

## TITLE 12

### STREETS AND OTHER PUBLIC PLACES

#### Chapters:

- 12.04 Maintenance
- 12.08 Sidewalk Construction
- 12.12 Snow Removal
- 12.20 Trees
- 12.24 Driveway Repair
- 12.26 Public Parks

#### CHAPTER 12.04

#### MAINTENANCE

#### Sections:

- 12.04.010 Unlawful deposits on streets or alleys.
- 12.04.020 Damaging parks.
- 12.04.030 Obstructing streets.
- 12.04.040 Violation – Penalty.
- 12.04.050 Weeds and grass on streets and alleys.
- 12.04.060 Leading or driving animals across parking.
- 12.04.070 Street and alley widths.
- 12.04.080 Connecting with sewer or water and excavations in streets and public ways.
- 12.04.090 Excavations.
- 12.04.091 Excavation permit required.
- 12.04.092 Application for permit.
- 12.04.093 Permit Fees.
- 12.04.094 Safety Measures.
- 12.04.095 Backfilling and Restoration
- 12.04.100 Building materials in street or alley.
- 12.04.110 Violation – Penalty.
- 12.04.120 Defacing streets or grounds.
- 12.04.130 Undeveloped Alleys.

#### **12.04.010**     **Unlawful deposits on streets or alleys.**

No person shall throw or deposit any ashes, straw, wastepaper, dirt, sweepings from shops or other buildings, brush, wood, rubbish, manure, slops, cans or other debris or refuse of any kind in the street, alley or street gutter; nor shall any person throw any of the above-named matter in any alley within the city. Any person violating any of the provisions of this section is guilty of a misdemeanor.

#### **12.04.020**     **Damaging parks.** Any person who injures or destroys the beauty of any of the public parks of the city, including the small sodded parks along paved or improved streets, is guilty of a misdemeanor.

#### **12.04.030**     **Obstructing streets.** Any person, firm or corporation who, in any manner, obstructs or blockades any street, alley or sidewalk by placing therein or thereupon any vehicles, except for immediate use, or any boxes, goods or other obstructions is guilty of a misdemeanor

#### **12.04.040**     **Violation – Penalty.**

A violation of this chapter is a municipal infraction and any person violating any of the provisions of this chapter, shall be punished as provided in Chapter 1.12, in the discretion of the court.

**12.04.050 Weeds and grass on streets and alleys.**

It shall be the duty of the owners of any lot or parcel of ground abutting on any street or alley of the street, to keep all weeds and grass cut down upon the lot or parcel of ground, between the lot line and established curb line of the street and between the lot line and the centerline of any alley upon which the same abuts, and to keep the parking and alleys free from all weeds, trash, grass or debris; and should the owner or tenant thereof fail or refuse to do so within ten days after receiving notice thereof, then the same may be cut down by the city, and the cost thereof assessed to the property.

**12.04.060 Leading or driving animals across parking.**

Any person or persons who willfully walk, drive or who cause any domestic animal to be led or driven over or across such parking or any parking established or maintained within the limits of the city, and thereby cause injury to the surface of said parking or to the grass, trees or other vegetation grown or planted on the parking and cared for by the owner of the property adjacent thereto, is guilty of a misdemeanor and shall be punished accordingly.

**12.04.070 Street and alley widths.**

Hereafter all streets laid out in any addition or subdivision or the city shall be not less than fifty feet in width and all alleys in any addition or subdivision shall be at least sixteen feet in width.

**12.04.080 Connecting with sewer or water and excavations in streets and public ways.**

It is unlawful for any person or person to open, uncover or excavate any street or public way or in any manner make connections with any sewer pipes or water pipes in any street or alley without obtaining first any written permit from the mayor or council, which permit must be kept on the ground where the work is being carried on, and be exhibited to any official upon demand for the same. A tapping fee of \$100.00 shall be submitted with the permit application in addition to the application fee. A person performing the work must provide the City Clerk with a surety bond in the sum of \$10,000.00 secured by a responsible surety bonding company authorized to operate within the State of Iowa. The bond shall state that the surety company will indemnify and save harmless the City of Eldon against all damages, costs, expenses, outlays and claims of every nature and kind arising from carelessness, lack of skill or negligence in performing the work. All persons applying for a permit shall first submit to the City a certificate of insurance for liability, bodily injury, and property damage, satisfactory to the City in the amount of \$300,000.00 for each person bodily injury and \$1,000,000.00 per occurrence of or aggregate limit or \$1,000,000.00 combined single limit. The permittee further agrees to indemnify the City for and to hold the City harmless from any damages that may result from any such excavation, directly or indirectly, also conditioned that the applicant will comply with this Code and all ordinances and resolutions relating to excavations.

**12.04.090 Excavations.**

In opening any street or public way, all materials shall be placed where they will cause the least inconvenience to the public and the whole enclosed by sufficient barriers and properly protected by red lights at night. In filling the trenches or drains, the earth must be carefully tamped around and over the pipes, the whole trench shall be filled in uniform layers of not exceeding nine inches; each layer must be thoroughly tamped or puddled as may be directed by the public works superintendent, and all earth, paving, curbs, sidewalks, etc., shall be replaced in their former and permanent position. In no case shall streets be opened to the point of connection with sewer without tunneling so as to facilitate inspection of any settling trenches, curbs, sidewalks, paving, etc. The filling or tamping shall be under the supervision of the public works superintendent and the contractor or person excavating or digging trenches for any of the above purposes, when the work is completed, shall notify the public works superintendent and shall not leave or abandon the work until the same is complete and is satisfactory to the public works superintendent and according to the provisions of this chapter.

