

TITLE 21

STREETS, SIDEWALKS AND OTHER PUBLIC PLACES^{1, 2}

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¹ **Cross reference**—Department of engineering, §2.20.010 et seq.; allowing livestock to graze along public thoroughfares prohibited, §6.04.040; allowing livestock to obstruct streets and sidewalks prohibited, §6.04.050; herding through streets, §6.04.060; buildings and building regulations, Title 8; vendors not to obstruct public ways, §15.04.360; permits required for parades, meetings and assemblies on public streets and sidewalks, §15.04.490; traffic, Title 24; vehicles with lug wheels on streets restricted, §24.04.060; utilities, Title 25; land use regulations, Title 26; cable television systems, Title 27.

² **State law reference**—Public improvements, 31-25-101 et seq., C.R.S.

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Chapter 21.04

GENERAL PROVISIONS

Sec. 21.04.010. Definitions.

For the purposes of this Title, certain words or phrases are defined as follows:

Alley. A public way having less width than a street and designated for access to the rear of buildings or improvements.

Curb cut. That portion of the street curb or roadway frontage which abuts a driveway.

Driveway. That portion of the sidewalk area which is improved, designed or ordinarily used for vehicular access to property abutting the street.

Emergency. Any event which may threaten public health or safety, or that results in an interruption in the provision of service, including but not limited to damaged or leaking water or gas conduit systems, damaged, plugged or leaking sewer or storm drain conduit systems, damaged electrical and communications facilities, or as otherwise recommended by the City Engineer and approved by the City Manager.

Pavement and/or paved improvements. The term shall include any improvement constructed of asphalt concrete, seal and chip, concrete or similar impervious wearing surface, including but not limited to roadway, sidewalk, curb, gutter and similar improvements.

Public right-of-way. Any public way or public thoroughfare dedicated or devoted to public use, including street, highway, road, alley, lane, court, boulevard, sidewalk, public square, mall or like designation.

Roadway. That portion of a street improved, designed or ordinarily used for vehicular traffic.

Sidewalk. That portion of the sidewalk area which is paved with an all-weather surfacing for use by pedestrians.

Sidewalk area. That portion of a street between the curb line or the lateral line of a roadway and the adjacent property line, intended for the use of pedestrians and including the terms *border area*, *parkway*, *park strip*, *planting strip* and like designations.

Street. A public way for vehicular traffic, including roadway and sidewalk area, being the entire width from property line to property line dedicated or devoted to public use, and including the terms *highway*, *road*, *place*, *avenue* or other like designations.

Street improvement. The term shall include roadway/alley paving, sidewalks, driveways, curbs, gutters, street lights, street signs, traffic signs and signals, storm sewers, culverts, bridges and drainage appurtenances and similar items. (Code 1971, §19-1; Ord. No. 30-1975, §1; Ord. No. 15, 2007, §1)

Sec. 21.04.020. Certain ordinances relating to streets not affected by Code.

Nothing in this Code or the ordinance adopting this Code shall be construed as repealing or otherwise affecting the validity of any ordinance:

(a) Dedicating, accepting, naming, establishing, locating, relocating, opening, paving, widening, improving or vacating any street or other public way in the City.

- (b) Establishing or prescribing grades for streets or street improvements in the City.

All such ordinances are hereby recognized as continuing in full force and effect to the same extent as if set out in full herein. (Code 1971, §19-2; Ord. No. 30-1975, §1; Ord. No. 15, 2007, §1)

Sec. 21.04.030. House numbering; required.

All lots, buildings and structures in the City shall be numbered in accordance with the following plan:

- (a) North numbers shall commence on the north property line of Main Street.
- (b) South numbers shall commence on the south property line of Main Street.
- (c) East numbers shall commence on the east property line of Garmisch Street.
- (d) West numbers shall commence on the west property line of Garmisch Street.
- (e) Even numbers shall be on the east and north sides of the streets.
- (f) Odd numbers shall be on the south and west sides of the streets. (Code 1971, §19-3; Ord. No. 30-1975, §1; Ord. No. 15, 2007, §1)

Sec. 21.04.040. Site map.

The Building Inspector shall keep a map showing the proper street number of every building site in the City, which shall be open to inspection to any interested person. (Code 1971, §19-4; Ord. No. 30-1975, §1; Ord. No. 15, 2007, §1)

Sec. 21.04.050. Occupancy of public right-of-way prohibited without encroachment license; application fee; appeals.

(a) No person shall occupy, construct, place or maintain within any public right-of-way any building, structure or appurtenance, fence, tree, vegetation or other obstruction without first having obtained an encroachment license from the City Engineer. Any person seeking an encroachment license must submit an application on forms provided by the City Engineer, accompanied by an administrative fee in an amount prescribed by Subsection 2.12.050(e) of this Code. The City Engineer may specify the terms and conditions under which any encroachment license is to be issued so as to protect the best interests of the City. All encroachment licenses granted under this Section whether delineated as temporary or permanent shall be revocable by the City with or without cause at any time.

(b) Any person aggrieved of a decision by the City Engineer under this Section may seek an appeal of the same to the Administrative Hearing Officer pursuant to the procedures set out in Chapter 26.108 of this Code except to the extent set forth herein. All appeals must be submitted in writing to the City Engineer within fifteen (15) days of the decision being appealed from. The City Engineer shall promptly forward all appeals to the Administrative Hearing Officer, which shall schedule and conduct a hearing thereon within thirty (30) days. The Administrative Hearing Officer shall utilize the following standards in determining whether to affirm, reverse or modify the decision of the City Engineer:

(1) Whether the requested encroachment is the minimum encroachment necessary to make possible the reasonable use of the parcel, building or structure in question.

(2) Whether denial of the encroachment would cause the applicant unnecessary hardship or practical difficulty.

(3) Whether there are special circumstances or conditions which are unique to the parcel, building or structure in question which are not applicable to other parcels, buildings or structures.

All decisions of the Administrative Hearing Officer under this Section shall be reduced to writing.

(c) Nothing contained in this Section shall be construed to apply to improvements or activities undertaken within a public rights-of-way by the City, its employees or agents, the placement of temporary safety barricades or structures around excavations, construction within a public right-of-way or the placement of other devices or structures that may be required to be placed in a public right-of-way by reason of state or federal law or regulation of Section 21.04.060 below. (Code 1971, §19-5; Ord. No. 30-1975, §1; Ord. No. 68-1975, §1; Ord. No. 41-1985, §1; Ord. No. 11-1992, §1; Ord. No. 77-1992, §8; Ord. No. 15, 2007, §1. Ord. No. 31-2008)

Sec. 21.04.060. Temporary construction within public right-of-way restricted.

Temporary guardrails, pedestrian walkways, protective canopies, field offices and similar items shall not be constructed on public right-of-way without prior approval of the City Engineer. (Code 1971, §19-6; Ord. No. 30-1975, §1; Ord. No. 15, 2007, §1)

Sec. 21.04.070. Temporary storage of merchandise on public right-of-way restricted.

It shall be unlawful for any person receiving or delivering merchandise, commodities or construction materials within the City to place, keep or suffer to be kept upon public rights-of-way any such merchandise, commodities or construction materials without the approval of the City Engineer. (Code 1971, §19-7; Ord. No. 30-1975, §1; Ord. No. 15, 2007, §1)

Sec. 21.04.080. Obstruction of ditches and gutters prohibited.

No person shall obstruct or damage in any manner any ditch, gutter, drain, catch basin, culvert or other drainage improvement within public rights-of-way or under control of the City. (Code 1971, §19-8; Ord. No. 30-1975, §1; Ord. No. 15, 2007, §1)

Sec. 21.04.090. Dangerous openings in streets.

No person shall leave or keep open any cellar door, pit, vault, manhole or other subterranean opening on any street, alley, sidewalk or other public way, or keep such opening in an unsecured condition so that vehicles, persons or animals will be in danger of sustaining injury or damage. (Code 1971, §19-9; Ord. No. 30-1975, §1; Ord. No. 15, 2007, §1)

Sec. 21.04.100. Obstructing excavations, construction or repairs prohibited.

It shall be unlawful for any person to hinder or obstruct any excavation or the construction or repair of any paving, sidewalk, curb, gutter, drainage improvement, utility or other street improvements performed pursuant to the provisions of this Title. (Code 1971, §19-10; Ord. No. 30-1975, §1; Ord. No. 15, 2007, §1)

Sec. 21.04.110. Damage, removal, etc., of safety barricades or devices prohibited.

It shall be unlawful to damage, displace, remove or interfere with any barricade, warning light or other safety appliance or device which is lawfully placed around or about any excavation or other street improvement construction in any street, alley, sidewalk or other public right-of-way. (Code 1971, §19-11; Ord. No. 30-1975, §1; Ord. No. 15, 2007, §1)

Sec. 21.04.120. Draining water onto public right-of-way restricted.

No person shall drain water from any swimming pool, therapy pool, cistern, pond or similar improvement onto a public right-of-way without approval of the City Engineer and Street Superintendent. (Code 1971, §19-12; Ord. No. 30-1975, §1; Ord. No. 15, 2007, §1)

Sec. 21.04.130. Reserved.

Chapter 21.08

DEPARTMENT OF STREETS AND ALLEYS

Sec. 21.08.010. Creation.

There is hereby created and established a department of streets and alleys of the City for the purpose of providing the necessary street and alley construction and maintenance services required by the City. (Code 1962, §3-8-1; Ord. No. 8-1969, §2; Code 1971, §19-26)

Charter reference—Authority to establish departments, §6.9.

Sec. 21.08.020. Composition, direction and control.

The Street and Alley Department of the City shall be under the direction and immediate control of the Street Superintendent, who may appoint an assistant street superintendent and all necessary employees as may be authorized. The Street Superintendent shall be responsible for the acts of all employees so appointed. (Code 1962, §3-8-2; Ord. No. 8-1969, §3; Code 1971, §19-27)

Sec. 21.08.030. Street Superintendent; appointment and removal.

The Street Superintendent shall be appointed by and be responsible to the City Manager and his or her appointment shall continue during satisfactory service at the pleasure of the City Manager. (Code 1962, §3-8-3; Ord. No. 8-1969, §4; Code 1971, §19-28)

Sec. 21.08.040. Same; qualifications.

The Street Superintendent shall be appointed on the basis of his or her supervisory and technical qualifications with special reference to his or her actual experience in and his or her knowledge of the functions and duties of his or her office as set forth in this Chapter. (Code 1962, §3-8-4; Ord. No. 8-1969, §5; Code 1971, §19-29)

Sec. 21.08.050. Same; functions and duties.

The Street Superintendent shall be a department head of the City. His or her functions and duties shall be as follows:

- (1) Prepare recommendations, progress reports and work programs as required.
- (2) Prepare and submit annual department budget requests.
- (3) Supervise, inspect, review and approve the construction and repairs of all city streets and alleys.
- (4) Purchase and approve the purchase of departmental materials, supplies and equipment.

(5) The Street Superintendent shall preserve all records, plans, maps, notes, surveys, books, papers, documents, supplies and equipment pertaining to his or her office. In the event of resignation or removal from office they shall be delivered to his or her successor in office or to the City Manager.

(6) Prepare daily work schedules for employees, assign all equipment to projects.

(7) Train or assign subordinate employees in training of new employees.

(8) Coordinate interdivisional and interdepartmental work programs with other supervisors during special project assignment.

(9) The Street Superintendent shall perform such other duties as may be prescribed by law or required of him by ordinance or by direction of the City Manager. (Code 1962, §3-8-5; Ord. No. 8-1969, §6; Code 1971, §19-30)

Chapter 21.12

CONSTRUCTION AND EXCAVATION WITHIN PUBLIC RIGHT-OF-WAY

Sec. 21.12.010. Permit required.

It shall be unlawful for any person to undertake any construction or repair within or dig up, open, disturb, grade, excavate, or otherwise alter any public right-of-way or use, occupy, or stage construction materials in any public right-of-way in the City without first having obtained a permit or license for such work from the City Engineer. A separate permit shall be required for each construction or excavation project. New and existing structures should be able to accomplish their various needs within the confines of their property boundaries and required setbacks. All right-of-way permit and encroachment license applications shall

comply with the most current edition of the Engineering Department's construction and excavation standards along with the design standards for work in the public rights-of-way. All encroachment licenses granted under this Section whether delineated as temporary or permanent shall be revocable by the City with or without cause at any time.

