

TITLE XII

**STREETS
AND
SIDEWALKS**

STREETS AND SIDEWALKS

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CHAPTER 12.04

BOULEVARDS

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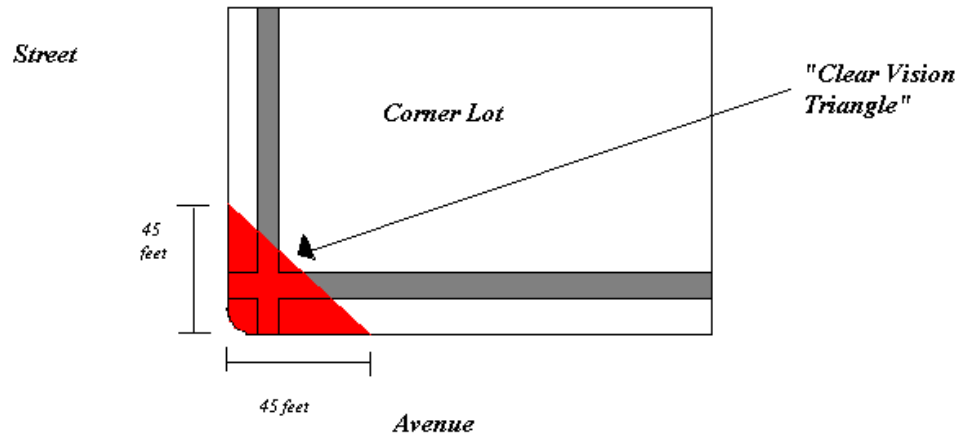
12.04.10 Definitions and responsibility. A. Definitions. A

"boulevard" within the Town is that area within any street, avenue or highway right-of-way not occupied by street paving, curb and gutter, and sidewalks. An "inside boulevard" is the boulevard area on the property line side of the sidewalk. An "outside boulevard" is the boulevard area on the street side of the sidewalk. Except as permitted under Section 12.04.050, no boulevard area *may* be encumbered by any obstacle whatsoever.

B. "Obstacle" means any strung wire or netting, any fence or railing, or any barrier or structure of any kind whatsoever, but does not include trees, ornamental lamp-posts, telephone or electric light poles, United States government mailboxes, or other structures erected by permit to aid *owners* in caring for the boulevards adjoining their property.

C. Adjoining *Owners* Responsibility. It *shall* be the duty of the *owners* and tenants of any premises within the limits of the Town to maintain the boulevard section in front of and adjoining their premises in safe and substantial condition. Any portion of the right-of-way which is not occupied by roadway section, curb and gutter, driveway, sidewalk or crosswalk *shall* be maintained in accordance with the standards herein set forth. It is also the responsibility of corner lot *owners*/tenants to maintain the clear vision triangle as described in Section 12.04.20.

12.04.20 Clear vision triangle--Defined--Responsibility. The clear vision triangle is the isosceles triangle having sides of forty-five feet as measured along the back of the curb section of each intersecting roadway. The triangle thus begins at the point where the intersecting back of each curb line would meet, thence forty-five feet along the back of each curb and diagonally across connecting the curb lines. See drawing below this section.



- A. Any signs, fences, plant material, or other items placed in this area *shall* provide an unobstructed cross-visibility at a level between three feet and eight feet above street surface elevation. Trees having over eight feet of clear trunk as measured from the surface elevation with limbs and foliage trimmed in such a manner as not to extend into the cross-visibility are permitted in the clear vision triangle.
- B. It is the responsibility of the *owner* or tenant of a corner lot to maintain the clear vision triangle by trimming or removing the cause of any sight obstruction within the area described above.
- C. No obstruction to cross-visibility *shall* be exempted or excluded from the application of this section because of the obstruction's existence at the time of the adoption hereof.

12.04.30 Vehicle parking--Prohibited where--Exception. No vehicle *shall* be parked upon any *boulevard* area in the Town except in the following instances:

- A. Upon any lawfully constructed driveway, although no vehicle *may* be parked upon any sidewalk or sidewalk area;
- B. Upon any *boulevard* area in a residential area if the *boulevard* area has no curbing or has a curb cut access to the *boulevard* area;

12.04.40 Boulevard Encroachment Permit--Issuance conditions. A temporary and revocable permit to allow encroachments upon any inside *boulevard* area within any area of the Town *may* be granted to the *owner* or lessee of the adjoining property by the Town Mayor, Manager or designee. Any such Boulevard Encroachment permit must comply with the following conditions:

- A. The encroachment as proposed must not be detrimental to the health, safety, or welfare of the public as a whole.
- B. Payment to the Town of a one time application fee to defray administrative costs. The fee *shall* be \$5.00.
- C. Payment to the Town of an annual encroachment rental fee based upon the square footage of encroachment. The annual rental fee *shall* be fifty cents (\$.50) per square foot.
- D. No encroachment permit *may* be granted to allow for additional parking in residential areas.
- E. In all locations where the sidewalk is constructed adjacent to the street curbing and in all locations where no sidewalk has been constructed, no permit *may* be granted for any encroachment within seven feet from the back of the curb.
- F. Parking blocks *shall* be placed in the *boulevard* area for any permit issued for vehicle parking under this section, and must be placed sufficiently back from the sidewalk area to keep parked vehicles at least two feet from the sidewalk or beyond the seven-foot sidewalk area provided in subsection E of this section.
- G. The Boulevard Encroachment permit *may* be issued by the Mayor only after council approval, and at the permit holder's risk upon receipt of a completed application and the processing fee. Should the Town deem it necessary, the Boulevard Encroachment permit *may* be revoked upon giving thirty days notice in writing to the permit.
- H. The Mayor, Town Manager or designee *shall* have authority to deny or immediately revoke any such permit wherever the public safety *may* be jeopardized or other traffic, utility or other concerns are paramount.
- I. Any permits issued for fencing part of the *boulevard* area *shall* ensure that no fence is

installed in a way to block a sidewalk or where a sidewalk does not exist, the fence must be within seven feet of the back curb section.

J. The requirements of Section 12.04.020, clear vision triangle must be met for any permit involving a corner lot.

K. Any violation of the terms of the this permit *shall* be cause for immediate revocation at the time of the violation. If the permit holder chooses to reapply for a new permit, the entire permit process including any charges, must be repeated.

L. Upon notice of revocation of a Boulevard Encroachment permit, the permit holder *shall* remove or correct any encroachments affected by the revocation within 10 days. The Town *shall* not be held liable for any costs as a result of the revocation, removal, or corrections.

M. Once a permit has been revoked, should the responsible party fail to remove or correct the situation, the Town *shall* have the structure removed and the cost of the removal assessed to the permit holder.

N. In any case where it is contended that the decision of the Mayor, Town Manager or designee, regarding an application was unfair, inequitable or unreasonable, the party objecting thereto *may* appeal in writing to the Town of Browning Council.

12.04.60 Violation--Penalty. Any violation of the provisions of this chapter *shall* be considered a public offense punishable under the general penalty of the official code of the Town set forth in Chapter 1.16.020 of this Code.