**12.04.091 Excavation Permit Required**

Excavating within the right-of-way of public streets and alleys, and of public grounds, and the cutting of surfacing or paving's of the traveled way therein, shall not be done by any person, firm, association, or corporation without obtaining a permit from the City Clerk.

**Application For Permit**

No person shall commence excavation in any public street or public ground until that person has applied to the

City Clerk for an excavation permit. Such application shall indicate the location of the excavation, the name and address of the applicant who is to do the work, whether public liability insurance is in force, and that the applicant has checked the underground map of all utilities, and other owners of underground facilities, and that the applicant has notified those persons or companies of the time that excavation will commence. The making of an application shall be deemed notice to the City of the plan to cut the street surfacing or pavements, and to obstruct the public way. Such permits shall not be valid until six hours after receipt unless the Clerk waives this requirement.

In an emergency, authorized persons or companies may commence excavations provided that they shall have made a reasonable effort to inform the City and the utilities whose underground utilities might be involved in any way, and those involved in the excavation shall make written application at the earliest practicable moment. The Clerk may provide on the form for the certification that the applicant has notified all utilities and other parties required by this ordinance.

### **PERMIT FEES**

Before any permit is issued the person who makes the application shall pay the sum of ten dollars to accompany the permit. Any drainage tubes to be installed shall be purchased from the city, and the cost of the same shall be paid unto the city, prior to the installation thereof.

### **SAFETY MEASURES**

Any person, firm, or corporation cutting a pavement or surfacing or excavating in the streets shall erect suitable barricades, maintain warning lights from sunset to sunrise each night, and take such other precautions as necessary for the safety of the public, whether vehicles or pedestrians. Vehicles, equipment, materials, excavated material, and similar items shall likewise be protected by lights and warning devices, such as traffic cones, flags, etc. Where traffic conditions warrant, the party excavating may be required to provide flagmen, if in the judgment of the public works superintendent the public safety requires it. Compliance with City Ordinances and regulations shall not be deemed to waive the requirements that the party excavating shall comply with all the requirements of the labor safety laws and the rules of the Iowa Department of Labor, nor shall any failure be deemed a responsibility of the City.

## **12.4.92            BACKFILLING AND RESTORATION**

Any person excavating in the streets shall be responsible for the backfilling of the excavation in accordance with City specifications and the restoration of the pavement or surfacing to as good a condition as that existing prior to the excavation. If any excavator fails to backfill or restore the pavement or surfacing properly within forty-eight hours of the completion of the underground work, the City reserves the right to backfill and resurface or install new paving and charge the cost thereof to the party excavating. If any backfilling or pavement or surfacing restoration is not in accordance with the City specifications, the Superintendent of Public Works is authorized to remove such material as is necessary and to backfill and restore the pavement or surfacing properly. Within twelve months after the completion of work it shall be the duty of the contractor or person excavating to make good all deficiencies that may occur, within twenty-four hours after receiving notice of the deficiency from the mayor or public works superintendent.

## **12.4.93            Curb Cuts**

No curb cut shall be constructed or permitted without first obtaining a building permit.

**12.04.100      Building materials in street or alley.**

No person shall pile or deposit any building material in any street or alley or highway without first obtaining a permit from the mayor or council.

**12.04.110      Violation – Penalty.**

A violation of this chapter is a municipal infraction and any person violating any of the provisions of this chapter, shall be punished as provided in Chapter 1.12, in the discretion of the court.

**12.04.120      Defacing streets or grounds.**

If any person, without authority or permission from the mayor or city council or their authorized representatives, in any manner obstructs, defaces or injures any public street, alley or public grounds within the corporate limits of the city by breaking up, plowing or digging or by any means whatsoever, he shall be punished as provided in Chapter 1.12.

**12.04.130      Undeveloped Alleys.**

- A. The following alleys are hereby designated as undeveloped alleys and may be utilized for official emergency access or utility purposes only:
  - 1. Cornell to Hearn
  - 2. South KD Avenue to Des Moines
  - 3. Des Moines to Second
  - 4. West Walnut to Church
  - 5. Wood to Church
  - 6. Wood to Church (Off Fifth)
  - 7. Cornell to East Walnut
  - 8. East Walnut to Castor
  - 9. Wood to Church
  - 10. Wood to Church
  
- B. Any person who, in any manner, accesses such an alley with any vehicle other than for official emergency or utility purposes, or who obstructs, damages, blockades, fences, or in any way causes injury to the surface of said alley shall be guilty of a misdemeanor and may also be punishable by a municipal infraction.
  
- C. Any adjacent property owner may petition the City Council for a temporary permit for access through an undeveloped alley under such conditions as approved by the city council. Any adjacent property owner may petition the City Council for the development of a portion or all of an alley to allow permanent access to adjacent property, subject to utility easements and access for official emergency purposes.

## CHAPTER 12.08

### SIDEWALK CONSTRUCTION

#### Sections:

12.08.005	Purpose
12.08.006	Definitions
12.08.010	Order by council – Assessment of costs.
12.08.020	Laying, relaying or repair of sidewalks.
12.08.030	Notification of owner fronting proposed sidewalk.
12.08.040	Improvement made by city – Assessment.
12.08.050	Notice of construction of sidewalks contract.
12.08.060	Assessment procedure.
12.08.070	Objections to assessment to be in writing.
12.08.080	Interest.
12.08.090	Special assessment.
12.08.100	Certificates issued.
12.08.110	Manner of payment and collection of sidewalk taxes.
12.08.120	Certificate of levy of special assessment.
12.08.130	Permanent sidewalks specifications
12.08.140	Conformance of sidewalks in existence.
12.08.150	Repair of sidewalks – Assessment.
12.08.160	Defective sidewalks.
12.08.170	Snow and ice accumulations.
12.08.180	Grade required prior to laying sidewalk.
12.08.190	Residential street height – Width of business street.
12.08.200	Business zone.
12.08.210	Petition for permanent sidewalk.
12.08.220	Contracted construction.