(Code 1971, §19-46; Ord. No. 30-1975, §1; Ord. No. 11-1977, §1; Ord. No. 20-1990, §1; Ord. No. 15,2007, §2; Ord. 31-2008; Ord. No. 43-2013)

Sec. 21.12.020. Application.

Application for a right-of-way permit or encroachment license, either temporary or permanent, shall be made no later than one (1) week prior to the planned commencement of the work. The applicant must have a valid builder's or excavating license issued by the City of Aspen/Pitkin County Building Department. The City Engineer may allow the permittee to obtain a permit or license sooner than one (1) week prior to the planned commencement of the work if the scope of work is deemed to be minimal. Emergency situations will be exempt; however a permit must be obtained as soon as is possible and no later than the next business day.

(Code 1971, §19-47; Ord. No. 30-1975, §1; Ord. No. 11-1977, §1; Ord. No. 20-1990, §1; Ord. No. 15, 2007, §2; Ord. No. 31-2008)

Sec. 21.12.030. Plans and specifications required for construction.

No permit for construction within any City right-of-way shall be issued until plans have been submitted to and approved by the City Engineer. (Code 1971, §19-48; Ord. No. 30-1975, §1; Ord. No. 11-1977, §1; Ord. No. 20-1990, §1; Ord. No. 15, 2007, §2)

Sec. 21.12.040. Fees and bonding.

No permit shall be issued unless the applicant has first signed the required agreement, paid the required fees and filed the appropriate bond as follows:

- (a) An indemnity and hold harmless agreement as approved by the City Attorney.
- (b) A permit fee in an amount prescribed by Subsection 2.12.050(e) of this Code.

(c) A maintenance bond in an amount equal to the total cost of construction, including labor and materials, or two thousand five hundred dollars (\$2,500.00), whichever is greater. The maintenance bond shall guarantee that the material and equipment are furnished and used, and the workmanship employed in the performance of the work described in the right-of-way permit will be of such character and quality as to ensure it to be free from all defects and in continuous good order and in a condition satisfactory to the City Engineering Department for a period of two (2) years from the date of issuance of the final inspection log, indicating one hundred percent (100%) satisfactory completion of the work. The maintenance bond shall be noncancelable for two (2) full years from the date of issuance of satisfactory completion.

(d) The applicant may request to substitute a maintenance bond with a letter of credit or cash-in-lieu payment contingent upon approval of the City Engineer.

(e) If the City must replace the improvements within two (2) years of acceptance of the work, the City shall execute the maintenance bond or letter of credit. This will encourage the contractor to take the initiative to replace the defective improvements. The City will not replace improvements unless the contractor chooses not to replace them. (Code 1971, §19-49; Ord. No. 30-1975, §1; Ord. No. 11-1977, §1; Ord. No. 88-1979, §1; Ord. No. 37-1985, §1; Ord. No. 20-1990, §1; Ord. No. 77-1992, §9; Ord. No. 15, 2007, §2)

Sec. 21.12.050. Permittee may replace paved improvements.

For construction and excavation in paved areas, the permittee may elect, subject to the approval of the City Engineer, to replace the defective paved improvements in lieu of having the maintenance bond executed. The pedestrian mall brick pavement area shall be reconstructed under the supervision of the Parks Director. Where bricked or other specialized sidewalks are encountered outside of the pedestrian mall, the permittee shall undertake complete restoration of the surface. All bricks or other specialized sidewalk materials shall be removed with care and stockpiled for reuse if at all possible. The replacement of the paved improvements shall be in accordance with all City specifications and subject to inspections and final approval by the City Engineer (see excavation and construction standards). (Code 1971, §19-50; Ord. No. 30-1975, §1; Ord. No. 11-1977, §1; Ord. No. 20-1990, §1; Ord. No. 15, 2007, §2)

Sec. 21.12.060. Licensing and insurance required.

All permittees under this Chapter must be licensed and insured pursuant to Chapter 8.12. (Code 1971, §19-51; Ord. No. 30-1975, §1; Ord. No. 11-1977, §1; Ord. No. 15, 2007, §2)

Sec. 21.12.070. Conditions and special requirements for issuance.

Permits under this Chapter shall be issued subject to all the regulations and specifications in Sections

21.12.120 through 21.12.390 of this Chapter, the City's construction and excavation standards, the engineering design standards and any special requirements that the City Engineer deems necessary in order to maintain the health, welfare, safety and convenience of the public. (Code 1971, §19-52; Ord. No. 30-1975, §1; Ord. No. 11-1977, §1; Ord. No. 20-1990, §1; Ord. No. 15, 2007, §2; Ord. No. 43, 2013)

Sec. 21.12.080. Change in scope of work; duty to notify.

If there is any change in the scope or extent of the work described in the approved right-of-way permit, the permittee shall immediately notify the City Engineer before proceeding. (Code 1971, §19-53; Ord. No. 30-1975, §1; Ord. No. 11-1977, §1; Ord. No. 20-1990, §1; Ord. No. 15, 2007, §2)

Sec. 21.12.090. Issuance of permit in certain months restricted.

No permit required by this Chapter shall be issued for any construction or excavation within any City right-of-way for the period from November 1 through March 31, except in case of an emergency. In addition, from June 1 through Labor Day weekend for the Commercial Core and Main Street Corridor, no construction or excavation within any City right-of-way will be permitted except in case of an emergency.

(Code 1971, §19-54; Ord. No. 30-1975, §1; Ord. No. 11-1977, §1; Ord. No. 46-1989, §1; Ord. No. 20-1990, §1; Ord. No. 15, 2007, §2; Ord. 31-2008)

Sec. 21.12.100. Permit to be kept and exhibited at site.

The permit required by this Chapter shall be kept at the site of the excavation while the work is in progress and shall be exhibited upon request to the City Engineer or any police officer. (Code 1971, §19-55; Ord. No. 30-1975, §1; Ord. No. 11-1977, §1; Ord. No. 20-1990, §1; Ord. No. 15, 2007, §2)

Sec. 21.12.110. Record keeping required.

The City Engineer shall keep a record of all permits issued. (Code 1971, §19-56; Ord. No. 30-1975, §1; Ord. No. 11-1977, §1; Ord. No. 20-1990, §1; Ord. No. 15, 2007, §2)

Sec. 21.12.120. Street closures not permitted.

Street closures are not permitted. The City Engineer may permit lane closures. When lane closures are permitted, the applicant must:

(a) Verify the closure specified on the permit with the Engineering Department, the School District and the Roaring Fork Transit Authority (RFTA) at least one (1) week in advance.

(b) Notify the Aspen Communication Center at (970)920-5310 one (1) day prior to closure and at the time of re-opening.

(c) Set and maintain, at the applicant's expense, necessary barricades, flashers, construction signs and flaggers; and take all necessary precautions in accordance with the Manual on Uniform Traffic Control Devices (MUTCD).

(d) Hours of work will be in compliance with Title 18 or Title 8 or both. Utility work must be completed between 7:00 a.m. and 5:00 p.m., Monday through Friday and between 9:00 a.m. and 5:00 p.m. on Saturday, unless approved otherwise by the City Council.

(Ord. No. 15, 2007, §2; Ord. No. 31-2008)

Sec. 21.12.130. Limitations on use of public streets, alleys and sidewalks for construction materials.

(a) Purpose. It shall be the purpose of this Section to regulate the use of public streets, alleys and sidewalks for construction material storage and placement of pedestrian barricades. This regulation is intended to ensure adequate snow removal in City streets, alleys and sidewalks, allow for safe flow of pedestrian and vehicular traffic and maintain the image of the City as a resort community, while also accommodating construction activity.

(b) Definitions.

Construction material storage means parking of construction trailers or construction equipment, storage of construction materials for any purpose related to the construction activity.

Pedestrian barricades means any structure authorized by the City Engineer to permit the safe passage of pedestrians past construction sites.

Paved street means that portion of the right-of-way between curbs or drainage swales.

Sidewalk means that portion of the right-of-way between a curb or drainage swale and a property line.

Staging means any construction related activity that lasts less than one working day.

(c) Limitations.

(1) The following limitations shall be enacted on the use of the public right-of-way during the period of November 1 to March 31:

a. Storage of construction materials shall be prohibited in all paved streets, alleys and sidewalks in the City.

b. Placement of pedestrian barricades shall be prohibited in all paved streets and alleys in the City.

c. Placement of pedestrian barricades shall not be permitted in sidewalks in the City Core.

(2) The following limitations shall be enacted on the use of the public right-of-way during the period of April 1 to June 1 and Labor Day to November 1:

a. Storage of construction materials shall be prohibited in all paved streets, sidewalks and alleys in the City.

b. Placement of pedestrian barricades shall be permitted in paved streets, alleys and sidewalks in the City by obtaining a temporary revocable encroachment license from the City Engineer.

(3) The following limitations shall be enacted on the use of the public right-of-way during the period of June 1 through Labor Day:

a. Storage of construction materials shall be prohibited in all paved streets, sidewalks and alleys in the City.

b. Placement of pedestrian barricades shall be prohibited within the Commercial Core and Main Street Corridor.

c. Placement of pedestrian barricades shall be permitted in paved streets, alleys and sidewalks in the City by obtaining a temporary revocable encroachment license from the City Engineer.

(4) Exceptions.

a. The City Engineer or City Council may make exceptions to this Section when special circumstances are present where strict compliance of these regulations would jeopardize the public safety or the expeditious continuation of the project and granting the exception is in the public interest.

b. Construction staging may occur with limited activities and limited work hours.

(d) Permits.

(1) The City Engineer shall have the sole responsibility for issuance of permits and licenses pursuant to this Section. Reserved construction parking permits shall comply with Section 24.16.240.

(2) In determining whether to issue a permit, the City Engineer shall consider the following:

a. For the placement of pedestrian barricades in the public right-of-way, the applicant shall demonstrate that the barricade: cannot be functionally located on private property; provides for safe passage of pedestrians according to International Building Code Chapter 33 and City Engineer; will be maintained in a usable, safe and attractive manner; and is located so as to minimize the loss of public parking spaces to the extent practicable.

b. For the storage of construction materials in City rights-of-way, the applicant shall: demonstrate that the materials cannot be functionally located on private property; provide a pedestrian walkway to replace the sidewalk when it is blocked by construction materials; and ensure that the period of storage is the minimum necessary to accomplish necessary construction activities.

(Code 1971, §19-57; Ord. No. 12-1988, §1; Ord. No. 20-1990, §1; Ord. No. 15, 2007, §2; Ord. No. 31-2008)

Sec. 21.12.140. Limitations to soil stabilization methods.

As a general policy, it is not in the City's interest to grant permanent encroachments, thereby providing public property for private use. New and existing structures should be able to accomplish their various needs within the confines of their property boundaries and required setbacks. Variances from this requirement may be granted by the City Engineer or City Council. Criteria which may be considered by the City Engineer for granting a variance from this requirement include, but are not limited to:

1. Encroachments into the right-of-way associated with soil earth retention (pilings, soils nails, etc) may be authorized by the City Engineer under the following proposed regulations which include, but are not limited to:
 - a. The associated structure is commercial or mixed commercial/residential
 - b. The applicant must prove extenuating circumstances preclude using other methods of stabilization that can be contained entirely within project property boundaries.

- c. The earth retention fixture is sacrificial and can be removed after subsequent structural elements are completed.
- d. The earth retention structure does not extend past the back of curb of any abutting roadway or into the driving surface of any alley and is installed 5' below any utilities.
- e. In no circumstance shall any encroaching fixture be within the first 7' below grade.
- f. The applicant shall pay a fee in accordance with section 2.12.051 of the Municipal Code. The fee will encompass the total horizontal and vertical extent of the appurtenance measured from the property line and shall be in effect for the duration that the appurtenance is in service for its intended use.

- 2. Encroachments into the right-of-way associated with public infrastructure improvements that provide a public benefit.

(Ord. No. 15, 2007, §2; Ord. No. 31-2008)

Sec. 21.12.150. Construction and excavation subject to inspection.