CHAPTER 12.08

OBSTRUCTIONS IN STREETS AND PUBLIC PLACES

Sections:

12.08.10 Prohibited--Applicability.

12.08.10 Prohibited--Applicability. A. It is unlawful for any *person* or *persons* or corporations to erect, place, or locate, or cause to be erected, placed or located, any building, fence or obstruction of any kind whatsoever, in whole or in part, upon any street, avenue, alley or other public grounds within the Town. Any *person* or *persons* or corporation who is convicted of a violation of any of the provisions of this chapter, *shall* be deemed guilty of a separate violation of this chapter for every twenty-four hours the same remains un-removed.

B. In the interest of the public health, welfare and safety, the Town *may* remove such obstruction and assess the costs of removal to the *property owner*; or where circumstances permit and the public interest is not greatly jeopardized, notice *may* be given to the violator for removal of the obstruction.

1. Such notice *shall* provide the time allowed for removal, include the Town Manager's address and telephone number for information or hearing thereon, briefly describe the nature of the violation and the possible sanctions.

2. The Town's costs of removal *shall* be assessed against the property, or property owners.

CHAPTER 12.12

EXCAVATIONS

Sections:

12.12.10	Application--Required.
12.12.20	Application--Fee.
12.12.30	Application--Refusal--Issuance.
12.12.40	Bond.
12.12.50	Insurance required.
12.12.60	Permittee responsibility.
12.12.70	License--Suspension--Revocation--Limitation.

12.12.10 Application--Required. Excepting where such *person* is operating under a contract with the *City* involving the opening of a public way, any *person* desiring to excavate in or cut through or tear open the surface of any street, avenue, alley, sidewalk, or other public way within the *City shall* first file written application with the Director of Public Works. The application *shall* state the object sought, the purpose for which the public way is to be excavated in, cut through, or broken open, the proposed area of such opening and the exact location thereof. (Prior code §9-10-1).

12.12.20 Application--Fee. The application *shall* be accompanied by the applicable following fee payable to the *City*:

A. For all opening fees the Town Council will set the fees.

12.12.30 Application--Refusal--Issuance. The Mayor, Manager or the designee *may*, in his/her discretion, grant or refuse to grant such application. The refusal of the Mayor, Manager or the designee to grant any such application is subject to review by the Town Council. Where the application is granted, whether by the Mayor, Manager or the designee or the Town Council, the applicant *shall* accomplish the proposed work within the time allowed by the Mayor, Manager or the designee and under the Mayor, Manager or the designee's supervision; and, in accordance with rules, regulations and specifications on file in the City Hall, *shall* thoroughly backfill any such excavation or opening and restore the surface thereof to the condition it was prior to such excavation or opening as specified herein Chapter 4.06

12.12.40 Surface Repair Bond. Any applicant for permission to excavate in, cut through, or tear open any Town street, avenue, alley, sidewalk, *boulevard*, or any other public way must file with the Town Clerk a bond in the penal sum of one thousand dollars (\$1000.00), payable to the Town, conditioned for the protection of any street, , avenue, alley, sidewalk, *boulevard*, or other public way. Further conditioned that the permittee *shall* properly backfill and restore the surface of any and all excavations, openings, or cuttings made or dug in the public ways of the

Town to the specifications set forth in Chapter 4.06 of these ordinances, and *shall* do and complete all work in connection therewith in a good, competent, and workmanlike manner and in compliance of the said specifications.

12.12.50 Insurance required To protect the Town from and against any liability of any kind or character whatsoever which may arise as a result of the applicant's excavating in, cutting through, or opening up any such street, avenue, alley, sidewalk, boulevard, or other public way the permittee is required to carry and shall file with the Town a general liability policy or a written certificate of same with bodily injury limits in the amount of three hundred thousand dollars (\$300,000.00) per claimant and one million (\$1,000,000.00) per occurrence, including accidental death to any one person and subject to the same limit for each person which shall protect the Town against all losses or damages which may occur on account of such license or the carelessness or negligence of the licensee or employees during the time of which a license is in force; and further conditioned that the licensee shall properly refill any and all trench, trenches, street, avenue, alley, sidewalk, or other public way within the Town and shall keep and maintain the same in a safe and passable condition, level and even, to specification with the street, alley, avenue, sidewalk or other public way for a period of two years form and after the same has been refilled, constructed, reconstructed, repaired or filled.

12.12.60 Permittee responsibility. A. The permittee, in accepting and acting under a street opening permit granted under the provisions of this section, agrees to assume full responsibility for injury to *persons* or losses or damage to property incurred by reason of or arising out of any act or omission of such permittee in making such excavation, cut, or opening or in failing to properly barricade, guard and warn the public of such excavation or trench, and further agrees to assume full responsibility for injury to *persons* and losses or damage to property incurred by reason of or arising out of any settlement of a restored are occurring within two *years* of the date of completion of the permanent resurfacing.

B. If any settlement in a restored area occurs within two *years* of the date of completion of the permanent surfacing, it *shall* be considered as conclusive evidence of defective backfill. Upon failure or refusal of such permittee to correct such settlement within five days after notice by the Mayor, Manager, Town Council or a designee to do so, any expense incurred by the Town in correcting such settlement *shall* be paid by the permittee.

12.12.70 License--Suspension--Revocation--Limitation. The provisions of this chapter are in no way intended, nor *shall* they be construed so as to limit or in any way repeal any of the provisions of Chapters 4.04 and 4.28 of this code with respect to the right of the Town Council to suspend or revoke the licenses, provided for in Chapters 4.04 and 4.28, upon failure or refusal of any such licensee to refill properly any trench or excavation and to restore the surface thereof.

Chapter 12.18

VEHICLE REMOVAL and OBSTRUCTIONS

Sections:

12.18.10	Notification of designated areas
12.18.20	Vehicle parking restrictions
12.18.30	Vehicle removal
12.18.40	Encumbering or Obstructing streets – Permit required
12.18.50	Removal of Obstruction or litter may be ordered
12.18.60	Signs, fences, etc
12.18.70	Structural obstructions
12.18.80	Structural obstructions – Order to remove
12.18.90	Notice to remove obstructions
12.18.100	Action to remove obstructions – removal without action
12.18.110	Putting glass, etc. on street prohibited
12.18.120	Penalty

12.18.10 Notification of designated areas. A. The Public Works Director or designated town representatives are authorized to prohibit parking in areas where street cleaning operations are scheduled.
B. Notice of such street cleaning *shall* be given to local radio, television and to the news press. In addition, streets to be swept will be posted twenty-four hours in advance of street cleaning operations.

12.18.20 Vehicle parking restrictions. A. Upon notification of street cleaning operations, a designated area pursuant to Section 12.18.010(B), it *shall* be unlawful for any *person* to stop, stand, park or leave unattended any motor vehicle or trailer between the hours of five a.m. and four p.m. or until such time as designated street cleaning is completed.
B. This provision *shall* not prohibit the stopping of commercial passenger vehicles for periods sufficient to load or discharge passengers from vehicles.

