter 12.12 and be located at the discretion ~~of~~ and ~~by the~~ approval by Development Services, ~~so as to result in no undue interference with or hazard to free movement of normal traffic or interference with the placement and proper function of highway signs, signals, lighting or other devices that affect traffic operation.~~
- B. Parking within the setbacks shall be removed when the adjacent parking spaces are removed from outside the required building setback. A curb cut and driveway approach, if existing, shall be

removed and the previous parking area shall be landscaped. The driveway may be retained if it meets all the following conditions:

1. The driveway shall be a minimum dimension of twenty (20') feet in depth behind the property line.
2. The driveway and apron must be paved.
3. The maximum width of the driveway within the setback cannot exceed twenty (20') feet.

- C. Where ~~barriers and physical conditions~~ exist which do not allow a driveway grade to be ~~ten-eight~~ percent (8%) or less, no driveway approach will be allowed. Driveways may be a maximum of ten percent (10%) for a maximum distance of fifty feet (50') with approval of the Development Services Director and Fire Marshall.
- D. ~~Driveway~~ The driveway approach for single dwelling units, duplex dwelling units or any other parking space(s) where the vehicles enter or leave the roadway by backing shall not be ~~allowed-permitted~~ within ~~twenty-thirty~~ feet (30') of a crosswalk in a residential zone, or ~~from~~ of the point of curvature ~~on~~ for a curb radius, or within ~~fifteen~~ twenty feet (20') of a crosswalk ~~in a commercial zone~~, ~~inferred or painted~~, or from the point of curvature on a curb radius, whichever is greater.
- E. The driveway approach(s) for multi-dwelling units, commercial and industrial properties or any other parking spaces where the vehicles enter or leave the roadway driving forward shall not be permitted within twenty feet (20') of a crosswalk, inferred or painted, or from the point of curvature on a curb radius, whichever is greater. This distance may be increased at the City Engineer's discretion if the roadway conditions such as turn lanes, separation from major intersections or other traffic conditions warrant.
- ~~E.F.~~ Where demonstrated hardships can be shown, the Development Services Director may ~~issue~~ variances ~~allowing~~ allow individual driveway approaches or curb cuts in prohibited locations.

[Codifier's note: In 2012, this section was renamed to "Driveway approaches onto public right-of-way -- prohibited locations for projects initiated through building permit, zoning compliance permit or other owner-initiated improvements" from "Prohibited Locations."]

12.12.175 Driveway approaches onto public right-of-way -- prohibited locations for City-initiated right-of-way improvement projects.

- A. Existing driveway approaches shall be abandoned and the curb cut (if it exists) shall be replaced with full height curb and aprons (if it exists) shall be removed and replaced with landscaping for the following:
1. Where the existing parking served by the driveway approach is not located entirely behind the existing and/or proposed City Engineer approved sidewalk location, perpendicular to the street, a minimum of twenty feet (20') in depth, and no more than twenty feet (20') in width.
 2. Where the existing parking served by the driveway approach is not paved and was installed after September 16, 1994, per the Missoula City/County Air Pollution Control Program.
 3. Where the existing driveway approach results in undue interference that adversely affects traffic operations, at the discretion of the City Engineer.
 4. Where the existing driveway approach results in undue interference with pedestrian movement including crosswalks and ADA accessibility.

12.12.180 Driveway ~~approach apron width~~ approaches onto public right-of-way – apron width.

Property frontage referred to in this section includes all private property immediately adjacent to public 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.

The width of ~~the driveway approach~~ aprons measured at the curb line or edge of roadway asphalt, but not including the width of a "wing" or "flare" transition on each side of the ~~approach apron~~ apron, shall conform to Chapter 12.22 and Title 20 – Zoning and shall not exceed the following dimensions:

- A. For new residential driveways, twelve feet (12') for single car garages and driveways and twenty feet (20') for double car garages and driveways. Where duplexes or larger multi-dwelling family units are built, up to twenty-six (26') feet will be allowed. Residential driveway approaches exceeding twenty 20 feet (20') in width ~~may shall~~ be approved by the City Engineer but shall not exceed a maximum of thirty feet (30'). Single dwelling family residential shall be limited to one (1) driveway approach onto a public street unless approved by the ~~Development Services Director~~ City Engineer.
- B. 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 30 thirty percent (30%) of property the frontage. Commercial driveways exceeding thirty 30 feet (30') in width or exceeding thirty percent (30%) of the frontage shall require approval of may be approved by the ~~Development Services Director~~ City Engineer. Commercial and industrial driveway approaches shall have a minimum separation of twenty feet (20').