#### **12.08.005** Purpose

The purpose of this chapter is to improve and maintain sidewalks in a safe condition, to require owners of abutting property to maintain, repair, replace, construct or reconstruct sidewalks.

#### **12.08.006** DEFINITIONS

As used in this chapter, the following terms have these meanings:

1. **Defective Sidewalk.** Any public sidewalk exhibiting one or more of the following characteristics:
  - a. vertical separations equal to three-fourths (3/4) inch or more.
  - b. horizontal separations equal to three-fourths (3/4) inch or more.
  - c. holes or depressions equal to three-fourths (3/4) inch or more and at least four (4) inches in diameter.
  - d. spalling over fifty (50) percent of the surface of a single square of the sidewalk with one or more depressions equal to one-half (1/2) inch or more.
  - e. spalling over less than fifty (50) percent of a single square of the sidewalk with one or more depressions equal to three-fourths (3/4) inch or more.
  - f. a single square of sidewalk cracked in such a manner that no part thereof has a piece greater than one square foot.

- g. a sidewalk with any part thereof missing to the full depth.a change from design or construction grade equal to or greater than three- fourths (3/4) inch per foot
2. **Sidewalk Improvements.** The construction, reconstruction, repair, replacement, or removal of a public sidewalk or the excavating, filling, or depositing of material in the public right-of-way in connection therewith.
  3. **Owner.** The person owning the fee title or the contract purchaser for purposes of notification required herein. For all other purposes, "owner" shall include the lessee, or person in possession.

**12.08.010 Order by council – Assessment of costs.**

The council may order, by resolution passed by three-fourths of its members, the construction or reconstruction of permanent sidewalks upon any street, highways, avenues or public grounds within the limits of this city, and the cost thereof may be assessed against and upon the lot, lots or parcels of ground in front of which the same shall be constructed or reconstructed and the city clerk shall certify the same to the county auditor, and it shall be collected the same as other taxes.

**12.08.020 Laying, relaying or repair of sidewalks.**

The council may order, by resolution passed by three-fourths of its members, the laying, relaying and repairing of temporary sidewalks upon any streets, avenues, highways or public grounds within the limits of this city, and may regulate the grade of the same and assess the cost of laying, relaying or repairing against the lot or parcel of ground in front of which the same is done.

**12.08.030 Notification of owner fronting proposed sidewalk.**

When the council has taken the action contemplated in Sections 12.08.010 and 12.08.020, written notice thereof shall be issued by the clerk and shall be served upon the owner or the agent of the premises fronting on such proposed sidewalk. The notice shall be upon the owner or his agent, if found, by delivering to or offering to him a copy thereof, at least ten clear days before the time stated in the resolution for the beginning of the work constructing or reconstructing of the sidewalk, the return thereof, showing upon whom service was had, and when the services was made, and by whom made, shall be made to the office of the clerk. In case the owner of the property or his agent cannot be found, the clerk shall make a notation to that effect upon the notice, and the same shall then be published for one issue in one of the newspapers of the city, of general circulation, the publication therefor being at least ten clear days before the time stated in the resolution for the beginning of the improvement.

**12.08.040**      **Improvement made by city – Assessment.**

In case the property owner, or his agent, fails, neglects or refuses to begin the construction or reconstruction of such improvements within the time fixed by the resolution and notice, and prosecute the same diligently to the completion thereof, which shall be in no event in excess of thirty days after the service of such notice, the improvement shall be made by the city and the cost thereof assessed against the property and collected as provided by law.

**12.08.050**      **Notice of construction of sidewalks contract.**

The clerk shall cause to be published in two consecutive weekly issues of one newspaper of general circulation published by the city, notice that the contract in the name of the city for the making of such improvements will be let to the lowest responsible bidder on sealed proposals, but any and all bids may be rejected and new bids ordered; provided, that such notice may provide that such bids and contracts shall pertain to all sidewalks built within the city for a period covering a period of time not exceeding one year.

**12.08.060**      **Assessment procedure.**

The costs of constructing the sidewalk shall be apportioned to the respective property owners according to the linear feet fronting or abutting on such property, and such apportionment, together with the character of the work done, shall be reported to the council at the next regular meeting following the completion of the sidewalk, whereupon the city council shall proceed to assess and levy the tax upon the property, and such assessment shall be in proportion to the special benefits conferred upon the property thereby, and not in excess of such benefits; such assessments shall not exceed one-fourth of the actual value of the lot or parcel of land at the time of the levy.

**12.08.070**      **Objections to assessment to be in writing.**

All objections to the cost of construction or reconstruction or permanent sidewalks against the lot, lots or parcels of ground in front of which the same is constructed, and all objections to the prior proceedings on account of errors, irregularities or inequalities must be made in writing and filed with the clerk prior to the date when such assessment shall be made, and all objections not so made shall be deemed waived, except where fraud is shown.

**12.08.080**      **Interest.**

Each installment of any special assessment shall bear interest from the date of the assessment not to exceed six percent per year, and shall become due and payable at the end of March, semi-annual payment of ordinary taxes. Upon the payment of any installment there shall be computed and collected the installment and the interest on the whole assessment remaining unpaid up to the first day of April following.