12.18.30 Vehicle removal. Whenever a motor vehicle or trailer has been stopped, parked or left unattended after notification of street cleaning operation pursuant to subsection 12.18.010(B), such vehicle *shall* be declared a public nuisance and the Director of Public Works or town designee *shall* order it to be removed at the *owner's* expense.

12.18.40 Encumbering or obstruction streets – Permit required No person shall encumber or obstruct or cause to be encumbered or obstructed any street, alley or other public place in the municipality by placing therein or thereon any building materials, trash, vehicle, earth, garbage, rubbish, debris, or accumulated snow and ice

removed from an adjoining private premises, without first having obtained a permit from the municipal clerk or other municipal designee.

12.18.50 Removal of obstruction or litter may be ordered. The Mayor, Manager, Town Council or a designee is authorized to order any article or thing of the kind mentioned in Section 12.18.40 which encumbers, litters or obstructs any street, alley or other public place in the municipality, to be removed. If such removal shall not be made within twenty-four (24) hours after notice to the owner or person in charge thereof or if the owner cannot be readily found for the purpose of such notice the municipality shall cause the same to be removed to some suitable place to be designated by such official at the expense of the person responsible therefore.

12.18.60 Signs, fences, etc. No person shall place or maintain any shafts of wood, iron, or other material, billboards, signs, fences, poles, rods, cables, or wires in any of the streets, public places or alleys of the municipality without having first obtained a permit from the Town Council.

(a) Definitions:

(1) Encroachments: Encroachments shall include all private devices placed upon the public right-of-way, including devices which overhang or underlie the right-of-way.

(2) Curb Line: Curb line shall be the line at the face of the curb nearest to the street or roadway. In the absence of a curb, the curb shall be established by the Town officials.

(b) Regulation: No, private signs, eaves, marques, or similar device will be allowed to encroach on the public right-of-way of this municipality within the incorporated limits except as provided herein and then only by permit issued by the proper authorities and revocable on 10 days written notice to the permittee. No gainful private or commercial use of the public right-of-way will be allowed. EXAMPLES: Non-emergency vehicles, parking or placing of portable advertising devices on the public right-of-way.

(c) Projections and Clearance: The outermost portion of an overhanging device should be at least five (5) feet behind the face of the curb or where there is no curb from the shoulder of the roadway and the lowest ten (10) feet above the top of the curb, sidewalk or roadway shoulder elevation.

(d) Purpose: It is the purpose and intent of this chapter to provide minimum standards to safeguard life, health, property and public welfare by regulating and controlling the placement of all signs and sign structures within the incorporated limits so as to prevent the obstruction of view of any official traffic sign, signal or device.

(e) Enforcement: Authorized Town officials are hereby directed to enforce all of the provisions of this code as provided herein and in accordance with the provisions of Sections 7-14-2134 to 7-14-2138, inclusive M.C.A. 2001. Any person, firm or corporation violating the provisions of this Chapter shall be in addition to the penalties provided by the aforementioned Montana Law punishable by a fine not to exceed five hundred (\$500.00) dollars and/or six (6) months in jail.

12.18.70 Structural obstructions. (a) No person shall maintain any building, fence, porch, steps, gallery, or other structure upon any street or alley within the municipality.

(b) The municipality council may in its discretion grant permits to person which will allow then to maintain such structures for a limited time to be specified in the permit.

12.18.80 Structural obstructions – Order to remove. (a) Any building, fence, porch, steps, gallery, or other structure upon any street or alley within the municipality, or which may be upon any new street or alley which may hereafter be opened or created within the municipality shall be removed there from with a reasonable time not exceeding thirty (30) days and not less than three (3) days after an order to remove in writing has been given to the owner or person responsible for such obstruction.

(b) If the owner or person responsible for such obstruction cannot be readily found for the purpose of such notice it shall be the duty of the municipal Mayor, Manager, Council or their Designee to cause the obstruction to be removed in his discretion. The expense of such removal shall be recoverable from the owner or person responsible for the obstruction.

(c) Any person who interferes with, resists or obstructs by acts or threats, the removal of any such obstruction shall be deemed guilty of a violation of this chapter.

12.18.90 Notice to remove obstructions. The Town manager or town designee must give notice to remove obstructions to the owners of the obstruction(s) or to the property owners or person(s) in charge thereof in which the obstruction(s) are directly located in front thereof twenty four (24) hours prior to removal of obstruction(s). The notice to remove obstructions must be placed on the obstruction(s) and either given to the owners of the property or person(s) in charge thereof in which the obstruction(s) are directly located in front thereof or affixing said notice to the building on the property directly in front thereof the obstruction(s).

12.18.100 Action to remove obstruction – Removal without action. (a) If the obstruction required to be removed by the notice of Section 12.18.80 is denied, and the owner, occupant, or person controlling the matter or thing charged with being an obstruction, refuses either to remove or permit the removal thereof, the municipality shall commence in the proper court an action to abate the judgment, it may in addition to having the same abated, recover ten dollars (\$10.00) for every day such nuisance remained after such notice and also costs in said action.

(b) The Town Council may at any time order the Mayor, Manager, Town Council or a designee to forthwith remove any such obstruction without commencing an action.

12.18.110 Putting glass, etc. on street prohibited. (a) No person shall throw or deposit upon any street, alley, sidewalk, or public right-of-way any glass bottle, glass, nails, tacks, wire, cans, or any other substances as specified in sections 61-8-365 and 61-8-372 M.C.A. placed upon the street that likely to injure any person, animal, vehicle or litter the streets or public right-of-ways.

(b) Any person who drops, or permits to be dropped or thrown, upon any street, any destructive, injurious material or litter shall immediately remove the same or cause it to be removed.

(c) Any person removing a wrecked or damaged vehicle from a street shall remove any glass or other injurious substance dropped upon the street from such vehicle.

12.18.120 Penalty. Except as provided in section 61-8-372 of the M.C.A., a person convicted of violating this section shall be fined not more than \$250.00. Except for the maximum fine of \$250.00 as provided in subsection 61-8-365 and except for the maximum fine of \$500.00 as provided in 61-8-372 M.C.A., the penalty provisions of 61-8-711 M.C. A. apply to this section.

Chapter 12.28

SIDEWALKS AND CURBS

Sections:

- 12.28.10 Construction--Compliance with City specifications.
- 12.28.20 Construction--Grade conformance required.
- 12.28.40 Construction--Width and slope designations.
- 12.28.50 Construction--Materials.
- 12.28.60 Construction--Order--Notice to owner.
- 12.28.70 Construction--Failure to perform--Notice--Cost assessment.
- 12.28.80 Construction--Notice--Form.
- 12.28.90 Construction--Contract--Bid.
- 12.28.100 Construction--Cost--Assessment--Payment.
- 12.28.110 Construction--Payment--Delinquency.
- 12.28.120 Condemnation.
- 12.28.130 Repair--Owner's duty.
- 12.28.140 Repairs required when--Enforcement--Injunction.
- 12.28.150 Special fund created.

