

**CHAPTER 6**  
**STREETS, SIDEWALKS AND PUBLIC WAYS**

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**6.01 NAMES OF STREETS**

All streets of the City shall be known and designated by the names applied hereto, respectively, on the map of the City kept on file in the office of the City Clerk. The street names designated on such map shall continue to be the names of the streets unless and until changed by ordinance of the City Council.

**6.02 DAMAGE TO STREETS**

No person shall damage or deface any street, alley, sidewalk, public way, park or other City or public property, or any post, wire, lamp, street sign, traffic sign, tree, grass, vegetation, gutter, drain, manhole or any other appurtenance thereon.

**6.03 ENCROACHMENTS ON STREETS** *Amended, 06-6-4*

A. PERMIT: No person shall erect or maintain any structure or thing on, over or under any street, alley, sidewalk or public right-of-way except by permit from the City Council. Application for such permit shall describe the nature of the encroachment detail, as the City Council shall require. The Council, in its discretion, may issue or deny the permit and may impose any conditions to such permit as it deems appropriate. To the extent the provisions of this Section 6.03 may conflict with the provisions of Section 6.25 herein, the more restrictive provisions shall prevail.

B. AWNINGS: Awnings made of a pliable substance attached to a building and extending not less than eight feet above the surface of the sidewalk may be erected and maintained without a permit.

C. MAINTENANCE: Any encroachment on any street, sidewalk, alley or public way shall be maintained so that it does not endanger or obstruct the public.

D. VIOLATIONS: Any encroachment maintained in violation of this Section 6.03 is declared a nuisance and may be abated by the City.

#### **6.04 OBSTRUCTING STREETS**

A. FREE PASSAGE: No person shall obstruct or endanger the free passage or proper use of the public on any street, sidewalk, alley or public place, except as may be permitted by this Code.

B. EXCEPTIONS: Goods, wares and merchandise may be placed on sidewalks for such reasonable time as may be necessary while loading and unloading, provided pedestrian traffic is not totally obstructed.

#### **6.05 MATERIAL IN PUBLIC WAYS**

No person shall place any materials on or over any street, sidewalk or public place without a permit from the City Council.

#### **6.06 ADVERTISING ON STREETS**

No person shall paint or post any signs or bills on any streets, poles or other structures in any street or on the surface of any street or sidewalk without permission from the City Council.

#### **6.07 DEBRIS IN STREETS**

A. LITTERING: No person shall litter or deposit any foreign matter on any street, alley, sidewalk, right-of-way, park or public place, except building materials and merchandise as permitted under this Code, or as may be permitted by the Chief of Police.

B. PENALTY: Any person violating this Section 6.07 shall be liable for the cost of

removal of the foreign matter in addition to the penalty provided for violation of this Section 6.07.

#### **6.08 EXCAVATIONS IN STREETS and RIGHTS-OF-WAY**

A. PERMIT: In addition to any other governmental permit, no person shall excavate in or tunnel under any street or sidewalk in the City without first securing a permit and notifying JULIE at least 24 hours in advance of such work from the Building Department and Coordinator of Public Works.

B. DEPOSIT: A deposit shall be made pursuant to Section 24.12 of the Building Code for any excavation in streets or right-of-way.

C. RESTORATION: Restoration shall be pursuant to Section 24.12 of the Building Code including right-of-way restoration to the original or acceptable condition according to Section 6.15 herein.

D. STANDING BOND: Any public utility or other person may deposit a bond with the City to assure the proper repair of City streets whenever work is done in the City.

#### **6.09 PROTECTION OF WORK IN STREETS**

Any person constructing, repairing, or making any excavation in or tunneling under, or placing any material on or over any street, sidewalk, right-of-way or other public place shall maintain suitable barricades and other protective devices as necessary to prevent injury to any person(s) exposed to the construction process. Suitable lights shall be maintained during the night time to warn the public. No person, unless authorized by the City, shall interfere with or disturb any such warning devices.

A JULIE dig number shall be obtained and a permit shall be secured from the Building Department and the Coordinator of Public Works at least 24 hours in advance of placing any barricades in any street.