**12.08.090**      **Special assessment.**

The owner of any property against which the special assessment is made, shall have the right to pay the same or any of the unpaid installments thereof, with penalties and costs of any proceeding for the benefit of the property for such special assessment at any time

**12.08.100**      **Certificates issued.**

It shall be the duty of the clerk after the cost of the construction of permanent sidewalks has been apportioned to the respective fronting property owners, to prepare certificates payable to the bearer or contractors who have constructed the sidewalks, and each of such certificates shall state the amount of one or more assessments, or part thereof, made against the property, and the owner thereof liable to assessment, for the cost of the same. Such certificate shall transfer to the bearer, contractor or assign, all the right and interest of the city under every such assessment or part thereof described therein, with the power to collect as provided by law. The certificate shall bear interest at the rate of not to exceed six percent per year, payable annually. No certificate shall be issued or negotiated by the city for less than its par value with accrued interest up to the date of delivery or transfer thereof. The certificate shall be received by the contractor in full payment of all claims against the city for the sidewalk.

**12.08.110      Manner of payment and collection of sidewalk taxes.**

If any owner or any lot or parcel of land against which the assessment has been made, shall, at the time of making such special assessment, promise and agree in writing, endorsed on the certificate of and separate agreement, that in consideration of having the right to pay his assessment in installments, he will not be making any objections of illegality of irregularity as to the assessments or levy of such taxes or the amount thereof upon or against his property, and shall pay the assessment with the interest thereon not to exceed six percent per year as hereinafter prescribed, such taxes so levied against the lot or parcel of land of such owner shall be payable in ten equal installments, the first of which shall mature and be payable on the date of the assessment. But where any such promise or agreement in writing shall not be made by the owner of any lot or parcel of land, then the whole of the assessment shall become due and payable at once, and shall be assessed and collected as provided for in ICA Chapter 389. All such taxes with interest shall become delinquent on the 1<sup>st</sup> of March next, after their maturity, and shall bear the same rate of interest with the same penalty as ordinary taxes.

**12.08.120      Certificate of levy of special assessment.**

A certificate of levy of such special assessment fixing the number of installments and the time of payments, certified to as correct by the clerk, shall be filed with the auditor of the county, and thereupon the special assessment, as shown therein, shall be placed on the tax list of the county, and the penalties thereon shall become and remain a lien upon such lot or parcel of land until the same is paid.

**12.08.130      Permanent sidewalks specifications**

Sidewalks constructed, repaired, or replaced under the provisions of this chapter shall be of the following construction and meet the following standards:

1. Portland cement concrete shall be the only material used in the construction and repair of sidewalks unless otherwise authorized by the City Council.
2. Sidewalks shall be on one-course construction.
3. Concrete may be placed directly on compact and well-drained soil. Where soil is not well drained, a four (4) inch sub-base of compact, clean, coarse gravel, sand, or cinders shall be laid. The adequacy of the soil drainage is to be determined by the Superintendent of Public Works.
4. The sidewalk bed shall be graded to the established grade.
5. Residential sidewalks shall be at least four (4) feet wide, or match existing sidewalks, and four (4) inches thick, and each section shall be no more than four (4) feet in length. In the central business district, sidewalks shall extend from the property line to the curb unless the Council shall establish a different distance due to the circumstances. Each section shall be four (4) inches thick and no more than six (6) feet in length and width. All driveway areas shall not be less than six (6) inches in thickness.
6. Residential sidewalks shall be located with the inner edge (edge nearest the abutting private property) on the property line, unless the Council shall establish a different distance due to the circumstances.
7. All elevations of sidewalks are to be established by the City Council with assistance from the Superintendent of Public Works on a case-by-case basis.
8. All sidewalks shall slope at least one-quarter (1/4) inch per foot toward the curb, but in no event more than one-half (1/2) inch per foot toward the curb.



9. All sidewalks shall have a steel trowel finish followed by a "broom" or a "wood float" finish.
10. Ramps for the disabled. There shall not be less than two (2) curb cuts or ramps per lineal block which shall be located on or near the cross-walks at intersections. Each curb cut or ramp shall be at least thirty (30) inches wide, shall be sloped at not greater than one inch of rise per twelve (12) inches lineal distance, except that a slope no greater than one inch of rise per eight (8) inches lineal distance may be used where necessary, shall have a nonskid surface, and shall otherwise be so constructed as to allow reasonable access to the crosswalk for physically disabled persons using the sidewalk.
11. All sidewalk improvements on public property, whether performed by the owner of the abutting property or by the City, shall be performed under the supervision and inspection of the City Superintendent of Public Works, and in accordance with the standard sidewalk specifications set forth in this chapter.

**12.08.140 Conformance of sidewalks in existence.**

Sidewalks now in existence not in conformity with the requirements of this chapter may be, by three-fourths vote of the city council, required to be built in conformity herewith as to construction and material.

**12.08.150 Repair of sidewalks – Assessment.**

The council may cause the repair of any sidewalk within the city limits, either with or without notice to the property owners, and assess the expense thereof on the property in front of which the repairs are made, and the expense shall be certified to the county auditor and collected as other taxes.

**12.08.160 Defective sidewalks.**

When any sidewalk is defective in such a manner as may be dangerous to persons using the same, it shall be the duty of the public works superintendent to immediately repair such defects and report his action to the council at the next regular meeting, and the expense of the repairs may be assessed on the property in front of which the same were made, certified to the county auditor and collected as other taxes.