12.28.10 Construction--Compliance with City specifications. It is unlawful for any *person* to build or construct any sidewalk, private work, or curb in any street, avenue, alley or *boulevard* or to build or construct any parking or any improvement of any nature whatsoever in any street, avenue, alley or *boulevard* unless the same is constructed strictly in accordance with the current standard specifications and plans for such work and under the supervision of a Town of Browning designee.

12.28.20 Construction--Grade conformance required. Sidewalk construction on improved or graded streets must conform with the established grade and sidewalk line; on all other streets, sidewalks must be laid to the proper sidewalk line, and otherwise to the satisfaction of the Director of Public Works or the Town designee. Driveway crossings into private grounds *shall* be of form and construction as specified by the Director of Public Works or the Town designee.

12.28.30 Construction--Width and slope designations. A. All sidewalks hereafter to be built or constructed in the *City shall* be of the following width except where otherwise ordered by the governing body: Six (6) feet in the residential districts and eight (8) feet in the business district.
B. All sidewalks *shall* rise one-fourth inch to the foot from the curb grade to the property line.
C. All sidewalks shall run parallel with the property lines of adjoining owners and the outer edge of the sidewalks or edge away from the street shall be located one foot from the property line.

D. There shall be a strip of land fifteen (15) feet in width running parallel to all streets and adjoining all property lines upon which the above described sidewalk is to be located and the remainder of said strip not occupied by the sidewalk is to be used for beautification purposes and further may be used as a place for the erection of electric light and telephone or any other purpose designated by the Town Council if the council so directs.

E. Attached hereto and marked "Exhibit A" is a plat the same is incorporated into and made a part of this Chapter with reference to the description and location of sidewalks and parking strip above mentioned.

12.28.40 Construction--Materials. A. Hereafter all sidewalks *shall* be constructed only of solid cement concrete provided that the Town Council may order the sidewalk to be constructed of other material.

B. Hereafter all curbing *shall* be constructed only of solid cement provided that the governing body *may* order temporary or permanent curbing of other material.

12.28.50 Construction--Order--Notice to owner. A. Whenever the governing body orders any sidewalk or curb to be constructed, it *shall* be the duty of the Town Clerk to enter such order upon the minutes of the governing body and *shall* name the street along which the sidewalk or curb is to be constructed.

B. Whenever the governing body orders any sidewalk or curb to be constructed and after the making of such order, it *shall* be the duty of the Town Clerk to give written notice thereof to the *owner* or agent of such property in front of which lot or parcel of land the governing body orders the sidewalk or curb to be constructed, which written notice must be published for five days in a daily newspaper published in the Town and by mailing a copy of such notice to every *person* or the agent of such *person* having property in front of which such sidewalk or curb is to be constructed at their last known address upon the same day such notice is first published; the service of such notice to construct such sidewalk or curb to be constructed *shall* be deemed complete on the date of first publication and mailing.

12.28.60 Construction--Failure to perform--Notice--Cost assessment. If the *owner* or agent of such lot or parcel of land fails or neglects for a period of thirty days after the date of the service of such notice to construct or cause such sidewalk or curb to be constructed, the Town *shall* construct or cause such sidewalk or curb to be constructed and *shall* assess the cost thereof against the property in front of which the same are constructed.

12.28.70 Construction--Notice--Form. The written notice to be so issued by being personally served on the owner or agent of property. If personal service cannot be obtained then the notice shall be published for two successive weeks in the official publication of the Town of Browning newspaper and *shall* be in substantially the following form:

NOTICE FOR CONCRETE SIDEWALK AND CURB CONSTRUCTION

Department of Public Works
Browning, Mt

“Notice is hereby given that the Governing Body of the Town of Browning, Montana, at its regular meeting on _____, ordered concrete sidewalk and curb to be constructed as follows:

“The names of the streets along which said sidewalk and curb is ordered constructed appears upon the minutes of the Governing Body of the above date to which reference us hereby made.

“All walk and curb remaining unbuilt at the expiration of thirty (30) days will be built by the Town and all costs assessed as a special tax to the abutting property in accordance with the provisions of the Town of Browning law.

TOB Designee

First publication_____”

12.28.80 Construction--contract--Bid. A. The governing body shall let to a contract for the construction of all cement or concrete sidewalks in accordance with the specifications prepared therefore by the Director of Public Works or a Town designee and approved by the governing body, which specifications *shall* provide for the method of construction and the material contemplated during the period of such contract.
B. The governing body *shall*, at the same time when it lets its contract as provided for in subsection A for the construction of concrete cement sidewalks, also let its contract for the construction of concrete cement curbs, and for the concrete sidewalks and concrete cement curbs *shall* be let at the same time and for the same period to the same contractor if the Town Council so deems.

12.28.90 Construction--Cost--Assessment--Payment. A. The total cost of all cement or concrete sidewalks constructed by the Town cement or concrete sidewalk contractor in accordance with the orders of the governing body which total costs *shall*

include that of the sidewalk proper as well as that of any notice, grading, hand railing, private crossing and all other necessary expenses, shall either be assessed as a special assessment against the property in front of which such cement or concrete sidewalk is built or constructed or paid for out of the proper fund within the Town's General Fund. The property occupying street corners *shall* be assessed for that part of such sidewalk thereon which is within the street intersection if the governing body elects to pay for construction of sidewalk projects from a special assessment.

B. Such special assessments *shall* be payable in installments extending over a period of eight *years*, and the governing body for such sidewalk improvements *may* issue special improvement warrants and levy and collect assessments to pay the same. When any such installment payment becomes delinquent, that installment payment, plus the interest due thereon, *shall* become a lien against the property subject to such assessment, and the property *shall* be subject to sale for delinquent payment of such special assessment the same as other property is sold for delinquent special assessments.

12.28.100 Construction--Payment--Delinquency. Upon the payments after the first, the Controller *shall* collect simple interest per annum at the maximum rate allowed on judgments under state law (§25-9-205, MCA) from the date when the first payment becomes delinquent, and *shall* receive payment in full and give receipts therefore for the entire special assessment of any property with interest to the date of payment, at any time the same *may* be tendered by the *owner* or agent.

12.28.110 Condemnation. Any sidewalks, which are now, or which *may*, by reason of natural deterioration or decay, or by reason of unevenness, steps, rapid slopes or from any cause whatsoever, become dangerous to the public safety, *may* be condemned by the Director of Public Works or the Town designee and *may* be immediately removed, remodeled, rebuilt, repaired or newly built, as *may* be most expedient, and the cost thereof *shall* be a lien upon the lot abutting upon such sidewalk and *may* be enforced or the amount *may* be recovered against the *owner* by a suit before any court of competent jurisdiction or *may* be assessed and collected as a special tax against such lot or as specified in 12.28.90 paid by the governing body without permit or tax against a lot owner or agent.

12.28.120 Repair--Owner's duty. It *shall* be the duty of the *owners* and tenants of any premises within the limits of the Town to keep the sidewalk in front of and adjoining their premises in good, safe and substantial condition, and the *owners shall* see that all breaks or unsoundness of any character resulting from natural deterioration, or from any cause whatsoever, is repaired with all possible dispatch and when by reason of the construction or repairs of sidewalks from any cause whatsoever any sidewalk or section thereof is removed or rendered dangerous or impassable to the public, such spaces or openings *shall* be securely fenced, and from dark until sunrise red lights *shall* be maintained thereon, while such dangerous condition exists, and a plank walk not less than two inches in thickness and not less than three feet in width *shall* be constructed around such construction or dangerous walk, the same to extend from sidewalk to sidewalk on each side of the opening or obstruction.