#### **6.10 OPENINGS IN STREETS**

A. PERMIT: No street, alley, tree bank, public ground or place shall be disturbed or opened, nor shall any material or thing be placed or kept therein without first making application to the Coordinator of Public Works for the privilege of making said opening and to have a written permit issued by the Coordinator of Public Works for said opening.

B. APPLICATION: Persons desiring such openings shall make application to the Coordinator of Public Works on a form furnished by the City. No permit will be issued until the permittee:

1. Completes an application for opening on a form furnished by the City and states fully all purposes for which the opening is required.

2. Contacts all individuals or corporations operating gas, electric, telephone or other public utility in the area, as well as the City itself to receive from them the information as to the existence and location of any underground facilities, so that the proper precautions can be taken to avoid serious damage to the underground structures. Before opening is started the applicant shall furnish the Coordinator of Public Works with written statements from persons named above to the effect that they have been informed of the proposed project.
3. Files a work scheduled approved by the Coordinator of Public Works indicating starting date and date of completion and number of hours each day that work will be undertaken.
4. Agrees to make an opening in such a manner as to not unreasonably interfere with vehicular and pedestrian traffic, the demand and necessity for parking spaces, and the means of egress to or from properties affected.

If an opening requires the closing of a street permit approval is required from the City Council and the permittee shall provide for and pay all costs of detouring traffic.

5. Secures an Illinois Department of Transportation permit if required.
6. Secures appropriate City permits if opening is for the purpose of making connection to the water or sanitary sewer system.
7. Pays a permit fee, which shall be determined from time to time by the City Council.
8. Agrees to pay all costs of City engineering or inspection services if deemed necessary by the Coordinator of Public Works. Permittee may be required to place on deposit with the Clerk an estimated cost of engineering and/or inspection services. The permittee, however, shall only pay the actual costs of such services.
9. File with the Clerk a good and sufficient bond payable to the City with surety approved by the City, conditioned that such person shall faithfully observe the ordinances of the City and shall make and repair such openings and space, and shall save and keep harmless the City from all costs arising in any manner or way from the granting of such permit. The amount of the bond shall be determined by the Coordinator of Public Works but in no case shall it be less than \$1,000.
10. Agrees to adequately protect all excavations with barricades, lights, or other

means of protection required by the Coordinator of Public Works. He shall also place on file the name, address and home telephone number of the person responsible for the work.

11. Agrees that materials used and methods of construction shall be in conformance with specifications established by the City Engineer or Coordinator of Public Works. All work shall be under the supervision of the Coordinator of Public Works.
12. Agrees to secure and protect the City from any liability or damage whatsoever for injury, including death, to any person or property and files with the Clerk liability insurance certificates in an amount to be established from time to time by the City Council, but in no case less than \$1,000,000.

C. **DEFAULT:** In any case where a permittee shall be in default or shall fail to comply with the requirements of this Section 6.10, or shall fail to complete the work on the date agreed upon, the Coordinator of Public Works shall order the work completed by the City and shall so notify the permittee and surety in writing. The City shall recover the cost from the permittee or his surety.

#### **6.11 STREET MAINTENANCE**

A. **DUTY IMPOSED:** It shall be the responsibility of every subdivider or developer to keep and maintain the streets and ways in and around the subdivision clean and free from all dirt, mud, construction material and other debris during the period of construction.

B. **STREETS:** The duty imposed by Section 6.11-A herein shall apply to all streets within the subdivision, all streets designated as construction traffic routes and all perimeter streets or streets adjacent to the subdivision.

C. **REQUIRED CLEANING:** Every subdivider or developer shall scrape each street described in Section 6.11-B herein every day during the period of construction, and shall sweep or cause the streets to be swept once every week. In addition to the foregoing, every subdivider shall be required to scrape, sweep or remove debris from the streets as from time to time directed by the Coordinator of Public Works, the Administrator or the City Engineer.

D. **SNOW AND ICE REMOVAL:** In the event one or more Certificates of Occupancy have been issued for any structures located on an unaccepted street, the subdivider or developer shall be responsible for snow and ice removal. If required by the City, a subdivider or developer shall enter into a contract with the City for snow and ice removal. The cost of such service shall be approved from time to time by the City Council using the IDOT approved cost schedule..