**12.08.170 Snow and ice accumulations.**

Snow, ice or other accumulations from abutting property may be removed under the instruction of either the mayor, public works superintendent or marshal, from any sidewalk within the city limits, if the same has remained thereon for a period of ten hours, and the expense thereof shall be assessed against the property, from the front of which the same was removed, the same shall be certified to the county auditor and collected as other taxes.

**12.08.180**      **Grade required prior to laying sidewalk.**

No permanent sidewalk shall be ordered in until the sidewalk grade for the laying of such sidewalk is established, such grade may be established by the same procedure of the council as other street grades. The establishing sidewalk grades on any parallel street shall in no case set the sidewalk grade for an intersecting street, and the establishing of a sidewalk grade upon one side of any street shall not thereby establish the sidewalk grade for the other side of such street.

**12.08.190**      **Residential street height – Width of business street.**

On all streets in front of residence property the sidewalks shall be constructed two feet from the lot line, and shall not be less than four feet wide, except as otherwise provided in this chapter. The council may at the request of the property owner, if in its judgment the circumstances demand, grant such property owner a special permit to build a sidewalk otherwise than described in this section. On all business streets, within the business zone, the sidewalk shall extend from the lot line to the curb line, as may be determined by resolution of the city council.

**12.08.200**      **Business zone.**

The business zone shall be as follows: Commencing on Elm Street at Sixth Street, running to the intersection of the Chicago, Rock Island and Pacific Railroad at Fourth Street, thence south on Fourth Street on the eastward side of Block Twenty-six and Block Twenty-seven.

**12.08.210**      **Petition for permanent sidewalk.** Whenever two-thirds of the owners in any block fronting on any public street, avenue or highway within the city limits, shall petition the council for the construction or reconstruction of a permanent sidewalk on that side of the street in the block on which the owners' property fronts, the same shall be ordered constructed by the council.

**12.08.220**      **Contracted construction.**

In case the city shall build or construct, or cause to be constructed any sidewalk, it may let the construction thereof, by contract, and the person taking such contract shall forthwith execute and deliver to the city a bond with security to be approved by the mayor, in an amount equal to fifty percent of the contract, and conditioned for the faithful performance of such contract.

**12.08.230**      **Permits for Construction or Removal**

No person shall make any sidewalk improvements unless such person shall obtain a permit from the City Clerk. The permit shall state that the person will comply with the Ordinances of the City and with the specifications for sidewalks adopted by the City. The permit also shall state that the work will be done under the direction and approval of the City Superintendent of Public Works. All such permits shall be issued for \$10.00 and a copy thereof, with the application, shall be filed and preserved in the office of the City Clerk. The permit shall state when the work is to be commenced and when the work is to be completed. The time of completion for the sidewalk improvements may be extended by the City Council. All permits for sidewalk improvements not ordered by resolution of the City Council shall be issued in compliance with this chapter. The City Council may withhold the issuance of any permit for any sidewalk improvements for a sufficient period to determine the necessity for the proposed improvements or when weather conditions will adversely affect the sidewalk improvements.

## CHAPTER 12.12

### SNOW REMOVAL<sup>60</sup>

#### **Sections:**

12.12.010	Removal by abutting property owner.
12.12.020	Removal by city – Cost.
12.12.030	Failure to pay – Action.
12.12.040	Snow emergency routes designated.
12.12.050	Parking on snow emergency routes.
12.12.060	Duration of prohibition.
12.12.070	Provisions temporarily effective to take precedence.
12.12.090	Termination of parking prohibition by superintendent.
12.12.100	Snow emergency route signs.
12.12.110	Stalled vehicles.
12.12.120	Removal and impounding of vehicles.
12.12.130	Citation on vehicle parked or left in violation of code.
12.12.140	Evidence with respect to vehicles parked or left in violation of article.
12.12.150	Deposit of snow on roadway.
12.12.160	Violation – Penalty.

#### **12.12.010      Removal by abutting property owner.**

The owner of abutting property must remove all snow and ice from sidewalks before noon where the snow falls in the nighttime, and in no event shall snow or ice be allowed to remain on any sidewalk for more than twenty-four hours.

#### **12.12.020      Removal by city – Cost.**

When the owner of abutting property fails or refuses to remove snow from sidewalks within the time prescribed by Section 12.12.010, then the same shall be removed by the city, and the cost of removal taxed to the property, but in no event shall the costs of such removal exceed twenty-five cents per lineal foot for each and every foot of the sidewalk cleaned.

#### **12.12.030      Failure to pay – Action.**

Where the owner of the property fails or refuses to pay for cleaning of the sidewalk or sidewalks at the time same is cleaned, then it shall be the duty of the clerk to prepare a list, in accordance with the directions of the council, showing the cost of the removal of such snow from sidewalk and the same shall be certified to the county treasurer in manner and form as provided by law, and collected the same as other taxes.

#### **12.12.040      Snow emergency routes designated.**

The City hereby establishes this snow emergency ordinance and designates certain streets as snow emergency routes. The following streets, roadways, alleys, and highways or portions thereof in the city are hereby designated as

---

0 <sup>60</sup>For statutory provisions making it the responsibility of the abutting owner to remove promptly snow and ice accumulations from sidewalks, or, in the event of failure to do so, for the municipal corporation to do so and assess the cost thereof against the property, see ICA §368.33.