12.28.130 Repairs required when--Enforcement--Injunction. It *shall* be the duty of the Chief of Police, members of the Police Department, Director of Public Works and/or and Town Designee to enforce the provisions of this chapter, and Town employees working in the street department or the Public Works Director or a Town designee *shall* immediately report any broken, defective or unsafe sidewalk to the *owner* of the premises in front of which such defect exists and *shall* notify the *owner* to repair the same forthwith. Police Officers *shall* also report all such defective walks and crossings as well as the particulars of any accidents that *may* occur, the names of witnesses, and *persons* injured thereby, to the Chief of Police, specifying the hour at which the *owner* as aforesaid was notified to repair the walk, and the Chief of Police *shall* in turn notify the Director of Public Works or a street department employee or a Town designee thereof. Upon the refusal or neglect of the *owner* of any premises to remove obstructions from or to make necessary repairs to the walks in front of the same, and when in the opinion of the Director or the designee immediate repairs or removal of the obstructions is necessary to prevent accidents, the Director or the Town designee *may* forthwith proceed with same, and the full costs of the repairs or the removal of such obstructions *shall* be collected or assessed as provided in Section 12.28.110. Absence of notice to *owners* to repair or remedy a dangerous walk or to remove obstructions there from *shall* not constitute a valid excuse against the payment of any fine or damages by such *owners* or occupants, and nothing contained in any of the preceding sections *shall* be so construed as to release the *owners* or occupants of real estate from the duty of keeping the sidewalks in front or adjoining their respective premises at all times in a safe and passable condition, and in good and thorough state of repair, but such duty is hereby expressly enjoined and imposed upon all such *owners* and occupants.

12.28.150 Special fund created. A. There is created a fund to be known as the "special sidewalk and curb fund." All monies hereafter collected from assessments made for the construction of sidewalks and curbs ordered by the governing body *shall* be placed to the credit of the special sidewalk and curb fund.

B. Warrant Form. When any sidewalk or curb is constructed by or under the direction of the governing body, payment for the construction thereof *shall* be made by special warrants, which *shall* be in substantially the following form (regular *City* warrant form to be used):

WARRANT NO.
CLAIM NO.

Name
Address
For
\$
Filed, 20

.....
City Clerk

.....
Deputy

General Fund		
Street and Alley fund		
Water Fund		
Park Fund		
Fire Fund		
Sewer Maint. Fund		
Sanitation		
Snow Removal		
Special Imp. Lighting Dist. No. 7		
S. I. D. No.		
Disallowed		

.....
Mayor

Approved
.....
.....

ASSIGNMENT

For value received, I hereby sell, assign and transfer the within claim to

Witness my hand this day of,

C. Denomination. The special sidewalk and curb warrants *shall* be issued in a denomination of no more than one thousand dollars each.

Chapter 12.32

SIDEWALK MAINTENANCE

Sections:

- 12.32.10 Obstruction--Defined--Prohibited.
- 12.32.20 Sidewalk--Restricted use.
- 12.32.30 Snow and ice removal--Owner's duty.
- 12.32.40 Snow and ice removal--Hours designated for completion.
- 12.32.50 Snow and ice removal--Depository prohibited where.
- 12.32.60 Sanding required when--Owner's duty.
- 12.32.70 Wet cement--Trespassing prohibited.
- 12.32.80 Failure to comply--City performs work--Cost--Assessment.
- 12.32.90 Violation--Penalty.

12.32.10 Obstruction--Defined--Prohibited. A. "Obstruction," as used in this chapter, is intended to mean clothing, fruit or any kind of merchandise, boxes, crates, trunks, racks and stands of every nature and description.

B. It is unlawful for any *person* or *persons*, firm or corporation to place, cause to be placed or to permit any obstruction to be placed or remain upon any of the sidewalks of the Town.

12.32.20 Sidewalk--Restricted use. It is unlawful hereafter for any *person* or *persons* to ride or drive any horse, mule or other animal, buggy, wagon, bicycle or other vehicle along, over or on any of the sidewalks within the Town, or to push any pushcart or wheelbarrow thereon or do damage in any way to the sidewalks.

12.32.30 Snow and ice removal--Owner's duty. It *shall* be the duty of the *owner* and tenant of any premises within the limits of the Town to keep the sidewalk in front of and adjoining the premises free from obstructions subject to the special conditions set out in Sections 12.32.040 through 12.32.060.

12.32.40 Snow and ice removal--Hours designated for completion. Snow, ice, and similar material that has accumulated during the preceding hours *shall* be removed from sidewalks in commercial areas before eleven a.m. each day and *shall* be removed from residential areas within twenty-four hours after the snowfall. Once cleared, all sidewalks *shall* be kept clear of snow, ice, and similar material.

12.32.50 Snow and ice removal--Depositing prohibited where. Snow, ice, and similar material removed from sidewalks in commercial areas *shall* not be deposited on the adjoining streets, avenues or alleys within two feet of the curb line.

12.32.60 Sanding required when--Owner's duty. Polish or smoothness resulting from any cause which renders a sidewalk dangerous and unsafe *shall* be sanded

and where there is permanent polish or smoothness on a sidewalk, the surface of the sidewalk *shall* be repaired in accordance with the directions of the Director of Public Works or the Town designee.

12.32.70 Wet cement--Trespassing prohibited. It is unlawful for any *person* to tramp, step or trespass unnecessarily upon any cement or concrete sidewalk in course of construction before such sidewalk becomes set and firm.

12.32.80 Failure to comply--City performs work--Cost--Assessment. If the *owners* or tenants of property adjoining a sidewalk fail to comply with the provisions of this chapter, the Town *shall* cause any and all obstructions to be removed and *shall* bill the cost thereof, together with a reasonable charge for the administration and supervision, to the parties. If the charges are not paid within sixty days, the commission *shall* pass a resolution assessing the charges as a special tax against the premises.

12.32.90 Violation--Penalty. Violation of this chapter *shall* be deemed a misdemeanor and any *person* violating the provisions of this chapter *may* be fined in an amount not exceeding five hundred dollars or imprisonment not to exceed six months for any one offense.

Chapter 12.36

PRIVATE DRIVEWAYS AND CROSSWALKS

Sections:

12.36.10	Construction--Supervision.
12.36.20	Construction--Permit--Application--Fee.
12.36.30	Construction--Barricades required.
12.36.40	Construction--Sidewalk--Materials.
12.36.50	Construction--Driveway--Location.
12.36.60	Construction--Driveway--Frontages.
12.36.70	Construction--Driveway--Drainage structures.
12.36.71	Construction--Driveway--Transition design.
12.36.80	Construction--Driveway--Width limitations.
12.36.90	Construction--Driveway--Adjoining.
12.36.100	Construction--Right-of-way distances.
12.36.110	Use discontinuance--Sidewalk restoration.
12.36.120	Concrete Specifications

12.36.10 Construction--Supervision. The construction of concrete driveways and concrete crosswalks used for private purposes, within the street lines, “Public Right-of-ways”, of the Town, *shall* be under the supervision and direction of the Director of Public Works, authorized assistant or town designee. The design and concrete mixture *shall* conform to standard specifications in 12.36.120..