All work requiring a permit pursuant to the provisions of this Chapter shall be subject to inspection, in compliance with City codes, at all times by the City Engineer. It shall be unlawful to obstruct or hinder any lawful inspection. It is the responsibility of the applicant to contact the Engineering Department twenty-four (24) hours in advance of the construction schedule for required inspections. The applicant must explain all existing conditions and proposed work on the permit application form. All inspections must be scheduled during regular office hours at City Hall, which are from the hours of 8:00 a.m. to 5:00 p.m., Monday through Friday, excluding holidays.

Field tests of construction materials shall be required by the Engineering Department to ascertain compliance with specifications. An independent testing firm must make tests, and the applicant shall pay all testing and re-testing expenses. A written copy of all test reports must be submitted to the Engineering Department within twenty-four (24) hours following completion of field and laboratory material tests (see construction and excavation standards). (Code 1971, §19-69; Ord. No. 30-1975, §1; Ord. No. 11-1977, §1; Ord. No. 20-1990, §1; Ord. No. 15, 2007, §2)

Sec. 21.12.160. Time limitations for excavations.

No excavation shall be left open overnight. In the event of unforeseen extenuating circumstances, a permittee may apply for an extension to this limitation and, after investigation, the City Engineer may grant such an extension if the reasons and circumstances justify an extension (see construction and excavation standards). (Code 1971, §19-70; Ord. No. 30-1975, §1; Ord. No. 11-1977, §1; Ord. No. 20-1990, §1; Ord. No. 15, 2007, §2)

Sec. 21.12.170. Emergency access required.

No construction shall be performed or excavation made in such manner as to prohibit access by emergency vehicles to any building, structure or dwelling unit abutting the street or public right-of-way. It shall be the responsibility of the permittee to notify the Police Department when any construction or excavation obstructs the roadway from sunset to sunrise. (Code 1971, §19-71; Ord. No. 30-1975, §1; Ord. No. 11-1977, §1; Ord. No. 15, 2007, §2)

Sec. 21.12.180. Safety measures and barricades required.

(a) It shall be unlawful for any person to perform any work requiring a permit pursuant to the provisions of this Chapter without providing sufficient warning lights and safety barricades or fencing around

the construction or excavation from sunset to sunrise to prevent persons, animals and vehicles from sustaining injury or damage.

(b) From sunrise to sunset, safety barricades or fencing shall be maintained but warning lights are not required.

(c) Flagmen, signals, special traffic signing, walkways, ramps, canopies or other similar safety precautions shall be required when the City Engineer deems necessary in order to maintain the health, welfare, safety and convenience of the public, and shall conform to current MUTCD guidelines.

(d) All state laws, provisions of this Code or other City ordinances dealing with measures for the safety of workmen and the public shall be observed by permittees in addition to any regulations contained in this Chapter (see construction and excavation standards). (Code 1971, §19-72; Ord. No. 30-1975, §1; Ord. No. 11-1977, §1; Ord. No. 15, 2007, §2)

Sec. 21.12.190. Protection of street improvements, utilities and adjacent property.

Any person performing any work requiring a permit pursuant to the provisions of this Chapter shall provide shoring, bracing, piling or other necessary devices and shall use the necessary precautions to protect street improvements, utilities and adjacent property from damage or disturbance. It shall be the responsibility of the permittee to obtain the location of any underground utilities (see construction and excavation standards). (Code 1971, §19-73; Ord. No. 30-1975, §1; Ord. No. 11-1977, §1; Ord. No. 15, 2007, §2)

Sec. 21.12.200. Responsibility to protect street improvements, utilities or property and report their damage.

It is the responsibility of the permittee to sustain, secure and protect any pipes, poles, mains, cables, street improvements or property from damage or disturbance that was not previously authorized. If damage occurs, the permittee shall immediately notify the City Engineer and the affected utility. (Code 1971, §19-74; Ord. No. 30-1975, §1; Ord. No. 11-1977, §1; Ord. No. 20-1990, §1; Ord. No. 15, 2007, §2)

Sec. 21.12.210. Removal of paved improvements.

All cuts in asphalt shall be made in a neat manner by saw-cutting, rotomilling or other approved method which assures cuts with square edges and straight lines to the required depth of cut. Asphalt pavement cuts shall be such that no longitudinal joint lies within the wheel track. All cuts in concrete shall be sawed; and sidewalk, curb and gutter shall be removed to the nearest joint if, in the opinion of the City Engineer, the portion otherwise remaining would be too small to function satisfactorily. Additional mall brick pavement structure shall be removed to allow at least one (1) foot of exposed subgrade on all sides of the excavation to ensure proper restoration of the surface. Mall bricks shall not be cut, but shall be removed from the brick pattern intact and stockpiled for reuse. Damaged bricks shall not be reinstalled but must be replaced in accordance with the fee schedule in Section 21.12.040 of this Chapter (see construction and excavation standards). (Code 1971, §19-75; Ord. No. 30-1975, §1; Ord. No. 11-1977, §1; Ord. No. 15, 2007, §2)

Sec. 21.12.220. Disposal and handling of excavation material.

All excavated material shall be removed from the site and disposed of by the permittee as the excavation is made when the City Engineer deems it necessary due to traffic or other conditions. Any excavated material not removed immediately shall be stockpiled in a location approved by the City Engineer. (Code 1971, §19-76; Ord. No. 30-1975, §1; Ord. No. 11-1977, §1; Ord. No. 15, 2007, §2)

Sec. 21.12.230. Backfill.

All backfill shall be free from muck, debris, paving, frozen material or organic matter and shall be placed uniformly and at optimum moisture content for the required density. Compaction shall be by mechanical tamping unless water jetting or flooding is specifically approved by the City Engineer. The completed and compacted backfill shall project slightly in a rounded surface above the original grade except where a temporary patch is required. For excavations less than one hundred (100) cubic yards, the permittee may backfill with controlled low strength material or flowfill if approved by the City Engineer. All backfill material and compaction shall be subject to inspection by the City Engineer and shall meet all City standards (see construction and excavation standards). (Code 1971, §19-77; Ord. No. 30-1975, §1; Ord. No. 11-1977, §1; Ord. No. 15, 2007, §2)

Sec. 21.12.240. Select backfill.

All excavations, cuts, openings or trenches shall be backfilled with imported material unless native material is approved by the City Engineer (see construction and excavation standards and engineering design standards).

All trenches shall have a granular subbase or flowable backfill material, free from organic matter and lumps or balls of clay, consisting of hard, durable particles or fragments of stone or gravel and a filler of sand or other finely divided mineral matter. Subbase material shall be compacted and placed in lifts compliant with City standards (see construction and excavation standards and engineering design standards). (Code 1971, §19-78; Ord. No. 30-1975, §1; Ord. No. 11-1977, §1; Ord. No. 20-1990, §1; Ord. No. 15, 2007, §2; Ord. No. 43-2013)

Sec. 21.12.250. Cleanup of work site.

The permittee shall remove all excess excavated material, boulders, barricades, signs, supplies, equipment, rubbish and debris from the work site within three (3) working days. The work site shall be left in a neat and clean appearance. It is strongly recommended that the permittee take photos of the condition of the site prior to excavation. In the event that the City cleans up for the permittee, if for any reason the maintenance bond is inadequate to cover the cost of the work performed by the City or its contractor to clean the site, the amount of such deficiency or damage shall be certified to the Finance Director, who shall collect the same from the person to whom the permit was issued. No further permits shall be granted to that person or anyone else on the person's behalf until the amount of such deficiency has been paid. (Code 1971, §19-79; Ord. No. 30-1975, §1; Ord. No. 11-1977, §1; Ord. No. 20-1990, §1; Ord. No. 15, 2007, §2)

Sec. 21.12.260. Responsibility of permittee to provide patch.

Temporary or permanent asphalt patches shall be placed over all backfill for excavations within paved roadways within twenty-four (24) hours of trench backfilling. Whenever permanent patches are not constructed within twenty-four (24) hours following trench backfilling operations, temporary pavement patches must be placed to provide the required number of paved travel lanes. Temporary pavement patches may be left in place for a maximum of five (5) working days following completion of backfilling operations unless otherwise approved by the City Engineer. In paved improvements other than roadways, the temporary patch shall be provided only when required by the City Engineer (see construction and excavation standards). (Code 1971, §19-80; Ord. No. 30-1975, §1; Ord. No. 11-1977, §1; Ord. No. 15, 2007, §2)

Sec. 21.12.270. Maintenance of backfill and temporary patch.

All backfill and any pavement or improvement shall be maintained in a satisfactory condition, and all places showing signs of settlement shall be filled and maintained for a period of twenty-four (24) months following the date of satisfactory acceptance. When the permittee is notified by the City Engineer that any backfill, patch or paved improvement is hazardous, he or she shall correct such hazardous condition at once. If the hazardous condition is not repaired within three (3) working days after notification, the City may elect to repair the hazardous condition. The expense of such repair shall be the responsibility of the permittee. Repair by the City will not release the permittee from responsibility for subsequent failures.

Backhoe equipment outriggers shall be fitted with rubber pads or other like protective material whenever outriggers are placed on any paved surface. Tracked vehicles that may damage pavement surfaces shall not be permitted on paved surfaces unless specific precautions are taken to protect the surface. The permittee shall be responsible for any damage caused to the pavement by the operation of such equipment. Should the permittee fail to make such repairs within three (3) days to the satisfaction of the City, the City may repair any damage and charge the permittee.

Any utilities or paved improvements damaged by settlement shall be repaired at once by the permittee to the satisfaction of the City Engineer. If the damage is not repaired within three (3) working days after notification, the City may elect to repair the damage. The expense of such repair shall be the responsibility of the permittee. Repair by the City will not release the permittee from responsibility for subsequent damage by settlement.

In addition, the permittee shall be responsible for the cost to the City of all claims for damages made and actions brought against the City for and on account of such damage. (Code 1971, §19-81; Ord. No. 30-1975, §1; Ord. No. 11-1977, §1; Ord. No. 15, 2007, §2)

Sec. 21.12.280. Responsibility of City to replace paved improvements.

The City shall be responsible for replacing all paved improvements which are damaged or removed as soon as practicable unless the permittee has elected to do so pursuant to Section 21.12.050 of this Chapter. (Code 1971, §19-82; Ord. No. 30-1975, §1; Ord. No. 11-1977, §1; Ord. No. 15, 2007, §2)

Sec. 21.12.290. Compliance Required.

Any work performed which is not in strict conformity with this Chapter shall, within ten (10) days after notice to the owner or person who performed the work, be made to conform to this Chapter at the expense of the owner or responsible party, or the same shall be corrected or removed by the City at the expense of the owner or responsible party (see construction and excavation standards and engineering design standards). (Code 1971, §19-83; Ord. No. 30-1975, §1; Ord. No. 11-1977, §1; Ord. No. 15, 2007, §2; Ord. No. 43-3013))

Sec. 21.12.300. Warranty period.

Any repaving, restoration or improvement shall be warranted by the permittee against all defects for a period of two (2) years from the completion of such work. (Code 1971, §19-84; Ord. No. 20-1990, §2; Ord. No. 15, 2007, §2)

Sec. 21.12.310. Termination of project if not expeditiously completed.

All work authorized by a permit shall be commenced at the time specified on the permit and shall be diligently and continuously performed until completed, with a maximum allowable time of thirty (30) days. In the event that weather, process of law or any other unexpected obstacles cause work to be stopped for so long that public travel is unreasonably obstructed, the City Engineer may order the excavation refilled, compacted

and repaved as if the work contemplated in the permit were actually completed. (Code 1971, §19-85; Ord. No. 20-1990, §2; Ord. No. 15, 2007, §2)

Sec. 21.12.320. Repair to paved streets.

All excavated streets that contain a layer of paving fabric shall be replaced with paving fabric. Specifications for the paving fabric may be obtained from the City Engineer (see construction and excavation standards). (Code 1971, §19-86; Ord. No. 20-1990, §2; Ord. No. 15, 2007, §2)

Sec. 21.12.330. Placement of ribbon in utility trenches.