“snow emergency routes,” subject to the snow emergency route provisions of this Code:

Cornell Street (Highway 16 to Bierce Street)  
Second Street (Highway 16 to Caster Street)  
Caster Street (Second Street to Bierce Street)  
West Walnut Street (Fourth Street to Ninth Street)  
Church Street (Fifth Street to Ninth Street)  
Wood Street (Fifth to Ninth Street)  
KD South (First to Fourth Street)

**12.12.050      Parking on snow emergency routes.**

Whenever the superintendent of public works finds, on the basis of falling snow, sleet or freezing rain, that weather conditions will make it necessary that vehicle traffic be expedited and that parking in the city streets, designated as snow emergency routes, be prohibited for snow plowing and other purpose, he shall declare a snow emergency to exist and he shall put into effect a snow emergency parking prohibition on the said snow emergency routes by declaring it in a manner prescribed in this Code. While the prohibition is in effect, no person shall park or allow to remain parked any vehicle on the snow emergency route to which it applies. However, nothing in this section permits parking at any time or place where it is forbidden by any other provision of law. If for any reason the superintendent of public works is not available or able to make said determination and declaration, the mayor shall make the same, and references hereinafter to the superintendent of public works shall apply to the mayor.

**12.12.060      Duration of prohibition.**

Once in effect, a prohibition shall remain in effect until terminated by announcement of the superintendent of public works in accordance with this Code.

**12.12.070      Provisions temporarily effective to take precedence.**

Any provision of this Code which becomes effective by declaration of the superintendent takes precedence over other conflicting provisions of law normally in effect, except that it does not take precedence over provisions of law relating to traffic accidents, emergency travel of authorized vehicles or emergency traffic directions by a police officer.

**12.12.090      Termination of parking prohibition by superintendent.**

Whenever the superintendent of public works finds that some or all of the conditions which gave rise to the snow emergency parking prohibition in effect under this Code no longer exist, he may declare the prohibition terminated, in whole or in part, effective immediately upon announcement.

**12.12.100      Snow emergency route signs.**

On each street, roadway, alley or highway designated by this Code as a snow emergency route, the superintendent shall post special signs at reasonable intervals with the wording: “snow route” or any other signage required by the Department of Transportation’s Manual on uniform traffic control devices. These signs shall be distinctive and uniform in appearance and shall be plainly readable to persons traveling on the said designated route.

**12.12.110      Stalled vehicles.**

Whenever a vehicle becomes stalled or is unable to move under its own power, on any part of a snow emergency route while there is a parking prohibition in effect, the person operating that vehicle shall take immediate action to have the vehicle towed or pushed off the roadway of the snow emergency route, either onto the first cross street which is not a snow emergency route, or onto the public space portion of a nearby driveway. No person shall abandon or leave his vehicle in the roadway of such snow emergency route except for a reasonable time necessary to receive assistance.

**12.12.120      Removal and impounding of vehicles.**

The mayor is authorized to remove or have removed a vehicle from a street to the nearest public vehicle pound or other place of impoundment when:

- A. The vehicle is parked on a part of a snow emergency route on which a parking prohibition is in effect; or
- B. The vehicle is stalled or is unable to move under its own power on a part of a snow emergency route on which there is a parking prohibition in effect and the person who was operating such vehicle does not appear to be removing it in accordance with the provisions of this Code; or
- C. The vehicle is parked in violation of any other parking prohibition of this snow emergency code and is interfering or about to interfere with snow removal operations; or
- D. The vehicle is parked in violation of any other parking prohibition under Iowa law and is interfering or about to interfere with snow removal operations.

When the mayor removes or has removed a vehicle from a street as authorized in this section and the police department knows or is able to ascertain from the registration records in the vehicle the name and address of the owner thereof, the police chief shall, within 24 hours, give notice in writing to such owner of the fact of the removal and the reasons therefore and the place to which the vehicle has been removed. If the owner does not appear within three days to identify and claim the vehicle, such vehicle is considered to be an abandoned vehicle and impoundment and sale steps may be taken by the mayor regarding abandoned vehicles.

**12.12.130      Citation on vehicle parked or left in violation of code.**

Whenever any vehicle without a driver is found parked or left in violation of any provision of this Code and is not removed and impounded, the officer finding such vehicle may take its registration number and any other information displayed on the vehicle which identifies its user, and conspicuously affix to such vehicle a traffic citation for the driver to answer the charge against him on the date, time and place specified in the citation.

**12.12.140      Evidence with respect to vehicles parked or left in violation of article.**

In any prosecution with regard to a vehicle parked or left in a place or in a condition in violation of any provision of this Code, proof that the particular vehicle described in the complaint was parked or left in violation of a provision of this Code, together with proof that the defendant named in the complaint was at the time the registered owner of that vehicle, is presumptive evidence that the defendant was the person who parked or left the vehicle in violation of this article.)

**12.12.150      Deposit of snow on roadway.**

It shall be unlawful for any person to remove snow, ice and accumulations from private property and deposit the same upon any public street, highway, alley or sidewalk. Nothing in this section shall prohibit the depositing of the same upon the parking area abutting the private property from which the snow, ice or accumulations have been removed.

**12.12.160      Violation - Penalty.**

A violation of this chapter is a municipal infraction and any person violating any of the provisions of this chapter, shall be punished as provided in Chapter 1.12, in the discretion of the court.

## CHAPTER 12.20

### TREES<sup>64</sup>

#### Sections:

12.20.010	Short title.
12.20.020	City forester designation – Jurisdiction.
12.20.030	Duties of city forester.
12.20.040	Permit required to plant or remove tree.
12.20.050	Duties of private owners.
12.20.060	Removal of trees infected with Dutch Elm disease.
12.20.070	Obstruction of enforcement.
12.20.080	Abuse or mutilation of trees.
12.20.090	Nuisance declared when.

#### **12.20.010**      **Short title.**

This chapter shall be known and may be cited as the “Eldon tree ordinance.”