12.36.20 Construction--Permit--Application--Fee. A. All applications for construction of concrete driveways or concrete crosswalks must give a description of the property to be served and such other information as *may* be required by the director, for the proper direction of the work, and must be signed by the *owner* or authorized agent.

B. Before commencing the construction, modification or repair of any concrete driveway or concrete crosswalk, the contractor *shall* first obtain a excavation permit and such permit *shall* be upon the premises at all times during the progress of the work and must be shown to any Town designee in authority, on demand.

C. For each and every permit a fee will be charged and collected by the Treasurer.

12.36.30 Construction--Barricades required. Excavations in streets and avenues *shall* be made in such manner as to impede travel as little as possible, and the time that such excavation is open *may* be limited by the director, his assistant or inspector. Efficient barricades *shall* be erected by the contractor around all trenches or embankments made within the limits of any street or avenue, and red lights *shall* be maintained thereon from dark to daylight until the street or avenue has been restored to a safe and passable condition. At no time during the progress of the work *shall* sidewalks be unnecessarily blocked to travel.

12.36.40 Construction--Sidewalk--Materials. After the governing body orders any cement or concrete sidewalk to be built in any *boulevard* district no private walk *shall* be built therein from the curb line to the property line or from the sidewalk to either line unless the same is made of cement or concrete. Cement or concrete private walks *shall* be of uniform width and *shall* be built upon the established grade from the curb line to the property line, and *shall* be not less than thirty-six inches in width or more than forty-eight inches in width; provided, that in front of churches, schoolhouses, the court house and other public buildings, the cement or concrete private walks *may* be of greater width than above mentioned.

12.36.50 Construction--Driveway--Location. Driveways *shall* be so located at the discretion of and by the approval of the Director of Public Works as to result in no undue interference with or hazard to the free movement of normal traffic or interfere with the placement and proper functioning of highway signs, signals, lighting, or other devices that affect traffic operation.

12.36.60 Construction--Driveway--Frontages. Frontages of fifty feet or less *shall* be limited to one driveway, with not more than two driveways to be provided to any single property tract or business establishment, except where the property frontage exceeds six hundred feet.

12.36.70 Construction--Driveway--Drainage structures. All driveways *shall* be so constructed so as not to impair drainage within the street or highway right-of-way nor alter the stability of the roadway subgrade and at the same time not impair or materially alter drainage of the adjacent areas. All drainage structures required within the public right-of-way and under the driveways as a result of the property being developed *shall* be installed in accordance with the standards of the Town of Browning.

12.36.71 Construction--Driveway--Transition design. All driveways *shall* have the back of curb dropped a minimum of four inches for the width of the driveway. The minimum driveway transition distance *shall* be from the back of the curb to the property line and *shall* occur in a uniform manner. Curb fillets constructed by filling in the curb and gutter are prohibited as a means of transition from the street to the driveway. This prohibition of curb fillets is retroactive to all existing curb fillets within the Town and all future annexations to the Town.

12.36.80 Construction--Driveway--Width limitations. Residential use driveway width as measured parallel with the edge of the traveled way, *shall* be limited to ten feet per garage stall or parking pad to a maximum of three. For commercial uses, driveway width *shall* be limited to forty-five feet.

12.36.90 Construction--Driveway--Adjoining. The distance between two adjacent driveways to the same frontage *shall* be not less than thirty feet.

12.36.100 Construction--Right-of-way distances. Gasoline pump islands or other installations with parking parallel to the right-of-way line *shall* be at least ten feet

outside of the right-of-way line. Buildings or other installations with an angle of ninety degrees parking between it and the right-of-way line *shall* be at least thirty feet outside the right-of-way line.

12.36.110 Use discontinuance--Sidewalk restoration. Whenever the use of any existing or future driveway is discontinued by reason of change in the use or design of the private property served thereby, the *owner* of the private property *shall* remove that portion of the driveway located within the Town right-of-way, and *shall* restore the sidewalk and curbing affected by the driveway to their normal levels, all under the direction, supervision and standards required by the Director of Public Works or a Town designee. This section *shall* be applicable to any existing driveway, the use of which is presently discontinued. Upon the failure or refusal of the *owner* to restore the sidewalk and curbing as provided in this section, the Town Council shall order the restoration of the sidewalk and curbing under the provision of Sections 12.28.060 through 12.28.100.

12.36.120 Concrete Specifications. All private driveways and crosswalks shall use the following formula for concrete mix:
4" or less – 4 1/2 to 5 sack mix.
4" or greater – 5 1/2 to 6 sack mix.

Chapter 12.40

TREES AND SHRUBBERY

Sections:

- 12.40.10 Trimming required.
- 12.40.20 Hedge and shrubbery maintenance.
- 12.40.30 Injuring trees and shrubbery unlawful.

12.40.10 Trimming required. Any *owner* or occupant of any real property *shall* trim all trees on property owned or occupied by him/her, overhanging any public thoroughfare, so that the branches thereon will not interfere with pedestrians or public travel.

12.40.20 Hedge and shrubbery maintenance. Any *owner* or occupant of any real property *shall* maintain all hedges and shrubbery adjacent to public sidewalks so that no part of the hedges and/or shrubbery *shall* extend over any part of a public sidewalk in the municipality.

12.40.30 Injuring trees and shrubbery unlawful. It is unlawful for any *person*, not the *owner* thereof, or without lawful authority to do so, to injure willfully, deface, disfigure or destroy any tree or shrub, or to injure, destroy, cut or pick any flower or plant located either on private ground or on any public place or thoroughfare.

Chapter 12.41

LANDSCAPE DESIGN STANDARDS

Sections:

- 12.41.10 Intent.
- 12.41.20 Definitions.
- 12.41.30 Installation and maintenance.
- 12.41.40 Boulevard landscaping requirements.
- 12.41.50 Design standards for residential uses.
- 12.41.60 Design standards for commercial, industrial and semi-public uses.
- 12.41.70 Violation and penalty.
- 12.41.80 Appeal.

12.41.10 Intent. This chapter establishes policies, regulations and standards necessary to ensure that the Town will continue to realize the benefits provided by its community forest. The provisions of this chapter are enacted to:

- A. To enhance ambient environmental conditions by providing shade, air purification, oxygen regeneration, groundwater recharge, storm water runoff retardation and noise, glare and heat abatement;
- B. To provide landscaping to enhance and perpetuate the aesthetic qualities of the community;
- C. Encourage the preservation, expansion, protection and proper maintenance of the community forest;
- D. To buffer distinguishable land uses and generally enhance the quality and appearance over the entire site of the project.