All utility installations must have warning ribbon placed in the trench, eighteen (18) inches above the cable, pipe or conduit. This applies to all exposed utilities. The tape may be obtained from the utilities. The color of the tape shall be per industry standards. (Code 1971, §19-87; Ord. No. 20-1990, §2; Ord. No. 15, 2007, §2)

Sec. 21.12.340. Repaving.

In the case of excavations requiring repaving, the permittee shall follow all applicable City standards. The City Engineer shall have sole discretion concerning the quality and acceptance of a paved improvement. No certificate of occupancy shall be issued for a project that has unacceptable paved improvements or patches (see construction and excavation standards and engineering design standards). (Code 1971, §19-88; Ord. No. 20-1990, §2; Ord. No. 15, 2007, §2)

Sec. 21.12.350. Restrictions to protect pedestrian and vehicular traffic.

No opening or excavation shall be undercut or have a greater width at the bottom than the top. In no case shall more than one-half (½) of the width of any street, alley or other public place be opened or excavated at any one (1) time and, in all cases, one-half (½) of such street, alley or other public place shall remain untouched for the accommodations of traffic until the other one-half (½) is restored for safe use unless otherwise authorized by the City Engineer. All such work shall be performed in such a way as to cause minimum inconvenience and restriction to the public and both pedestrian and vehicular traffic. (Code 1971, §19-89; Ord. No. 20-1990, §2; Ord. No. 15, 2007, §2)

Sec. 21.12.360. As-built drawings required.

After completion of an approved project, the applicant shall furnish a mark-up of the map showing all utilities encountered during the excavation, their size, identification and location, based on swing ties to fixed monuments such as manholes, streetlights, curbs and their depths below the surface of the street, alley or sidewalk area. This mark-up shall also identify any new improvements made to the area, including but not limited to utility connections, sidewalks, driveways, etc. These as-builts may also be submitted in a digital format acceptable to the Engineering Department. (Code 1971, §19-90; Ord. No. 20-1990, §2; Ord. No. 54-1995, §5; Ord. No. 15, 2007, §2; Ord. No. 43-2013)

Sec. 21.12.370. Excavation under existing curb, gutter and sidewalk.

If any excavation occurs under existing curb, gutter or sidewalk, that curb and gutter and sidewalk shall be removed and replaced. The replacement shall be from the nearest concrete joint. The curb, gutter and sidewalk must be replaced within seven (7) working days after the excavation is complete. The permittee may bore under curb, gutter and sidewalk and not have to replace it if approved by the City Engineer (see construction and excavation standards). (Code 1971, §19-91; Ord. No. 20-1990, §2; Ord. No. 15, 2007, §2)

Sec. 21.12.380. Dust control.

It shall be the permittee's responsibility to control dust at the excavation site. Dust control measures shall occur as often as necessary as determined by the City Engineer. (Code 1971, §19-92; Ord. No. 20-1990, §2; Ord. No. 15, 2007, §2)

Sec. 21.12.390. Violation; penalty.

Any violations of this Title are punishable by a fine, imprisonment or both a fine and imprisonment, as set forth in Section 1.04.080 of this Code, or revocation of the violator's builder's or excavating license, or any combination of such fine, imprisonment and revocation.

Each such person is guilty of a separate offense for each and every day during any portion of which any violation of any provision of the ordinances of the City is committed, continued or permitted by any such person and shall be punished accordingly. (Code 1971, §19-93; Ord. No. 20-1990, §2; Ord. No. 12-1996, §12; Ord. No. 15, 2007, §2)

Chapter 21.16

SIDEWALK, DRIVEWAY, CURB AND GUTTER

Sec. 21.16.010. Permit required.

No sidewalk, driveway, curb, gutter or related street improvement required by this Chapter shall be constructed or repaired without complying with the requirements of Chapter 21.12. (Code 1971, §19-96; Ord. No. 30-1975, §1; Ord. No. 15, 2007, §3)

Sec. 21.16.020. Construction to comply with standard specifications.

All sidewalk, driveway, curb and gutter construction shall be in accordance with the City's construction and excavation standards along with the engineering design standards for the same on file in the office of the City Engineer. Any sidewalk, driveway, curb and gutter construction that does not comply with the standards set forth by the Engineering Department, at the sole determination of the City Engineer, shall be replaced with compliant construction. (Code 1971, §19-97; Ord. No. 30-1975, §1; Ord. No. 15, 2007, §3)

Sec. 21.16.030 Construction of sidewalk, curb and gutter required for all construction in certain districts.

The Building Inspector shall not issue a certificate of occupancy or certificate of completion for any construction unless sidewalk, curb and gutter have been constructed as required by the engineering design standards. (Code 1971, §19-98; Ord. No. 30-1975, §1; Ord. No. 27-1982, §2; Ord. No. 15, 2007, §3)

Editor's note—It should be noted that current Title 26 does not contain zones designated as L-1 and L-2.

Sec. 21.16.040. Reservation of funds for construction of sidewalk, curb and gutter.

If the weather prevents construction of the improvements required by Section 21.16.030 above at the time of completion of the principal improvements, the Building Inspector may issue a certificate of occupancy after funds have been escrowed for the construction of the same. The amount of the escrow shall be determined by the City Engineer and shall be at least one hundred percent (100%) of the current cost of construction. The escrow agreement shall in no way relieve the owner of the responsibility for construction of

the improvements when it shall become practicable. (Code 1971, §19-99; Ord. No. 30-1975, §1; Ord. No. 15, 2007, §3)

Sec. 21.16.050. Procedures when not feasible to construct sidewalk, curb and gutter.

If the City Engineer deems that the construction of improvements required by Section 21.16.030 above is inappropriate at the time of completion of the principal improvements due to existing conditions or future City plans, the Building Inspector may issue a certificate of occupancy after the owner of the property has complied with one (1) of the following:

(a) The owner shall have escrowed funds as required in Section 21.16.040. This procedure shall be used only if it appears feasible that the improvements will be constructed within three (3) years. In the event that the improvements are not made within three (3) years, the escrowed funds shall be released, and the owner shall enter into an agreement as required in Subparagraph (b) of this Section.

(b) If existing improvements or conditions make construction of sidewalk, curb and gutter within three (3) years unfeasible, the owner shall have entered into an agreement with the City whereby he or she shall agree to construct or pay for the construction of said improvements when the City deems their construction necessary and feasible. This agreement shall be a covenant running with the land. (Code 1971, §19-100; Ord. No. 30-1975, §1; Ord. No. 15, 2007, §3)

Sec. 21.16.060 Driveway and curbcut specifications.

All driveway and curbcut plans shall conform to City standards (see construction and excavation standards and engineering design standards).

No driveway or curbcut shall be allowed on State Highway 82 or other designated arterial where public alley access exists, anything to the contrary notwithstanding.

Editor's note—It should be noted that current Title 26 does not contain zoning designated as R-40, L-1, L-2, O, O-2. It should also be noted that there are no zone districts (L-1) or (L-2); cross references have been changed accordingly to (L) Lodge.

Sec. 21.16.070. Variations in driveways and curbcuts allowed for unusual conditions.

Under unusual conditions of topography, drainage, existing landscaping or improvements on City rights-of-way, existing buildings or improvements on private property or special use requirements for the property, a variance from the requirements in Section 21.16.060 above for driveways and curb cuts may be given by the City Engineer upon filing a written application and a plot plan showing the building site and special conditions existing thereon. Any person aggrieved of a decision by the City Engineer under this Section may seek a variance from the Administrative Hearing Officer pursuant to the procedures set out in Chapter 26.108 of this Code except to the extent set forth herein. (Code 1971, §19-102; Ord. No. 30-1975, §1; Ord. No. 76-1990, §3; Ord. No. 15, 2007, §3; Ord. No. 43-2013)

Sec. 21.16.080. Responsibility to repair sidewalks, driveways and gutters.

When notified that any sidewalk, driveway, curb, gutter or any combination thereof, in front of, abutting upon or servicing any premises shall be in need of repair, the City Engineer shall cause notice to be served upon the owner or other person in charge of or having the control and supervision of the premises to repair

such sidewalk, driveway, curb or gutter within thirty (30) days. It shall be unlawful for any person to fail or refuse to comply with such notice to repair. Upon a failure or refusal to comply with such a notice to repair, the City Engineer may repair the same by day's work or by contract, and the cost of such repair may be assessed upon and made a lien upon the land so benefited. In addition thereto, the City may cause an action to be instituted against the owner or the person in charge of the premises upon whom such notice was served in any court of competent jurisdiction to recover such costs. All such remedies shall be cumulative. (Ord. No. 42-1999, §1 [part]; Ord. No. 15, 2007, §3)

Sec. 21.16.090. Definition of sidewalk in need of repair.

For the purpose of this Chapter, a *sidewalk in need of repair* shall mean a sidewalk in any of the following conditions:

- (a) Concrete that is spalling or crumbling.
- (b) Vertical displacement of the adjoining sidewalk section is in excess of three-quarters ($\frac{3}{4}$) inch;
- (c) Lateral displacement of adjoining sidewalk section is in excess of one (1) inch; or
- (d) The sidewalk has a transverse slope in excess of one (1) inch per foot or the combination of transverse and longitudinal grade is insufficient for adequate drainage of the sidewalk causing accumulation of water and ice. (Ord. No. 42-1999, §1 [part]; Ord. No. 15, 2007, §3)

² **Editor's note**—Ord. No. 42-1999, §1, repealed former §21.16.090 and enacted a new §21.16.090. Former §21.16.090 was derived from Code 1971, §19-104, as amended by Ord. No. 30-1975, §1.

Chapter 21.20

TREES AND LANDSCAPING ON PUBLIC RIGHT-OF-WAY¹

¹ **Editor's note**— Ord. No. 30-1975, §1, repealed Art. V, §§19-121—19-135, pertaining to trees on public property and enacted in lieu thereof a new Art. V, §§19-121—19-127 [Ch. 21.20], as herein set out. Former Art. V was derived from Code 1962, §§8-5-1—8-5-5 and Ord. No. 14-1970.

Sec. 21.20.010. Approval required for landscaping in sidewalk area.

All trees, shrubs, foliage and other landscaping planted in the sidewalk area or other public right-of-way shall be approved as to location and type by the City Engineer and the Director of Parks in accordance with the provisions of this Chapter and the following considerations:

- (a) Location, arrangement and species shall conform to the adopted street landscaping plan.
- (b) Special consideration shall be given to the problem of drainage and snow removal.
- (c) Location and arrangement shall provide for pedestrian access.
- (d) Location shall be such as not to obstruct corner sight distances at intersections.
- (e) Coordination of landscaping on public rights-of-way with required open or landscaped areas on private property so as to achieve the most effective use of the total area. (Code 1971, §19-121; Ord. No. 30-1975, §1; Ord. No. 36-1976, §1)

Sec. 21.20.020. Landscaping required for new construction.

For all new construction landscaping shall be provided in the sidewalk area or public right-of-way adjoining the building site in accordance with the adopted street landscaping plan. (Code 1971, §19-122; Ord. No. 30-1975, §1)

Sec. 21.20.030. Specifications for landscaping in sidewalk area.

Landscaping and planting areas shall meet the following specifications:

- (a) Planting areas at sidewalk grade adjoining the curb shall be a minimum of four (4) feet in width.
- (b) Planting areas provided in paved areas shall be a minimum of three (3) feet in diameter or eight (8) square feet in area.
- (c) Trees planted at sidewalk grade shall be provided with tree grates and trunk protectors at least four (4) feet in height.
- (d) Elevated planting areas are preferred in Commercial Districts and where provided, shall be a minimum of twenty (20) inches above sidewalk grade.
- (e) Gravel, crushed stone, washed rock and similar materials shall not be allowed in the sidewalk area at grade. Such materials shall not be allowed in lieu of landscaping unless approved as part of an overall plan.
- (f) When any area is paved, a minimum of twelve (12) inches of unsurfaced area shall be left around the base of all existing trees. (Code 1971, §19-123; Ord. No. 30-1975, §1)

Sec. 21.20.040. Property owner responsibility for landscaping after construction.