#### **12.20.020**      **City forester designation – Jurisdiction.**

- A.                The city council shall designate a city employee as city forester.
- B.                The city forester shall have jurisdiction over all trees and other plantings on the streets, alleys and public places within the city in order to provide orderly tree planting to protect the health of all trees from disease, and to require trees and plantings to be maintained in a manner not dangerous to public safety.

#### **12.20.030**      **Duties of city forester.**

The city forester shall have the authority and it shall be his duty to prevent the indiscriminate trimming or removal of trees or plants within streets. He shall have the authority to regulate new planting of trees or other plantings in streets in accordance with street tree planting regulations approved by council on filed in the office of the city clerk. He shall have authority to order private persons to comply with duties placed upon them by this chapter. He shall have supervision of all work by city employees or contractors in the trimming, preservation, planting, or removal of trees or other plantings in the streets. The city forester shall issue all tree and planting permits for work in compliance with this chapter. He shall have authority to affix reasonable conditions to the grant of a permit under this chapter, and shall supervise work done under permit.

#### **12.20.040**      **Permit required to plant or remove trees.**

No person shall plant or remove trees or other plants in streets without first applying for and receiving a permit from the city forester. A permit shall be denied if the planting will create a public danger or nuisance. A permit shall be issued when the city forester finds that the method and workmanship will be satisfactory; that when tree surgeons are engaged, that they are competent; and that new plantings will conform to the street tree planting regulations. When the city council has adopted and filed with the city clerk a street tree plan, he shall cause new plantings to comply therewith. Utility companies may operate under an annual or semi-annual permit with programmed trimming under conditions agreed upon with the city.

**12.20.050**     **Duties of private owners.** It shall be the duty of a person growing a tree or other plantings on private property abutting on streets, alleys or public places:

- A.     To trim his trees or plantings so that they shall not cause a hazard to the public or block public walks or ways or interfere with property lighting of public streets or places. The minimum clearance of any overhanging portion shall be eight feet over walks and fourteen feet above the surface of the traveled portion of the street;
- B.     To not plant any tree or other planting on private property which would cause public danger or nuisance;
- C.     To not plant any tree or other planting on corner lots or lots adjacent to an alley in the area bounded by the street or alley lines of such lots and a line joining points along the street or alley lines twenty-five feet from the point of intersection of the right-of-way lines;
- D.     To not plant any tree nearer than four feet to the sidewalk line or alley right-of-way line;
- E.     To treat in an accepted manner or remove any trees or plant so diseased or insect-ridden as to constitute a hazard to other trees and especially those dangerous to trees or other plants in public streets or places;
- F.     To not plant any of the following species: Cottonwood (unless cottonless), cotton-bearing poplar and box-elder.

**12.20.060**     **Removal of trees infected with Dutch Elm disease.**

In accordance with Section 368.3 Code of Iowa, any owner, occupant or person in charge of any property shall remove at his own expense any tree, brush, wood or debris infected with Dutch Elm disease found thereon when so notified by the city forester. The city forester shall cause to be mailed to such owner, occupant or person written notice that he may appear before the city council at an appointed time no less than fourteen days from the date of mailing to show why the trees, brush, wood or debris should not be declared a public nuisance. At the meeting the city council may resolve and declare the same to be a public nuisance and may order its removal by the owner, occupant or person. In the event the owner, occupant or person fails to comply with the resolution and order of the city council to so remove the public nuisance, the city forester shall cause the public nuisance to be removed and shall submit the costs incident to the service and removal to the city council, which shall certify the same to the county auditor for collection with and in the same manner as general property taxes.

**12.20.070**     **Obstruction of enforcement.**

It is unlawful for any person to hinder, obstruct or otherwise interfere with the agents or employees of the city while engaged in carrying out the provisions of Section 12.20.060 upon order of the council made thereunder.

**12.20.080**     **Abuse or mutilation of trees.**

No person shall willfully damage, cut, carve, pick the seeds of or injure the bark of any tree or plant on the streets or public places of the city. Tree trimming shall be done in accordance with good practice and the regulations of the city.

**12.20.090**     **Nuisance declared when.** It is declared that any violation of Section 12.20.050 is dangerous to the health and welfare of the citizens of Eldon and is a nuisance under the provisions of Sections 657.1 and 368.3 of the Code of Iowa.

## CHAPTER 12.24

### DRIVEWAY REPAIR

**Sections:**

12.24.010	Definitions.
12.24.020	Permit.
12.24.030	Fee for permit.
12.24.040	Driveway requirements.
12.24.060	Excavations.
12.24.070	Revocation of permit.
12.24.080	Inspection and approval.
12.24.090	Violation - Penalty.

**12.24.010**      **Definitions.**

For use in this chapter the following terms are defined:

- A.                “*Person*” means an individual, firm, corporation, trust, or other association.
  
- B.                “*Driveway*” means that part of any approach for motor vehicles to private property that lies between the property line and the roadway of the public street.
  
- C.                “*Paving*” includes any kind of hard surface including, but not limited to, portland cement, concrete, bituminous concrete, brick, stabilized gravel, or combinations of such materials, with the necessary base. “*Paving*” does not include surfacing with oil or chloride. (Ord. 167 §1, 1986).

**12.24.020**      **Permit.**

Before any person shall construct or repair a driveway, he shall obtain a written permit from the public works superintendent. A written application for the permit shall be filed with the city clerk. The application shall include the address of the property, the name of the property owner, the name and address of the person who will do the work, and the proposed plan of construction or repair which shall include the depth, width, and type of surfacing material to be used. No other plans shall be followed except by written permission of the public works superintendent who may allow amendments to the application or permit that do not conflict with this chapter. The public works superintendent shall issue the permit, bearing the signature of the city clerk and the date of issuance, if the proposed plan meets all of the requirements of this chapter, if the fee required under this chapter has been paid, and if the construction or repair as planned will not create any substantial hazard in the use of the street or sidewalk for public travel or drainage, or create any defect. Each permit shall expire six months from the date of issuance, if not constructed within that time period.