~~C. Property frontage referred to in this section includes the approach area directly in front of property owner or under the control of the applicant and such area, as may be opposite adjoining property, which is used for approach purposes by right of easement, or agreement with the adjoining property owner.~~

~~D.C.~~ Whenever the use of any existing ~~or future~~ driveway approach ~~shall be~~ 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 ~~remove the driveway approach and shall restore repair~~ the sidewalk, curb/gutter and boulevard and curbing affected by the abandoned driveway approach ~~to their normal levels, all under the~~ as directed ion required by the ~~Development Services Director~~ City Engineer unless the existing driveway meets the requirements set forth in MMC Chapter 12.22 Parking Facilities. If the owner of the property fails to ~~restore repair~~ the sidewalk or curb/gutter, and boulevard, curbing the City ~~Council~~ Engineer may order the repair restoration and the cost thereof be assessed against the private property.

12.12.190 –City rights-of-way, ~~---~~ Vv ehicles to be parked within private property lines.

City rights-of-way ~~may shall~~ not be used for private or commercial purposes unless ~~such the~~ use is specifically authorized by ~~this code or a use permit is issued this code or by~~ the Development Services staff. A permit for the construction of new driveway 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.

12.12.200 Temporary ~~S~~sidewalk and ~~C~~construction ~~T~~traffic ~~C~~ontrol.

- A. All persons engaged in the construction or repairing of ~~sidewalks, curbs, driveway approaches or alley approaches~~ 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, and 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 ~~must shall~~ conform to standards contained in the Americans with Disabilities Act. Such temporary sidewalk ~~must shall~~ be constructed before any work whatsoever is commenced on the

permanent sidewalk or alley approach and ~~must~~ 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 ~~T~~traffic ~~C~~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 gain-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 ~~the~~ an approved traffic control plan before beginning construction operations, and shall be properly maintained and operated during the entire time ~~such special conditions 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 supports 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 City Right-of-Way-public right-of-way~~ shall be safeguarded by means of flashing barricades, flares, ~~and~~ proper traffic regulatory signing and shall protect the storm water system from those stockpiled materials. All traffic control and safeguarding of excavation projects ~~must~~ shall conform to the Manual on Uniform Traffic Control Devices for Streets and Highways, U.S. Department of Transportation Federal Highway Administration.

12.12.210 -City council to order construction and/or repair.

Whenever it is deemed necessary to construct any ~~sidewalk, driveway approach, curb or alley approach~~ right-of-way improvements in the ~~Ceity~~ City, the ~~Ceity~~ City Council may, by ~~resolution duly passed and approved made and entered upon its minutes~~, order the construction of such ~~sidewalk, driveway approach, curb or alley approach~~ 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 ~~sidewalk, driveway approach, curb or alley approach~~ is right-of-way improvements are to be constructed or repaired.

12.12.220 Notice ~~--~~ Rrequired.

Upon the ~~Ceity~~ City Council ordering the construction of any ~~sidewalk, driveway approach, curb or alley approach~~ right-of-way improvements, the City Engineer shall give written notice thereof within ~~60-sixty~~ 60 days (60) to the holder of the record title of the ~~premises property in front of or along which the sidewalk, driveway approach, curb, or alley approach adjacent to which the right-of-way improvements has have~~ been ordered constructed or repaired.

12.12.230 Notice ~~--~~ Sservice.

Service of the written notice provided in SectionChapter 12.12-~~220~~ 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 (1) a week for two (2) successive weeks in ~~the a official~~ newspaper of general circulation in the city.

12.12.240 Notice -- Service by publication.

If service of notice be made by publication, all ~~sidewalks, driveway approaches, curbs and alley approaches~~ right-of-way improvements ordered constructed or repaired by the City Council on the same date may be included in one (1) notice, and the notice when published shall not be directed to any person but shall be entitled "Notice To Construct ~~Sidewalks, Driveway Approaches, Curbs and Alley Approaches~~ Right-of-Way Improvements."

12.12.250 Notice -- Contents.

The notice shall refer to the order or date of the City Council meeting ordering the construction or repair of ~~a sidewalk, driveway approach, curb or alley approach~~ 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 ~~sidewalk, driveway approach curb or alley approach~~ has right-of-way improvements have been ordered constructed or repaired.

12.12.260 -Notice -- To contain statement as to noncompliance.

The notice shall further state that if the holder of the record title of the property ~~in front of or along~~ adjacent to which the ~~sidewalk, driveway approach, curb or alley approach~~ has right-of-way improvements have been ordered constructed or repaired shall ~~fail, neglect or refuse~~ to construct such ~~sidewalk, driveway approach, curb or alley approach~~ right-of-way improvements for a period of thirty (30) days from ~~and after~~ the date of the mailing of such notice, if service of the notice shall be made by mail, or for a period of thirty (30) days from ~~and after~~ the date of the first publication of the notice, if service thereof be made by publication, the ~~sidewalk, driveway approach, curb or alley approach~~ 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 premises in front of or along which~~ adjacent the to which the same has been ordered constructed or repaired and will become a lien an assessment thereon.

12.12.270- Notice -- Filing of copies by City Engineer -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.