Whenever the landscaping in any portion of the sidewalk area or other public rights-of-way is disturbed by construction or excavation related to construction on private property, the owner of the property shall be responsible for landscaping the damaged right-of-way in accordance with the provisions of this Chapter. (Code 1971, §19-124; Ord. No. 30-1975, §1)

Sec. 21.20.050. Property owner responsible for maintenance of landscaping in adjoining right-of-way.

The property owner shall be responsible for maintaining the landscaping in that portion of the sidewalk area or other public right-of-way which adjoins his or her property; provided that the City shall be responsible for the pruning or removal of any trees which are not under any guarantee of the owner. Maintenance shall include mowing, trimming and planting of annual plants if such is required by the landscape plan. (Code 1971, §19-125; Ord. No. 30-1975, §1)

Sec. 21.20.060. Approval required for paving of planting areas.

Planting areas provided in accordance with an approved landscape plan shall not be paved without the approval of the Director of Parks. (Code 1971, §19-126; Ord. No. 30-1975, §1; Ord. No. 36-1976, §2)

Sec. 21.20.070. Requirements for removal of trees; approval required.

It shall be unlawful for any person, whether a property owner or not, to cut or remove trees situated upon City property, streets or other public rights-of-way without first obtaining written approval from the Director of Parks. Grant or denial of approval shall be based upon the adequacy of the replanting plan as relates to the number, size and species of new trees; guarantees for restoration of any other landscaping; indemnification of the City against any claims arising from damage to public or private property or injury to persons; and any other conditions the Director of Parks shall deem pertinent. (Code 1971, §19-127; Ord. No. 30-1975, §1; Ord. No. 36-1976, §3)

Sec. 21.20.080. Requirements of conservation of water in landscaping on public rights-of-way.

The Director of Parks shall develop and implement a conservation and irrigation program to increase the efficiency of water use on public open space areas including parks, greenbelts, public golf courses, roadway right-of-way plantings, street medians and all other public open spaces.

The program shall include, as a minimum, the following:

(a) Limiting to functional areas of heavy pedestrian traffic, such as ball fields or areas proximal to entryways, the locations on which frequently irrigated and mowed turf such as bluegrass is to be maintained and restricting the use of turf in median strips;

(b) Ensuring the use of efficient irrigation techniques and systems, including the limitation of landscape irrigation between the hours of 11:00 a.m. and 3:00 p.m.; employing the use of nonpotable water supplies and water reuse where such supplies and water reuse are available for irrigation of areas exceeding ten (10) acres; and using seasonally variable irrigation schedules which match the evapotranspiration needs of the plants being irrigated;

(c) Analyzing and improving soil on the site to maximize moisture availability for plant intake and to increase soil moisture penetration and retention;

(d) Using mulches to reduce water needs and weed growth and to check soil erosion;

(e) Using lower water-demand plants, ground cover and grass species to reduce water usage;

(f) Planning for routine maintenance such as weed control, pruning and irrigation system adjustments so as to reduce water usage; and

(g) Using evapotranspiration data, when available, to determine water needs. (Code 1971, § 19-128; Ord. No. 37-1991, § 4)

Chapter 21.24

PERMITS FOR SKI STORAGE RACKS ENCROACHING OR LOCATED UPON PUBLIC RIGHTS-OF-WAY

Sec. 21.24.010. Permit for installing and operating ski storage rack encroaching or located upon public right-of-way; qualification; application.

The owner of any business conducted within the City for which a business license has been issued may apply to the City Engineering Department for a permit to install, operate and maintain a ski storage rack on the outside wall of the building in which his or her business is located or in such other area as may be approved by the City Engineering Department, for purposes of temporary storage of skis by the general public. The application shall be made upon the form provided by the City Engineering Department and shall include an affidavit signed by the applicant (and by the owner of the building if the applicant is a lessee) stating the name of the applicant and of the owner of the building, the name and address of the business and such other additional information as the City Engineering Department may reasonably require from time to time and stating further that the applicant (and owner, if not the applicant) agrees to save, defend and hold harmless the City from all liabilities or claims due to loss, damage, theft or injury of or to persons or property arising from the use of such rack and stating further that the applicant agrees to comply with the provisions of this Chapter and with all regulations which may be promulgated from time to time by the City Engineering Department in connection with the installation, operation, maintenance and use of such racks. The application shall be

accompanied by the full amount of the fee required for such permit and by an accurate drawing of the proposed rack showing the design and location thereof. (Code 1971, § 19-141; Ord. No. 3-1973, § 1)

Sec. 21.24.020. General specifications for ski storage racks.

In addition to whatever regulations the City Engineering Department may from time to time promulgate in connection with such racks, all ski storage racks shall:

- (a) Be fitted with functional locks and be of such structural design as shall be approved by the City Engineering Department.
- (b) Be so designed and constructed as to harmonize as closely as possible with the buildings to which they are attached or with whatever other approved area they may be located upon.
- (c) If of the wall-mounted type, allow a minimum clearance for purposes of snow removal and ordinary sidewalk traffic of at least six (6) feet between the nearest curb and the furthest protrusion of the rack and of at least six (6) inches from the lowest part of the rack and of the ski carried by such rack and sidewalk.
- (d) Clearly display the name, address and phone number of the applicant-operator of the rack.
- (e) Be maintained in an operable condition at all times. (Code 1971, § 19-142; Ord. No. 3-1973, § 1)

Sec. 21.24.030. Fees; expiration of permit.

The fee for the permit required by this Chapter shall be as prescribed at Subsection 2.12.050(e) of this Code, which fee shall be paid to the Director of Finance on or before February 1st of each and every year. The permit required by this Chapter shall automatically expire on February 1st of any year for which the permit fee has not been paid for the next year as above required. (Code 1971, § 19-143; Ord. No. 3-1973, § 1; Ord. No. 77-1992, § 10)

Sec. 21.24.040. Termination of permit; removal of racks.

The occurrence of any of the following events shall cause the automatic revocation and termination of a permit issued under the provisions of this Chapter and the ski storage rack installed under such permit shall be completely removed by the permit holder within ten (10) days following the termination thereof, to wit:

- (a) Termination of the permit holder's right to occupy the building space described in the permit application or the permanent removal of the permit holder's business from such space.
- (b) The failure of the permit holder to remedy any violations of this Chapter or of the regulations promulgated hereunder within ten (10) days following receipt by the permit holder of written notice from the City Engineering Department that such violations have occurred.
- (c) The receipt by the permit holder of written notice from the City Engineering Department that the City has provided adequate public ski storage in malled areas or other public places. (Code 1971, § 19-144; Ord. No. 3-1973, § 1)

Sec. 21.24.050. Permit required; violation of Chapter provisions or regulation; separate offense for each day's violation.

The installation or operation of any ski storage rack which encroaches or is located upon a public right-of-way (a) without first having procured a permit from the City so to do or (b) in violation of any of the provisions of this Chapter or of any regulation promulgated hereunder by the City Engineering Department or the failure to remove a rack within ten (10) days following the termination of the related permit, shall constitute a violation of this Chapter and shall be deemed a separate violation hereof for each and every day that such violation continues. Any such violation shall be unlawful and shall be subject to criminal prosecution in the Municipal Court of the City. (Code 1971, § 19-145; Ord. No. 3-1973, § 1)

Chapter 21.26 COMPLETE STREETS

Sec. 21.26.010 Purpose

Sec. 21.26.020 Principals

Sec. 21.26.030 Evaluation of New Projects

Sec. 21.26.010. Purpose.

To ensure that all residents and visitors of Aspen can safely walk, bicycle and have easy access to transit as part of their daily routine.

To improve quality of life and community character by minimizing and mitigating the impacts of vehicle traffic on residents and visitors.

To support the City's environmental stewardship goals of improving air quality, lowering greenhouse gas emissions, reducing noise and increasing renewable energy use.

To ensure the safety of motorists.

Sec. 21.26.020. Principals.

The following guiding principles are to ensure that transportation improvements are planned, designed and constructed to encourage walking, bicycling and transit use while promoting safe operations for all users:

- (a) Plan for, design and construct all new transportation improvement projects to provide appropriate accommodation for pedestrians, bicyclists, transit riders, and persons of all abilities, while promoting safe operation for all users.
- (b) Operate and maintain the transportation network to improve travel conditions for bicyclists, pedestrians, transit, and motorists in a manner consistent with, and supportive of, the surrounding community;
- (c) Improvements will include an array of facilities and amenities including: street and sidewalk lighting; pedestrian and bicycle safety improvements; intersection improvements; access improvements, including compliance with the Americans with Disabilities Act; public transit facilities accommodation including, but not limited, to pedestrian access improvement to transit stops and stations; street trees and landscaping; drainage; and street amenities;
- (d) Implement these policies with a master plan approach recognizing that all streets are different and in each case user needs must be balanced

Sec. 21.26.030. Evaluation of New Projects.

The Pedestrian and Bike Safety Team (which consists of various internal departments including Engineering, Police, Parking, Streets, Asset, Environmental Health, and Transportation departments) will provide input as to how pedestrians, bicycles and transit use can be accommodated. This will include but not be limited to street and sidewalk lighting; pedestrian and bicycle safety improvements; intersection improvements; access improvements, including compliance with the Americans with Disabilities Act; public transit facilities accommodation including, but not limited, to pedestrian access improvement to transit stops and stations; street trees and landscaping; drainage; and street amenities.

After a new project, improvement or recommendation is implemented, staff will evaluate its impacts which may include issues such as: traffic speeds; traffic diversion onto other streets; pedestrian or bicycle conflicts or other issues. Any unacceptable impacts will be identified and evaluated with recommendations made to correct problems.

(Ord. No. 43, 2013)

Chapter 21.28

LOCAL PUBLIC IMPROVEMENTS^{1,2}

¹ **Editor's note**—Ord. No. 43-1985, § 1, repealed Art. VII of Ch. 19 and enacted in lieu thereof a new Art. VII [Ch. 21.28] to read as herein set forth. Formerly Art. VII, consisting of §§ 19-150—19-159, provided procedures for establishing sidewalk improvements districts and was derived from Ord. No. 30-1973, § 1 as amended by Ord. No. 30-1975, § 2.

² **State law reference**—Public improvements, Section 31-25-101 et seq. C.R.S.

Sec. 21.28.010. City to contract.

The City shall have the power to contract for, construct or install special or local public improvements; to assess the cost thereof, wholly or in part, against the property specially benefited; to make and contract for a local public improvement, to pay from any lawful fund that portion of the cost which is general public benefit and to accept contributions or grants-in-aid to supply the whole or any part of the cost apportioned to the City or to accept and apply such contribution or grants in aid wholly or in part to the credit of the appropriate public improvement district. (Code 1971, § 19-150; Ord. No. 43-1985, § 1)

Sec. 21.28.020. Contract.

(a) Where the cost of local public improvements is to be assessed wholly or in part upon the property benefited, the improvements shall be constructed by independent contract or contracts, subject to the requirements of this Section. All such contracts shall be let by the City Manager, with the approval of the City Council, to the lowest reliable and responsible bidder after publication of notice to bidders, once a week for two (2) consecutive weeks by two (2) insertions in a newspaper of general circulation within the City and such other newspaper or newspapers as may be designated by the City Council. The right to reject any and all bids shall be reserved. No contract shall be made without bond for its faithful performance with sufficient surety or sureties thereon.

(b) Upon notice and for substantial cause, the work under such contracts may be immediately suspended or terminated by the City Council or the City Manager.

(c) The City Manager may impose such conditions upon bidders as the City Manager may deem appropriate.

(d) Upon default in the performance of any contract, the City Manager may advertise and let a contract for the uncompleted work in a like manner and without further ordinance and may charge the cost thereof to the original contractor upon his or her contract and when a deficiency shall in such case occur, the City Manager, with the approval of the City Council, may advance the amount thereof out of any available funds in the City and recover the same by suit on the original contract and bond. (Code 1971, § 19-151; Ord. No. 43-1985, § 1)

Sec. 21.28.030. Assessment of property.