12.41.20 Definitions. The following terms *shall* have the meaning given:

- A. "Arboricultural Standards and Specifications" means the standards for the planting, care, and maintenance of trees, shrubs, and landscaping on file with at the Town and as a attachment to this chapter.
- B. "Boulevard" is defined in Section 12.04.010A.
- C. "Clear vision triangle" is defined in Section 12.04.030.
- D. "Community Forest" means the sum of all trees and shrubs within the Town of Browning.
- E. "Groundcovers" means and includes living, low-growing plant materials other than turf grass, which reach a maximum height of not more than eighteen inches, and *may* be used in lieu of grass. Groundcovers must present a finished appearance and reasonably complete coverage at the time of planting.
- F. "Landscaping" means living material (i.e., turf grass, ground cover, shrubs, vines, hedges) and nonliving durable material commonly used in landscaping (i.e., bark, rocks, pebbles, decorative walls, fences, art and benches).
- G. "Lot" is defined as a 140' (150' minus 10' for Alley) x 50' parcel of land designated as an approved lot within the Town limits.
- H. "Semipublic places" means and includes, but is not limited to, fraternity houses, hospitals, public service substations, utility sites, churches, charity organization sites,

medical clinics, airports and related structures, apartment houses with three or more units or complexes, condominiums, schools and the like.

I. "Shrubs" means self-supporting woody deciduous or evergreen species and *shall* have a minimum height of eighteen inches upon maturity.

J. "Trees" means self-supporting woody plants which normally grow to a minimum height of fifteen feet or greater in the county and have trunks which can be maintained over five feet of clear wood. All trees *shall* have a minimum caliper, at six inches above the ground level, of at least one and one-half inches.

K. "Turf grass" means a species of perennial grass normally grown in the Town as permanent lawns or for landscape purposes as distinguished from those species grown for agricultural or commercial seed purposes. Grass *may* be seeded, sodded, plugged or sprigged, except in areas subject to erosion in which case the area must be sodded or planted with nurse grass for immediate effect and protection until coverage is otherwise achieved. Grass sod *shall* be commercially grown, clean and free of weeds and noxious pests and diseases.

L. "Vehicular use area" means and includes all areas used for circulation, parking and/or display of any and all types of vehicles, boats or heavy construction equipment, whether self propelled or not, and all land upon which vehicles traverse as a function of the primary use. This *shall* include, but not be limited to, activities of a drive-in nature such as service stations, convenience stores, banks, restaurants, and the like. Only driveways and parking spaces serving single-family and two-family uses *shall* be an exception to this definition.

12.41.30 Installation and Maintenance. All landscaping *shall* be installed in accordance with the Arboricultural Standards and Specifications. All landscaping required *shall* be live vegetation. Mature coverage of canopy trees will be computed and applied directly to the required landscaping. Landscaping *shall* be maintained in good condition so as to present a healthy, neat and orderly appearance, free from refuse, weeds and debris. Automatic irrigation systems are required of all commercial development. The *owner*, tenant or agent, if any, *shall* be jointly responsible for the maintenance of all landscaping. All vehicular use areas on any property determined to comply with this chapter *shall* be surfaced and maintained with asphalt or cement. All landscaping material *shall* be in place and healthy prior to issuance of occupancy permit

12.41.40 Boulevard landscaping requirements. The *owners* and tenants of any premises within the limits of the Town *shall* maintain the *boulevard* section in front of and adjoining their premises in a safe and substantial condition. Any portion of the right-of-way which is not occupied by roadway section, curb and gutter, driveway, sidewalk or crosswalk *shall* be maintained according to the standards listed below.

A. *Boulevards* in residential areas *shall* contain grass and trees (with organic mulched reservoirs) and *may* include shrubs, flowers and/or ornamental plants (with organic mulched reservoirs). In addition, the *boulevard* *may* also contain sidewalks, bus benches, driveways, mailboxes, utility installations; and signs and structures erected by a public agency.

1. Driveway width *shall* not exceed ten feet per stall to a maximum width of thirty feet (three stalls). Non-residential use driveway width shall be limited to forty-five feet.

2. At least one canopy type tree *shall* be planted and maintained in a *boulevard* section of each fifty lineal feet of street and avenue frontage or portion thereof.
 3. Trees *shall* be spaced thirty to fifty feet apart depending on the mature height and width of the type tree planted. All trees *shall* have a minimum caliper, at six inches above the ground level, of at least one and one-half inches. All trees will have organic mulched reservoirs.
 4. No shrub *shall* be planted within five feet of a fire hydrant or within a clear vision triangle, as defined in 12.04.020, if its mature height will exceed three feet. The three foot maximum height *shall* be measured from the adjacent curb flow line.
 5. All trees and shrubs placed in the *boulevard* area *shall* be the “Boulevard Tree Planting Standards and Specifications” as outlined in the attachment to this section as the “Arboricultural Standards and Specifications.”
 6. Any landscaping in the *boulevard* area that impedes pedestrian travel or is deemed detrimental to public safety *shall* be removed immediately by the *property owner* or agent upon written notification by the Town.
 7. Existing mature trees located in the *boulevard* or public rights-of-way *shall* not be removed, damaged, or encroached upon unless an application has been approved in accordance with Chapter 12.44.
 8. Landscaping *shall* be maintained and those plantings which fail to survive *shall* be replaced with approved plantings within six months.
 9. The following list includes, but is not limited to, those materials and vegetation which will not be approved in the residential *boulevard*:
 - a. all artificial vegetation including but not limited to trees, shrubs, vines, bushes, flowers, and grass;
 - b. all non-living material except as stated above;
 - c. fences/walls
 - d. gravel/decomposed granite/cobble;
 - e. sand.
- B. *Boulevards* in non-residential areas *shall* contain grass and trees, and *may* contain shrubs, flowers, and/or ornamental plants. In addition, the *boulevard* *may* contain sidewalks, bus benches, driveways, utility installations; and signs and structures erected by a public agency. Limited amounts of non-living materials (mulches) are permitted when used in conjunction with shrub and tree plantings. Acceptable mulches include organic materials (wood chips and shredded bark), and inert inorganic materials (decomposed granite, cobble and gravel). Where mulch is used, a suitable landscape fabric *shall* be placed between the soil and mulch material to impede weed growth. However, the use of these substitute materials must be specifically approved by Town officials as part of a landscape plan.
1. Mulches *shall* be applied to a depth of four inches (4") over bare soil, around trees, and in shrub beds.
 2. In no case *shall* the *boulevard* area include more than twenty-five percent nonliving material, excluding driveways.
 3. Non-residential use driveway width *shall* be limited to forty-five feet.
 4. At least one canopy type tree *shall* be planted and maintained in the *boulevard* section for each fifty lineal feet of street and avenue frontage or portion thereof.
 5. All trees and shrubs placed in the *boulevard* area *shall* meet the “Boulevard Tree

Planting Standards and Specifications” as outlined in the attachment to this section as the Arboricultural Standards and Specifications.”