12.12.280 -Construction -by City -- Oupon noncompliance with notice.

If the owner of any ~~premises property, in front of or along~~ adjacent to which any ~~sidewalk, driveway approach, curb or alley approach~~ right-of-way improvement has been ordered constructed or repaired in the manner provided by this chapter, ~~shall fail, neglect or refuse~~ to construct the same for a period of thirty (30) days after the date of the first publication of such notice, or for a period of thirty (30) days after the date of the mailing of the notice, the City Engineer shall let a contract for the construction of all ~~sidewalks, driveway approaches, curbs and alley approaches~~ 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 premises in front of or along~~ adjacent to which the ~~sidewalk, driveway approach, curb or alley approach~~ 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.

12.12.290 -Construction -by City -- Regulations generally.

A- The ~~city~~ City shall let a contract or contracts for the construction of all ~~sidewalks, driveway approaches, curbs and alley approaches~~ right-of-way improvements which shall be ordered constructed during the ensuing year and which the owners of the ~~property premises, in front of or along~~ adjacent to

which the ~~sidewalks, driveway approaches, curbs and alley approaches~~ right-of-way improvements have been ordered constructed or repaired, ~~shall fail, neglect or refuse to construct~~, or where the property owner petitions the City Engineer to have the ~~sidewalk, driveway approach, curb and alley approach~~ right-of-way improvements installed adjacent to their property, or where the City Engineer, pursuant to Section 12.12.150, may order the construction or repair of any ~~sidewalk, driveway approach, curb or alley approach~~ right-of-way improvements.

~~B.—All such sidewalks, driveway approaches, curbs and alley approaches shall be constructed by a licensed and bonded sidewalk and curb contractor in accordance with the specifications and subject to the conditions contained in this chapter and in his contract, and all such construction shall be under the immediate supervision and control of the City Engineer.~~

12.12.300 -Payment to be made by City Check.

Payment for ~~sidewalk, driveway approach, curb and alley approach~~ 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.

12.12.310 -Assessment for construction -- When work ~~completed~~ done by City ~~sidewalk and curb~~ contractor.

The total cost of all ~~work associated with sidewalks, driveway approaches, curbs and alley approaches~~ right-of-way improvements constructed or repaired by the City ~~sidewalk and curb~~ contractor, ~~or that may be repaired by the City Engineer in in~~ accordance with the orders of the City Council, ~~or in the maintenance of sidewalks, driveway approaches, curbs and alley approaches~~ (which total cost shall include that of the sidewalk, driveway approach, curb or alley approach, ~~asphalt repairs proper~~, 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 ~~as a special tax~~ against the property ~~in front of or along adjacent to which the sidewalk, driveway approach, curb, alley approach or repair~~ the right-of-way improvements thereto, are installed lying within the public City Right-of-~~W~~ay.

12.12.320 -Assessment for construction-- When work ~~done~~ completed by ~~other licensed and bonded cement~~ private contractor.

The cost of any ~~sidewalks, driveway approaches, curbs and alley approaches~~ right-of-way improvements constructed or repaired by ~~any a City~~ licensed and bonded ~~cement~~ contractor, ~~ordered initiated~~ by any property owner and not included within the provisions of Section 12.12.310, may be assessed ~~as a special tax against~~ to the property ~~in front of or along adjacent to~~ which any ~~such sidewalk, driveway approach, curb or alley approach~~ right-of-way improvements are constructed or repaired, ~~is installed~~ lying within the public City Right-of-~~W~~ay; provided, that such ~~licensed and bonded cement~~ contractor shall, within thirty ~~(30)~~ days after the completion of such ~~sidewalk, driveway approach, curb or alley approach~~ 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 ~~sidewalk, driveway approach, curb or alley approach~~ right-of-way improvements be assessed ~~as a special tax~~ against his/her property. Such City licensed and bonded ~~cement~~ contractor shall be paid as provided in Section 12-12.300.

12.12.330 -Assessment for construction -- May be paid in full.

~~Special~~~~a~~ 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.

12.12.340 Assessment for construction — ~~P~~payable in installments.

~~Special improvement assessments~~ Assessments are payable in installments extending over a period of years, as specified in Section 12.12.130 (DE), and become due and payable each year when Ccity taxes become due and payable. The following table shows the principal amount due annually:

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

Severability. If any section, subsection, sentence, clause, phrase or word of this ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The council hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, phrase, and words thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or words have been declared invalid or unconstitutional, and if for any reason this ordinance should be declared invalid or unconstitutional, then the remaining ordinance provisions will be in full force and effect.

First reading and preliminary adoption on the _____ day of _____, 2013, by a vote of _____

Second and final reading and adoption on the _____ day of _____, 2013, by a vote of _____.

ATTEST:

APPROVED:

Martha L. Rehbein, CMC
City Clerk

John Engen
Mayor

(SEAL)