When the cost of a local improvement is to be assessed wholly or in part upon the property benefited, the cost shall be assessed in proportion to benefits received. The assessments may be in proportion as the frontage of each lot or tract of land is to the frontage of all the lots and lands so improved, may be in proportion as the area of each piece of real estate in the district is to the area of all the real estate in the district, may be set by the establishment of zones based upon the proximity of each zone to the improvement to be made, may be borne equally by the total number of platted sites in a residential development without computing the common areas as a site or may be established by any other method that will result in

assessments being equitable in proportion to benefits received. All costs for any improvement may be spread to all properties in the improvement district. If, at the time of the passage of the ordinance authorizing any improvement, any piece of real estate has the whole or any part of the proposed improvement conforming to the general plan and acceptable to the City Engineer, the existing improvement may be adopted in whole or in part or necessary changes thereof may be made to make the same conform to the general plan and the owner of such real estate shall, when the assessment is made, be credited with the amount which is saved by reason of adopting or adapting such existing improvement. (Code 1971, § 19-152; Ord. No. 43-1985, § 1)

Sec. 21.28.040. Initiation of improvement.

Where the cost of a local public improvement is to be assessed wholly or in part upon the property benefited, the improvement may be initiated by the owners of more than fifty percent (50%) of the area of the proposed district, including at least fifty percent (50%) of the landowners residing in the district or may be initiated by order of the City Council without receiving a petition therefor, subject however, to protest by the landowners of more than fifty percent (50%) of all property benefited and constituting the basis of the assessment as the City Council may determine. (Code 1971, § 19-153; Ord. No. 43-1985, § 1)

Sec. 21.28.050. Rules of petition.

(a) Petitions for a proposed improvement shall describe the real property owned by each signer being benefited by the proposed improvement; shall state the nature and location of the proposed improvement and the proposed maximum unit cost thereof, which unit cost shall be exclusive of the costs of collection of the assessments, of other incidentals and all interest on any bonds issued in payment of construction and other costs from the time of issuance of said bonds to the time that interest commences on assessments; shall authorize the advertising of the proposed improvement for remonstrances if a preliminary, informal estimate of the City Engineer indicates that the cost of the proposed improvement will not exceed by more than ten percent (10%) the maximum unit cost set forth in the petition; shall state that the petitioners will not challenge the formation of the district or the imposition of assessments for reasons other than errors in mathematical computations and shall authorize an increase of the proposed maximum unit cost by not more than ten percent (10%) thereof and the assessment of such increase if the estimate of the City Engineer determines that such increase is necessary.

(b) All signatures on petitions shall be subscribed and acknowledged in the manner provided by law for acknowledgement of deeds of conveyance of real estate; provided, however, that the signature of any owner or owners of real property may be attached to a petition by their agents duly authorized by Power of Attorney accompanying the petition. No petitioner, his or her heirs or assigns, shall be permitted to withdraw from a petition after such petition has been filed with the City Manager unless the proposed improvement is not advertised for remonstrances within nine (9) months from the filing of the petition with the City Manager and any petitioner who fails to withdraw prior to advertising shall be deemed to have waived his or her right to withdraw. (Code 1971, § 19-154; Ord. No. 43-1985, § 1)

Sec. 21.28.060. Public notice of proposed improvement.

(a) In all cases where the cost of local public improvements is assessed wholly or in part upon property benefited, public notice of the proposed improvements, either individually or in groups and of a hearing or hearings on the proposed improvements shall be given by publication in one (1) issue of a newspaper of general circulation in the City, the publication to be at least fifteen (15) days prior to the date of the hearing. The same notice of hearing shall be mailed by first class mail to the owners of record of all real estate within the proposed district who are to be assessed for the cost of improvements, as such owners of record are determined by reference to the current records in the office of the County Assessor as such records are kept by that official for the purpose of performing the function of county assessor.

(b) The mailed notice shall be made on or about the date of publication of the notice of hearing. The notices shall specify the kind of improvements which are proposed; the property to be included within the district and benefited by the proposed improvements; the proposed method or methods of assessment; the manner of payment therefor including the proposed number of annual installments; the date, place and time for hearing written remonstrances to the proposed improvements; and that a map and schedule showing the approximate cost of the improvements as provided by the estimates of the City Engineer are on file and can be seen and examined by any interested person at the office of the City Clerk or other designated place before the date of the hearing. (Code 1971, § 19-155; Ord. No. 43-1985, § 1)

Sec. 21.28.070. Hearing of advertised proposed improvements.

(a) On the day and at the time and place specified in the notice, the City Manager shall conduct a hearing for the purpose of considering the desirability of and the need for the proposed improvements. If, for any reason, the hearing is postponed and not held until a later hour or date, written remonstrances to a proposed improvement shall be accepted up to the opening of the postponed hearing session. Otherwise, such written remonstrances must be filed prior to the date and hour of the original hearing.

(b) All written remonstrances to a proposed improvement shall be subscribed and acknowledged in the same manner as is required for petitions for proposed improvements. No person who has signed his or her name for an improvement shall be permitted to sign a remonstrance to the same improvement unless such person has regularly withdrawn from such petition as herein provided.

(c) If a duly executed, written remonstrance is timely filed by persons constituting the owners of the property to be assessed for more than fifty percent (50%) of the proposed improvements, the proposed improvements to such property shall not be operated.

(d) After the hearing and subject to the foregoing limitations, the City Manager shall enter an order approving those improvements which the City Manager considers proper and disapproving those proposed improvements which the City Manager considers improper.

(e) All proceedings by the City Manager may be modified or rescinded wholly or in part at any time prior to the passage of the ordinance authorizing the improvements, provided that no substantial change in the district, preliminary plans, specifications or estimates shall be made after the publication of notice to property owners, except the deletion of improvements and property from the proposed district and provided further that the City Manager shall have the right to make minor changes to the time, plans, specifications or estimates concerning the proposed improvements at any time before the improvements are complete. Any objections to the regularity, validity or correctness of the proceedings and instruments taken or correctness of the proceedings and instruments taken, adopted or made prior to the date of said hearing shall be deemed to be waived unless presented by remonstrance at the time and in the manner herein specified. (Code 1971, § 19-156; Ord. No. 43-1985, § 1)

Sec. 21.28.080. Formation.

Upon fulfillment of the hearing requirements of this Chapter, the City Engineer shall combine into suitable construction units those proposed local improvements which have been approved by the City Manager following said hearing. Each construction unit, whether or not composed of contiguous parcels, shall constitute a Special or Local, Public Improvement District or shall be combined into a single district with multiple construction phases and shall be so referred to hereinafter. In the formation of such Special Improvement District or Districts, the City Engineer shall make such combination as, in the City Engineer's judgment, will make for efficiency in construction and which will result in the lowest possible construction cost. For each such Special Improvement District, the City Engineer shall submit to the City Manager the following:

- (1) A detailed estimate of the total cost of the improvements exclusive of the costs of collection, incidentals, interest on bonds and costs of bond issuance;
- (2) A detailed estimate of the cost of each major type of improvement included within the district exclusive of the costs of collection, incidentals, interest on bonds and costs of bond issuance;
- (3) The estimated time of construction;
- (4) Full details and specifications for the construction of the proposed improvements, which details and specifications shall permit and encourage competition among bidders; and
- (5) A map showing the real property to be assessed for the cost of construction and that portion, if any, which is either to be paid by the City or otherwise not assessed for the improvements. (Code 1971, § 19-157; Ord. No. 43-1985, § 1)

Sec. 21.28.090. Approval.

(a) Whenever the City Manager approves a Special Improvement District following the procedures set forth herein, the City Manager shall cause to be prepared and submitted to the City Council an ordinance authorizing the creation of the district and the construction of the proposed improvements.

(b) The finding by ordinance of the City Council that said improvements were duly ordered after notice duly given and after hearing duly held as required pursuant to this Chapter, that a petition was presented, that the petition was subscribed by all or the required number of owners or that a remonstrance was or was not filed shall be conclusive of the facts so stated in every court or tribunal. (Code 1971, § 19-158; Ord. No. 43-1985, § 1)

Sec. 21.28.100. Owners of abutting real estate.

Before beginning construction, the City Manager may order the owners of the abutting real estate to connect their several premises with the gas, water and sewer mains or with any other conduits in the street or alley adjacent to their premises. In case of a failure or refusal by the owners of the abutting real estate to make the ordered connections, such connections shall be made incidental to the authorized construction and the cost thereof shall be assessed upon the appropriate abutting real estate. (Code 1971, § 19-159; Ord. No. 43-1985, § 1)

Sec. 21.28.110. Statement of expenses; apportionment; notice of hearing on assessments.

(a) Upon completion of any local improvement, upon completion from time to time of any part thereof and upon acceptance thereof by the City Manager or when the total cost of any improvement or of any such part thereof, can be definitely ascertained either prior to or after commencement of construction, the City Manager shall cause to be prepared a statement showing the whole cost of the improvement and the portion thereof, if any, to be paid by the City, including an amount not exceeding six percent (6%) additional for the cost of inspection, collection and other incidentals and also including interest on the bonds issued to the time of payment of the first installment of the assessments, apportioning said costs, after deducting the amount, if any, to be paid by the City, upon each lot or tract of land to be assessed for same, which statement shall be filed in the office of the City Clerk. In determining the whole cost of the local improvement, there shall be included therein without limitation of the generality of the foregoing, the cost of constructing or otherwise acquiring such improvements or property and rights-of-way therefor, contingencies, engineering and clerical services, supplies, inspection, processing, collection of assessments, advertising, printing, interest on bonds until interest on assessments commences to defray such fiscal services, legal services and other incidental and administrative costs.

(b) The City Clerk shall give notice that the assessment roll has been completed and of a hearing on the assessment roll by publication in one (1) issue of a newspaper of general circulation in the City, the publication to be at least fifteen (15) days prior to the date of the hearing. The same notice of hearing shall be mailed by first class mail to the owner of each property to be assessed for the cost of the improvements. The mailed notice shall be made on or about the date of the publication of the notice of hearing. The notices shall specify that said improvements have been or are about to be completed and accepted or that a contractor has or is about to be selected for the work and that the cost of the improvements can now be ascertained; the whole costs of the improvements; the portion, if any, to be paid by the City; the share apportioned to each lot or tract of land; that any complaints or objections which may be made in writing by the property owners or any citizen to the City Council and filed in writing on or prior to the date and hour of the hearing will be heard and determined by the City Council before the passage of any ordinance assessing the cost of said improvements; and the date and place where such complaints or objections will be heard. Any complaint or objection to the regularity, validity or correctness of the proceedings or of said proposed apportionment or of any assessment based thereon and the amount thereof levied on each tract and parcel of land shall be deemed waived unless presented in writing at the time and in the manner herein specified. (Code 1971, § 19-160; Ord. No. 43-1985, § 1)

Sec. 21.28.120. Complaints.

At the time specified in the notice or at a properly adjourned time, the City Council, sitting as a board of equalization, shall hear and determine all written complaints and objections filed with the City and may confirm the apportionment proposed or make any modifications which may seem equitable and just. After the consideration of all complaints and objections to the apportionment, if any change in the apportionment shall be made by the Council, it shall certify such change to the City Manager who shall prepare a new apportionment and an assessing ordinance in accordance therewith and shall transmit same to Council. The assessing ordinance shall assess the cost of the improvement against the real estate to be assessed in the district in the proportion finally determined. The passage of the assessing ordinance shall be prima facie evidence of the fact that the property assessed is benefited in the amount of the assessment and that the assessments have been lawfully made. (Code 1971, § 19-161; Ord. No. 43-1985, § 1)

Sec. 21.28.130. Assessment roll.

The City Clerk shall, from said ordinance, prepare a local assessment roll in book form showing in suitable columns each piece of real estate assessed, the amount of the assessment, the amounts of each installment of principal and interest if, pursuant to this Chapter, the same is payable in installments and the date when such installments will become due, with suitable columns for use in case of payment of the whole amount or of any installment or penalty and the City Clerk shall deliver the same duly certified to the Finance Director for collection. (Code 1971, § 19-162; Ord. No. 43-1985, § 1)

Sec. 21.28.140. Lien against property.

(a) From the date of the final publication of the assessing ordinance, all assessments made pursuant thereto shall be a lien in the several amounts assessed against each lot or tract of land and such assessments shall have priority over all other liens except general taxes. As to any subdivisions of any real estate assessed pursuant thereto, the assessments in each case shall be a lien upon all the subdivisions in proportion to their respective areas. No delays, mistakes, errors, defects or irregularities in any act or proceeding authorized herein shall prejudice or invalidate any final assessment, but the same shall be remedied by subsequent or amended acts or proceedings as the case may require and when so remedied, the same shall take effect as of the date of the original act or proceeding.