**12.24.030**      **Fee for permit.**

Before any permit is issued the person who makes the application shall pay the sum of ten dollars to accompany the permit. The drainage tube to be installed shall be purchased from the city, and the cost of the same shall be paid unto the city, prior to the installation thereof.

**12.24.040**      **Driveway requirements.**

All drainage tubes placed, shall be approved by the city council, as to the diameter and the length of the same. The city will, upon approval of the public works superintendent, remove the old drainage facility, if one exists, and install the new drainage tube at no expense to the land owner. The land owner shall be responsible for purchasing the drainage tube from the city and for covering the drainage tube and placing the surface paving cover in place at land owner’s expense. Before application of the paving surface, the landlord shall stabilize the drainage tube directly with compacted and well-drained soil or gravel.



**12.24.060      Excavations.**

Excavations to do work under this chapter shall be dug so as to occasion the least possible inconvenience to the public and to provide for the passage of water along the gutter or drainage ditch in the street right away. All such excavations shall have proper barricades at all times. In refilling the excavation, the earth must be laid in layers and each layer camped or compacted thoroughly. Any street, sidewalk or other public property that is affected by the work shall be restored to as good a condition as it was previous to the excavation. The affected areas shall be maintained in good repair to the satisfaction of the city council for twelve months after refilling.

**12.24.070      Revocation of permit.**

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

**12.24.080      Inspection and approval.**

The driveway must be inspected and approved in writing by the superintendent of public works within thirty days after completion of the work. The superintendent of public works shall provide such approve unto the city clerk which such approval shall be maintained in the office of the city clerk. If the superintendent of public works refuses to approve the work, it must be corrected immediately so that it will meet with his approval. If the work has been done improperly, the superintendent of public works shall have the right to finish or correct the work, and the council shall assess the costs to the property owner. Such assessment shall be collected with general property taxes and in the same manner.

**12.24.090      Violation - Penalty.**

A violation of this chapter is a municipal infraction and any person violating any of the provisions of this chapter, shall be punished as provided in Chapter 1.12, in the discretion of the court.

## CHAPTER 12.26

### PUBLIC PARKS

#### Sections:

12.26.010	Purpose.
12.26.020	Vehicles.
12.26.030	Fires.
12.26.040	Refuse.
12.26.050	Disturbing improvements for wildlife.
12.26.060	Trespass.
12.26.070	Entertainment, business, public meetings, and camps.
12.26.080	Alcoholic beverages prohibited.
12.26.090	Hours of operation.
12.26.100	Lounging, loafing or loitering prohibited.
12.26.110	Violation – Penalty.

#### **12.26.010**      **Purpose.**

The purpose of this chapter is to provide for municipal regulation of public works in furtherance of the public health, safety, morals and welfare.

#### **12.26.020**      **Vehicles.**

No person shall drive, ride, or operate any motor vehicle, motorcycle, or motorized means of conveyance in the parks of the city, except on established roadways, and then only at a moderate rate of speed and at no time at a rate of speed greater than fifteen miles per hour except when otherwise posted. No person other than employees, agents or authorized invitees of the city shall drive any vehicle upon any portion of any public park in the city not designated as a road or otherwise designated for use of vehicular traffic. Motor vehicles may not be parked in such manner as to obstruct roadway, and unless otherwise designated by signed, must be parked in designated areas.

#### **12.26.030**      **Fires.**

No fires shall be lighted or made in parks except in places provided therefor by the city.

#### **12.26.040**      **Refuse.**

No person shall scatter about or litter the grounds of any park with any form of waste material. All litter, papers and refuse must be deposited in the receptacles provided therefore.

#### **12.26.050**      **Disturbing improvements for wildlife.**

No person shall disturb or interfere with any improvements made in or about the parks or disturb or interfere with birds, animals, fish, flowers or plants kept or found therein.

#### **12.26.060**      **Trespass.**

No person shall enter upon portions of any park in disregard of signs or posted notices forbidding the same as may be directed from time to time by the city council.

#### **12.26.070**      **Entertainment, business, public meetings, and camps.**

No person shall give entertainment of any kind, transact business of any kind, or hold public meetings or assemblies, or establish or operate a camp in any park without the express consent of the city council.

**12.26.080      Alcoholic beverages prohibited.**

No person shall consume or sell alcoholic beverages in a public park.

**12.26.090      Hours of operation.**

The parks shall be open to the public between the hours of six a.m. to ten p.m. each day unless special permission is granted by the city council for earlier opening or later closing hours on a specific occasion. In addition, a park or a portion thereof may be closed at any time it is deemed in the best interest of the health, safety and welfare of the public by the city council to so close the same; and also the park or a portion thereof may be ordered open for shorter times each day if the city council deems necessary but the closing of a park or shorter hours shall not take effect unless posted in a conspicuous place in the park affected.

**12.26.100      Lounging, loafing or loitering prohibited.**

Lounging, loafing or loitering is prohibited in any public park and in the parking lot adjacent to City Park at all times, and the parking lot adjacent to City Park shall not be used as an assembly area at any time.

**12.26.110      Violation – Penalty.**

A violation of this chapter is a municipal infraction and any person violating any of the provisions of this chapter, shall be punished as provided in Chapter 1.12, in the discretion of the court.