6. No shrub *shall* be planted within five feet of a fire hydrant or within a clear vision triangle as defined in Section 12.04.20, if its mature height will exceed three feet. The three foot maximum height *shall* be measured from the adjacent curb flow line.
7. Any landscaping in the *boulevard* area that impedes pedestrian travel or is deemed detrimental to public safety *shall* be removed immediately by the *property owner*, tenant, or agency upon written notification of the Town.
8. Landscaping *shall* be maintained and those plantings which fail to survive *shall* be replaced with approved plantings within six months.
9. Non-residential landscaping *shall* include an adequate irrigation system approved by the Town of Browning.
10. All non-living material must be contained and *shall* not spill into the street and/or onto the sidewalk. *Owners* are required to remove any spillage.
11. Existing mature trees located within the *boulevard* or public rights-of-way *shall* not be removed, damaged or encroached upon unless an application has been approved in accordance with Chapter 12.44.
12. The following list includes, but is not limited to, those materials and vegetation which are prohibited in the non-residential *boulevard*:
 - a. artificial vegetation including but not limited to trees, shrubs, vines, bushes, flowers, and grass.
 - b. fences/walls
 - c. sand.

12.41.50 Design standards for commercial, industrial and semipublic

- uses.**
1. Determination of Applicability. The landscaping requirements set forth in this chapter *shall* apply to:
 - a. All new buildings, other than single-family dwellings or duplex construction;
 - b. All buildings being increased in size by at least twenty percent (20%);
 - c. All new vehicular use areas;
 - d. All vehicular use areas being increased in size by at least twenty percent (20%).
 - e. All buildings and vehicular use areas which have been cumulatively increased in size by twenty-five percent over a period of ten *years*.
 2. Submission for Review. All landscape data *shall* be submitted for review and approval to the Town Council or delegate before any building is permitted.
 - a. A plant list containing botanical names, common name, plant size, number and variety of each plant used and mature area of coverage of canopy trees;
 - b. A site plan showing dimensioned location of all plant materials, site amenities (signage, benches, etc.), North arrow, property lines, easements, utilities and otherwise, and adjacent land use;
 - c. A plan showing location and construction details of all required irrigation systems to be installed.
 3. Interior Landscaping Requirements:
 - a. Minimum square footage of interior landscaping *shall* be ten percent (10%) of the

gross property area to be developed for property located in a commercial zone, and twelve percent (12%) of the gross area to be developed for non-residential uses in residential zones. A portion of the required landscaping, equal to at least five percent (5%) of the vehicular use area, must be located within the vehicular use area.

b. All required landscaping must be live vegetation and maintained in good condition so as to present a healthy, neat and orderly appearance, free from refuse and debris.

c. When a site abuts a natural amenity such as a flood plain, canal, park or other open space, the landscape plan *shall* integrate with, and respect the natural integrity of the amenity. By design, detention and retention ponds *shall* be physically, functionally, and visually integrated into adjacent landscape uses. Standing water is discouraged and *shall* be properly drained unless incorporated into recirculating water features or irrigation systems.

d. Interior landscaping *shall* be mounded a minimum of six inches above the height of adjacent vehicular uses areas but not exceeding 3:1 slope and *shall* be protected from automobile traffic by curbing or some other effective barrier to the passage of automobiles.

e. There *shall* be a minimum of one tree and seven shrubs planted and maintained per four hundred square feet or fraction thereof of required interior landscaping.

f. Where a commercial or non-residential use abuts a residential use a minimum of a five (5) foot landscape buffer *shall* be provided along the shared property line. Where vehicular use areas abut adjacent residential property the lot *shall* be screened by the use of a decorative masonry or concrete wall at least four feet in height, or evergreen and deciduous trees and shrubs in combination with low soil berms that will provide ample screening within three growing seasons to protect the residential nature of the adjoining property.

g. Twenty-five percent (25%) of the *boulevard* landscaping being provided *may* be credited to the interior landscaping requirement.

12.41.60 Design standards for residential uses. All new buildings for dwelling or containing dwelling units and all dwelling structures being increased in size by at least fifty percent (50%) *shall* conform to the minimum landscaping requirements hereinafter provided by this chapter.

1. Submission for Review. All data showing residential landscaping requirements listed below *shall* be submitted for review to the Town Council before a building is permitted.

2. Landscaping Requirements. Within one *year* from the date of approval the structure whether single-family or multiple units and its lot or lots *shall* be completed the following:

a. A canopy tree or evergreen tree *shall* be planted and maintained for each one thousand five hundred square feet or major portion thereof of gross lot area. A maximum of two *boulevard* trees *may* be applied to this requirement.

b. Turf grass or groundcover plants *shall* be installed and maintained and *shall* cover fifty percent of the net lot area (gross lot area minus square footage occupied by buildings and parking lots).

c. All vehicular use areas *shall* be surfaced and maintained in asphalt or concrete.

12.41.70 **Violation and penalty.** Whenever in any section of this chapter the doing of any act is required, prohibited or declared to be unlawful, the *person*, firm or corporation who is convicted of a violation of any such section *shall* for each offense be fined not less than two hundred fifty dollars and not more than five hundred dollars or imprisoned for a period not to exceed six months, or both so fined and imprisoned. Each day such violation is committed or permitted to continue *shall* constitute a separate offense.

12.41.80 **Appeal.** Any *person* or *persons*, jointly or separately, aggrieved by any decision, order or action as a result of the enforcement of this code as contained in this chapter, *may* appeal such decision, order or action to the Town Council

Chapter 12.44

TREE REMOVAL

Sections:

- 12.44.10 Application.
- 12.44.20 New location.
- 12.44.30 Construction--Obstruction to growth--Prohibited.
- 12.44.40 City Forester to remove or supervise.

12.44.10 Application. Any *person*, firm or corporation desiring to cut down any of the trees located upon the *boulevards* of the Town, *shall* submit an application to the Town park and recreation department for its review. The application *shall* state the lot, block and street number adjacent to the affected *boulevard* area; the reason for the request; a plan showing the location of the tree or trees; the distance the tree or trees will be moved; or the tree or trees to be cut down. The park and recreation department *shall* review the application and within ten days of the receipt thereof, submit its recommendation to the Town Manager. Whereupon the Town Manager *shall* approve or reject the application and immediately notify the applicant of the decision. The applicant *may* appeal the decision of the Town Manager by filing a written notice of appeal with the office of the Town Clerk within ten days of the receipt of the decision. The appeal *shall* be heard at the next regularly scheduled meeting of the Town Council.

12.44.20 New location. No tree or trees *shall* be moved to a place where the conditions will hinder their growth or the growth of others, and the new location must conform as nearly as possible to the regular spacing and alignment of the trees in the locality to which it is moved.

12.44.30 Construction--Obstruction to growth--Prohibited. It is unlawful for any *person*, firm or corporation to build or construct anything around the base or about any part of a tree that *may* hinder its growth or disfigure its appearance.

12.44.40 City Forester to remove or supervise. Upon the permission of the Town Manager, and/or Town employee *may* cut down or remove any tree or trees which have been petitioned to be cut down or removed from the public *boulevards* of the Town, provided, however, that all expenses of cutting or removal and transplant *shall* be paid by the petitioning party and such cutting, removal and transplanting *shall* be supervised by the Director of Public Works or a Town designee.