(b) If, in any court of competent jurisdiction, any final assessment is set aside for irregularity in the proceedings or for any other reason, then the Council, upon notice as required in the making of an original assessment, may make a new assessment in accordance with the provisions herein. (Code 1971, § 19-163; Ord. No. 43-1985, § 1)

Sec. 21.28.150. Assessment; due and payable.

(a) Without demand, all assessments shall be due and payable within thirty (30) days after the publication of the assessing ordinance after its passage, provided that the City Council may provide that, at the election of the owners, such assessments may be paid in not more than fifteen (15) equal installments, which installments, with interest in all cases on the unpaid portion of such assessment, shall be payable annually with interest at a rate as determined by the City Council on the unpaid assessment. The number of installments, periods of payment and rate of interest shall be determined and fixed by the City Council in the assessing ordinance. Payment may be made to the City Treasurer at any time within thirty (30) days after the publication of the assessing ordinance, after its passage and an allowance of five per centum (5%) for costs of collection may be made on all payments during said period of thirty (30) days.

(b) Failure to pay the whole assessment within the said period of thirty (30) days shall be conclusively considered and held as an election on the part of all persons interested, whether under disability or otherwise, to pay in such installments. The election of any person to pay in installments shall be conclusively considered and held a waiver of any and all rights to question the power or jurisdiction of the City to construct the improvements, the quality of the work, the regularity or sufficiency of the proceedings or the validity or correctness of the assessment.

(c) The owner of any piece of real estate not in default as to any installment or payment may, at any time, pay the whole unpaid principal of his or her assessment with the interest to the time the next installment of interest or principal becomes due and payable.

(d) The owner of any divided or undivided interest may pay his or her share of any assessment. (Code 1971, § 19-164; Ord. No. 43-1985, § 1)

Sec. 21.28.160. Default of payment.

At the expiration of said thirty (30) day period provided in Section 21.28.150, the Finance Director shall return the local assessment roll to the City Clerk, thereon showing all payments made thereon with the date of each payment. Said roll shall be certified by the City Clerk and shall be delivered by the City Clerk to the County Treasurer with a warrant for the collection of the same. The City Clerk shall obtain a receipt from the County Treasurer for the same. The County Treasurer shall receive payment of all assessments appearing upon the assessment roll with interest. In case of default in the payment of any installment of principal or interest when due, the County Treasurer shall advertise and sell any and all property concerning which such default is suffered for the payment of the whole of the unpaid assessments with interest and penalties thereon. Said advertisements and sales shall be made at the same time and in the same manner under all the same conditions and penalties and with the same effect as are provided by general law for sales of real estate in default of payment of general taxes. (Code 1971, § 19-165; Ord. No. 43-1985, § 1)

Sec. 21.28.170. Failure to pay.

Failure to pay any installment, whether of principal or interest, when due shall cause the whole of the unpaid principal to become due and payable immediately and the whole amount of the unpaid principal and accruing interest shall thereafter draw additional interest at the rate of one and one-half percent (1½%) per month or fraction of a month until the day of sale, but at any time prior to the date of sale, the owner may pay the amount of all delinquent principal installments and accrued interest with additional interest at one and one-

half percent (1½%) per month or fraction of a month as aforesaid and thereupon shall be restored to the right thereafter to pay in installments in the same manner as if default had not been suffered. No statute of limitations shall apply until the last installment of assessments becomes due and payable. (Code 1971, § 19-166; Ord. No. 43-1985, § 1)

Sec. 21.28.180. Sale of unpaid assessments.

(a) At any sale by the County Treasurer of any real estate in the City for the purpose of paying any special assessments for local improvements, the Finance Director, having the written authority from the City Council, may purchase such real estate without paying for the same in cash and shall receive a Certificate of Purchase from the County Treasurer in the name of the City. Such certificates shall be received and credited at their face value, with all interest and penalties accrued, on the account of the assessments in pursuance of which the sale was made. The certificates may thereafter be sold by the Finance Director for the best price obtainable at public sale at auction or by sealed bids in the same manner and under the same conditions as is hereinafter provided in respect to the sale of property owned by the City. The proceeds, in the event that all bonded indebtedness incurred in payment for said local improvements has not been discharged in full or any other portion of the assessment against the property has not been paid in full, shall be credited to the fund created by the ordinance for the payment of such bonds or, in the event that all bonded indebtedness incurred in payment for said local improvements has been discharged in full and, that any other portion of the assessment against the property has been paid in full, the proceeds shall be credited to the special surplus and deficiency fund provided for by Section 21.28.190 below. Any assignments shall be without recourse and the sale and assignment of City's right to receive sale proceeds shall operate as a lien in favor of the purchaser and assignee as provided by law in the case of sale of real estate in default of payment of general taxes.

(b) Cumulatively with all other remedies, the City, being the owner of the property by virtue of a tax deed or being the owner of property otherwise acquired in satisfaction or discharge of the liens represented by such Certificates of Sale, may sell such property for the best price obtainable at public sale, at auction or by sealed bids. Such sale shall be after public notice by the Finance Director to all persons having or claiming any interest in the property to be sold or the proceeds of such sale, such public notice to be by publication once a week for three (3) consecutive weeks by three (3) insertions in a newspaper of general circulation within the City. Such notice shall describe the property and state the time, place and manner of receiving bids and the time fixed for sale, which shall be not less than twenty (20) days after the first publication. The City may reject any and all bids. Any interested party, at any time within ten (10) days after receipt of bids for the sale of property, may file with the City Manager a written protest as to the sufficiency or the amount of any bid made or the validity of the proceedings for the sale. If such protest shall be denied such person, within ten (10) days thereafter, may commence an action in a court of competent jurisdiction to enjoin or restrain the City from completing the sale. If no action is commenced, all protests or objections to the sale shall be deemed to have been waived and the City shall then convey the property to the successful bidder by quitclaim deed.

(c) In addition to all other remedies, the City, when it is the holder of a Certificate of Purchase, may bring a civil action for the foreclosure thereof, joining as defendants all persons having or claiming any interest in the property or the proceeds of foreclosure sale and all governmental units having taxes or other claims against said property and all unknown persons having or claiming interest in said property. Any number of certificates may be foreclosed in the same proceeding. In such proceedings, the City as plaintiff, shall be entitled to all relief provided by law in actions for adjudication of rights with respect to real property.

(d) The proceeds of any such sale of property shall be credited to the appropriate Special Assessment Fund or to the Surplus and Deficiency Fund as hereinabove provided. The City shall deduct therefrom the necessary expenses in securing deeds and taking procedures for the sale or foreclosure. (Code 1971, § 19-167; Ord. No. 43-1985, § 1)

Sec. 21.28.190 Bonds.

Special assessment bonds of the City may be issued for the purpose of paying all or such portion of the cost of any improvement constructed or to be constructed under the provisions of this Chapter as may be assessed against the property specially benefited. Such bonds may be issued of such date and in such form as may be prescribed by the City Council, bearing such interest as may be determined by the City Council, bearing the name of the district improvement and payable to the bearer or registered owner in a sufficient period of years after the date thereof to cover the period of payment provided, but subject to call as provided in Section 21.28.200 and in convenient denominations in multiples of one thousand dollars (\$1,000.00) each. The bonds may be issued for all or any portion of the amount to be assessed against the property specially benefited and the assessments to be collected on the real property specially benefited may be allocated for the improvements that were paid for by the issuance of such special assessment bonds and for the services or improvements that were provided by the City or its designee and for which the City or its designee is being reimbursed. All such bonds shall be issued on estimates or contract amounts approved by the City Council and such bonds shall be sold to the best advantage of the City at either public or private sale and the Finance Director shall preserve a record of the same in a suitable book kept for that purpose. All such bonds may be in registered or bearer form with or without interest coupons, be subject to such conditions for transfer, be subject to provisions for conversion as to denominations or to bearer or registered form, be made registrable or payable or both, by the Finance Director or other officers of the City or by a trustee, registrar, paying agent or transfer agent within the United States of America, be issued, transferred and registered by such book entry, be in such denomination or denominations, bear such dates, signatures and authentications and be held in custody by a depository within the United States of America, all as may be determined by the City in the ordinance authorizing the issuance of such special assessment bonds. Payment at designated due dates or in installments may be required by the authorizing proceedings to be by check, draft or other medium of payment and need not be conditioned upon presentation of any bond or coupon. Signatures may be manual or facsimile, but each bond shall bear at least one manual signature, which may be that of an official of the City or of the trustee, registrar or transfer agent. Such bonds shall be payable out of the moneys collected on account of the assessments made for such improvements, out of the surplus and deficiency fund referred to in Section 21.28.210 or out of any other fund established as additional security for the bonds. All moneys collected from such assessments for any improvements shall be applied for the payment of the bonds issued until payment in full is made of all the principal, premium, if any and interest on the bonds. However, if a portion of the assessments is being used to reimburse the City or its designee for its cost in providing the improvement, the allocation of the assessment as to payment of the principal, premium, if any and interest on the bonds and the reimbursement to the City or its designee shall be made pursuant to the authorizing ordinance. (Code 1971, § 19-168; Ord. No. 43-1985, § 1)

Sec. 21.28.200. Payment of bonds.

Whenever considered prudent by the Finance Director and whenever funds may be in the Finance Director's hands, to the credit of the Improvement District exceeding six (6) months' interest on the unpaid principal, the Finance Director shall, after publication of notice once in one (1) issue of a newspaper of general circulation within the City, call in a suitable number of such bonds for payment. At the expiration of thirty (30) days from the first publications of such notice, interest on the bonds so called shall cease. The notice shall specify by number the bonds so called and all such bonds shall be paid in their regular numerical order. The holder of any bonds may, at any time, furnish his or her post office address to the Finance Director and in such case a copy of said advertisement shall be mailed by the Finance Director to the holder of the bonds at said address on or prior to the first day of said publication. If applicable, if there are funds to the credit of the Improvement District that are allocated toward the reimbursement to the City in an amount exceeding six (6) months' interest on the unpaid principal amount for those improvements provided by the City, the Finance Director shall transfer that amount to the City to be applied toward the principal amount due the City for

reimbursement. Notice for bonds which are in registered form shall be given by mailing notice to the registered owner by first class mail not more than thirty (30) days and not less than fifteen (15) days prior to the date fixed for redemption. (Code 1971, § 19-169; Ord. No. 43-1985, § 1)

Sec. 21.28.210. Surplus and deficiency.

(a) Where all outstanding bonds have been paid in a Special Improvement District and any monies remain to the credit of said district, they shall be transferred to a Special Surplus and Deficiency Fund and whenever there is a deficiency in any Improvement District Fund to meet the payments of outstanding bonds and interest due thereon, the deficiency shall be paid out of said Surplus and Deficiency Fund. Whenever a Special Improvement District has paid and canceled three-fourths ($\frac{3}{4}$) of its bonds issued and for any reason the remaining assessments are not paid in time to take up the remaining bonds of the district and the interest due thereon and there are not sufficient monies in the special surplus and deficiency fund, then the City shall pay said bonds when due and the interest due thereon and shall reimburse itself by collecting the unpaid assessments due said district.

(b) In consideration of general or special benefits conferred on the City at large from the construction or installation of improvements in Special or Local Improvement Districts, the City Council may levy annual taxes on all taxable property within the City at a rate not exceeding four (4) mills in any one (1) year, to be disbursed as determined by the City Council for the purpose of paying for such benefits, for the payment of any assessment levied against the City itself in connection with bonds issued for Special or Local Improvement Districts or for the purpose of advancing money to maintain current payments of interest and equal annual payments of the principal amount of bonds issued for any Special or Local Improvement District hereinafter created. The proceeds of such taxes shall be placed in a special fund and shall be disbursed only for the purpose specified herein; provided, however, that in lieu of such tax levies, the City Council may annually transfer to such special fund any available monies of the City, but in no event shall the amount transferred in any one (1) year exceed the amount which would result from a tax levied in such year as herein limited.

(c) As additional security for any bonds issued for Special or Local Improvement Districts, the City Council may establish a Separate Reserve Fund for said issue of bonds to be used for the purpose of advancing money to help maintain current payment of interest and equal annual payments of the principal amount of such bonds. Moneys to be placed in such a reserve fund shall be allocated from any legally available monies of the City, including temporary or permanent advances of cash or other security provided by one (1) or more property owners. Upon the payment in full of the principal and interest on the bonds for which the reserve fund was established, the monies remaining in the reserve fund, if established from City monies, shall be returned to the City to be used for any lawful purpose as the City Council shall designate; provided, however, that if the reserve fund was established from bond proceeds, the moneys in such reserve fund shall be first allocated to the final principal and interest payment on the bonds.

(d) As additional security for any bonds issued for Special or Local Improvement Districts, the City Council may, in its discretion, provide or require one (1) or more property owners who own property within the district to provide audited financial statements, appraisals and/or a letter of credit or other credit enhancement issued by a bank or other financial institution acceptable to the City, to be used for the purpose of advancing money to help maintain current payment of assessments of the property owner or owners providing the letter of credit or, in the event the letter of credit is provided by the City, to help maintain current payments of principal of and interest on such bonds. (Code 1971, § 19-170; Ord. No. 43-1985, § 1)

Sec. 21.28.220. Improvements.

(a) The improvements authorized by this Chapter may consist of grading, paving, curbing, guttering, parking, landscaping, street lighting or traffic signalization for or otherwise improving the whole or any part of any street or alley or public easement in the City or any one (1) or more of said improvements, including the reconstruction, replacement, renewal or extension of the same and the acquisition of property and rights-of-way therefor. In the case of grading and curbing only, the improvements may include the necessary crosswalks. Water, storm drainage and sanitary sewer systems may be included in street improvements. System and off-site appurtenances, such as booster pump stations incidental to such facilities, may also be included. Improvements may also consist of any local improvement and renewals or extensions thereof which benefit the land abutting on, touching or otherwise concerning such improvements, such as interchanges, trails, pedestrian amenities, utility upgrading and undergrounding, public transportation facilities, sidewalks, signage, landscaping, public parks, public golf courses and other public facilities.

(b) If improvements consist of the construction of district sewers or storm sewers, the costs of district storm sewers may be assessed on all of the land in said storm sewer district respectively in proportion as the area of each piece of land in the district or in the part improved is to the area of all the land in the district or by any other method that will result in the assessments being equitable in proportion to the benefits received. Such storm drains may be made, contracted for or constructed in sizes larger than required by a local improvement district and the City may pay from any lawful fund that portion of the cost that may be in excess of the cost required by the district. Upon the extension at a later time of the mains or sub mains to an area not included within the district for which mains or sub mains were made and contracted for, the City may assess the amount paid by the City as a lien upon the real property benefited by the oversized construction and extension of the mains and sub mains.

(c) If improvements consist of district interchanges, landscaping, parks or recreational facilities, the cost of the improvement may be assessed on all of the land in said district respectively in proportion to the area of each piece of land in the district or in the part improved is to the area of all land in the district or by the establishment of zones based upon the proximity of each zone to the improvement to be made or by any other method that will result in the assessments being equitable in proportion to the benefits received. (Code 1971, § 19-171; Ord. No. 43-1985, § 1)

Sec. 21.28.230. Legal proceedings.

No action or proceeding at law or inequity to review any acts or proceedings or to question the validity or enjoin the performance of any act or the issuance or collection of any bonds or the levy or collection of any assessments authorized herein or for any other relief against any acts or proceedings done or had pursuant hereto or under the provisions of the Charter of the City with reference hereto, whether based upon illegalities, irregularities or jurisdictional defects, shall be maintained unless commenced within thirty (30) days after the performance of the act or the passage of the resolution or ordinance complained of or else be thereafter perpetually barred. (Code 1971, § 19-172; Ord. No. 43-1985, § 1)

Sec. 21.28.240. Definitions.

(a) In all proceedings authorized or required by this Chapter, figures may be used instead of words and it shall not be necessary in Improvement Districts to designate each piece of real estate in the district separately, but general descriptions and quantities may be used, except in the assessment rolls and the cost may be stated as being a probable amount per front foot or per square foot or per lot of a given size and proportionate amounts for other lots or when a different rule of assessment is provided, then as being subject to such rule.

(b) As used in this Chapter, the following terms shall have the meanings indicated:

Engineer includes the City Engineer and/or any *engineer* or firm of *engineers* or corporation engaged in the practice of engineering, which may be under contract with the City with respect to local public improvements contracted for or installed pursuant to this Chapter as may be designated by the City Engineer.

City Manager includes the *City Manager's* authorized representative when such authority has been given by a written order of the *City Manager* or, in the absence of the *City Manager*, the City Engineer.

Real estate means all lands, whether platted or unplatted, regardless of lot or landlines. Lots, plots, blocks and other subdivisions may be designated in accordance with any recorded plat thereof and unplatted lands may be designated by any definite description.

Public or local improvements shall mean and include any improvement which may be authorized by the City Council pursuant to the provisions of this Chapter, which serve a municipal purpose and which confer a special benefit upon the real property within the district, including, but not limited to, the grading, paving, curbing, guttering, drainage, parking or otherwise improving the whole or any part of any street, alley or streets and alleys of the City and the construction, installation or improvement of any sidewalks, water mains, sewers, sewage disposal works, appliance for artificial lighting, landscaping, signage, recreational or other public facilities, parks, pedestrian amenities, trails, utility upgrading and undergrounding, public transportation facilities, parkways and off-street parking facilities and all appurtenances, extensions or renewals thereof. (Code 1971, § 19-173; Ord. No. 43-1985, § 1)

Chapter 21.32

SNOW REMOVAL

Sec. 21.32.010. Definitions.

The following definitions shall apply in the interpretation and enforcement of this Chapter:

(a) *Person* means and includes any individual, partnership, firm, association, syndicate or corporation.

(b) The *director* shall be such officer or employee of the City designated in writing by the City Manager to perform or assist in the performance of the duties or responsibilities of the *Director* as set forth in this Chapter. (Code 1971, § 19-180; Ord. No. 79-1983, § 2)

Sec. 21.32.020. Snow and ice to be removed from sidewalks by private persons.

Every person in charge or control of any building or lot of land within the City fronting or abutting a sidewalk area, whether as owner, tenant, occupant, lessee or otherwise, shall remove and clear away or cause to be removed and cleared away, snow and ice from a path of at least five (5) feet in width from so much of the sidewalk area as is in front of or abuts on said building or lot of land.

Such snow and ice shall be removed from all sidewalk areas within the City on the same day as cessation of any fall of snow, sleet or freezing rain or within the first three (3) hours of daylight after the cessation of any such fall, whichever period is longer. (Code 1971, § 19-181; Ord. No. 79-1983, § 2)

Sec. 21.32.030. Depositing of snow and ice restricted.

No person shall deposit or cause to be deposited any snow and ice on or against a fire hydrant or on any sidewalk, sidewalk area, roadway or loading and unloading areas of a public transportation system. (Code 1971, § 19-182; Ord. No. 79-1983, § 2)

Sec. 21.32.040. Violation; work done, liability therefor; penalty.

(a) In the event of the failure of any person to clear away snow and ice from any sidewalk area as hereinabove provided or cause this to be done, the Director may, as soon as practicable after such failure, cause such work to be done.

(b) The Director shall ascertain and keep a record of the exact cost of all work the Director causes to be done in accordance with this Section on account of each act or omission of each person and the Director shall identify these persons with particularity.

(c) The cost of work done in accordance with this Section, plus a penalty of one hundred percent (100%) of such cost, shall be charged against the land abutting the sidewalk area where such work was done as a municipal lien and collected in the same manner as city taxes or, in addition, such costs and penalty may be recovered by the City in a suit at law against the owner or such other person whose act or omission makes it necessary for such work to be done. (Code 1971, § 19-183; Ord. No. 79-1983, § 2)

Sec. 21.32.050. Penalties.

Any person who violates any provision of this Chapter shall be deemed guilty of a misdemeanor, punishable upon conviction by a fine, imprisonment or both a fine and imprisonment, as set forth in Section 1.04.080 of this Code. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder. (Code 1971, § 19-184; Ord. No. 79-1983, § 2; Ord. No. 12-1996, § 13)

Chapter 21.36

RIO GRANDE SKATEBOARD PARK

Sec. 21.36.010. Definitions.

For purposes of this Chapter certain words or phrases are defined as follows:

Rio Grande Skateboard Park shall mean the portion of the Rio Grande Park in Aspen, Colorado, which has been set aside and dedicated for use by persons using skateboards and similar devices as defined hereinafter.

Skateboard shall mean *skateboard*, in-line skate, roller blade, roller skates and any other similar device approved by the Parks Department for use in the *Rio Grande Skateboard Park*. (Ord. No. 14-2001, § 2 [part])

Sec. 21.36.020. Regulations.

It shall be unlawful for any person within the Rio Grande Skateboard Park to:

- (a) Ride, operate or use any device other than a skateboard;
- (b) Ride, operate or use a skateboard unless that person is wearing a helmet designed for use with a skateboard and is in good repair at all times during use;
- (c) Place or utilize additional obstacles or other material (including, but not limited to ramps or jumps) that are not specifically authorized by the Director of Parks;
- (d) Ride, operate or use a skateboard before or after the posted hours of operation;

- (e) Use or consume alcohol, tobacco products or illegal drugs;
- (f) Use or possess glass containers, bottles or other breakable glass products;
- (g) Fail to obey any other rule or regulation posted on near the facility by order of the Director of Parks. (Ord. No. 14-2001, § 2 [part])

Sec. 21.36.030. Director of Parks to post regulations.

The Director of Parks shall post on or near all entrances to the Rio Grande Skateboarding Park a sign or signs that clearly summarize the regulations set forth at Section 21.36.020 above and any other rules or regulations that the Director of Parks deems reasonably necessary for the safe operation of the facility. The sign or signs to be posted shall include the following language:

WELCOME

To the City

Rio Grande Skateboard Park

This facility has been designed for use by skateboarders and rollerbladers. In order to provide a safe and enjoyable experience, the following warning and regulations have been posted. Please heed the warning and observe all regulations.

WARNING

Skateboarding and in-line skating are hazardous recreational activities. Use of this facility may result in serious injury or death. The City does not assume any responsibility for injuries or death. Each person entering the facility assumes all risks associated with the use of this facility.

The following rules and regulations have been adopted by the Aspen City Council to protect your safety. Any person failing to follow these rules and regulations shall be subject to eviction from the park and prosecution pursuant to Section 1.04.080 of the Aspen Municipal Code.

RULES

1. USE THIS FACILITY AT YOUR OWN RISK.
2. HELMETS ARE MANDATORY.
3. BICYCLES AND SCOOTERS/RAZORS ARE PROHIBITED.
4. ALCOHOL, TOBACCO and DRUGS ARE PROHIBITED.
5. HOURS OF OPERATION ARE 8:00 A.M. TO SUNSET.
6. ADDING OR MODIFYING RAMPS IS PROHIBITED.
7. BOTTLES AND GLASS CONTAINERS ARE PROHIBITED.

REPORT ALL INJURIES TO THE CITY RECREATION DEPARTMENT – 920-5140.

CALL 911 FOR ALL SERIOUS INJURIES OR OTHER MEDICAL EMERGENCIES.

(Ord. No. 14-2001, § 2 [part])

Sec. 21.36.040. Eviction.

Any person found to be in violation of this Chapter or a regulation duly posted on the sign required by Section 21.36.030 above, shall be subject to eviction from the Rio Grande Skateboard Park. (Ord. No. 14-2001, § 2 [part])

Sec. 21.36.050. Penalty.

The privilege of any person to use the Rio Grande Skateboard Park is expressly conditioned upon compliance by that person with the provisions of this Chapter. A violation of any provision of this Chapter shall be deemed an infraction punishable by a fine and/or incarceration as provided by Section 1.04.080 of this Code. In addition, the person shall be subject to eviction from the facility. (Ord. No. 14-2001, § 2 [part])