E. **PENALTIES:** Any subdivider violating any provision of Section 6.11 shall be subject to one or more of the following penalties, said penalties being cumulative and in addition to any

other penalties which may be imposed:

1. A fine of not less than \$25 nor more than \$500 for each offense, and a separate offense shall be deemed committed on each day during or on which a separate violation occurs or continues.
2. The City may undertake the necessary cleaning as required herein and then assess the costs and expenses, including reasonable attorneys' fees, incurred by the City for such cleaning against the subdivider and may take action against the performance or construction bond for payment thereof.
3. "Stop Work Orders" for the subdivision may be issued by the City until the subdivider complies with the requirements herein. No work shall be done in the subdivision while the stop work order is in effect.
4. The City may withhold the issuance of Certificates of Occupancy for all residences within the subdivision until the subdivider complies with requirements herein.

F. NOTICE: Prior to the imposition of the penalties set forth in Sections 6.11-E-3 and 4 herein, the City shall cause a written notice to be sent to the subdivider or developer setting forth the specific violation(s) of this Code. The subdivider or developer shall have five days after the date of the notice within which time to comply with the terms of the Code. In the event the subdivider or developer does not comply with the terms herein within said five day period, the City may proceed to impose the penalties provided for in Section 6.11-E-3 and 4 herein. No notice shall be required prior to the imposition of the penalties set forth in Sections 6.11-E-1 and 2 herein.

## **6.12 CURBS AND GUTTERS**

A. UNIFORM CONSTRUCTION: All curbs and gutters hereinafter built in the City shall be of uniform construction and built under the supervision of the City Engineer and Coordinator of Streets and Maintenance. No curb or gutter shall be constructed unless the same complies with the provisions herein stated, and all property owners complying with the provision shall pay the entire costs of constructing the curb and gutter adjacent to or abutting his property.

B. CONSTRUCTION REQUIRED: Curbs and gutters shall be constructed on all streets in the City at such times as the property owners wish, except when constructed by the City under special assessment proceedings made in connection with street improvements or when, in the discretion of the City Council, such construction is deemed necessary.

C. LOCATION: The height and location of the curb shall be determined by the City Engineer.

## **6.13 SIDEWALKS**

A. SPECIFICATIONS: All sidewalks that may hereafter be built within the City shall be in accordance with the plans and specifications of the City Engineer.

B. PERMIT: No person shall build any sidewalk along any public street without a permit from the Building Department.

C. GRADE: The grade at which all sidewalks shall be laid shall be fixed and determined by the City Engineer and no person shall lay or construct any sidewalk within the City except at such grade.

D. NOTICE: Whenever the City Council finds it necessary and proper to construct or rebuild any sidewalks along or upon any street or public alley in the City it shall require the City Engineer or Coordinator of Public Works to examine the matter and report back to the Administrator. When such report has been made, the affected property owner(s) shall be notified in writing that a walk shall be built. Said notice shall state, in detail, the specifications governing the construction of the walk.

E. COUNCIL ACTION: If such owner or owners of the property, so notified to build such walk, refuse to build the same for a space of 15 days, after receiving the notice, the City Council shall pass an ordinance providing for the construction of such walk or walks, in accordance with the provisions of the Illinois Compiled Statutes relating thereto.

F. COST: The owner or owners of any lot, piece or parcel of ground in the City, along and in front of which the City Council orders a sidewalk to be built, either by special ordinance or otherwise, shall pay the entire cost of the building of such sidewalk, and the City shall not be responsible for any portion of the cost of any sidewalk within the City, except for such sidewalks as are laid along or in front of property owned by the City.

G. COMPLIANCE: When any walk is built, constructed or rebuilt in accordance with this Section 6.13 it shall be the duty of the Building Commissioner to see that the conditions and specifications pertaining to the construction of the walks are complied with, and the City shall have the right to accept or reject any sidewalks that do not comply with the specifications, as fixed by the City Engineer for the construction of sidewalks.

#### **6.14 SNOW ON SIDEWALKS**

The person occupying the ground floor of any building, the owner/user of any lot without a structure thereon, and the owner of any vacant building or other premises shall remove the snow and ice accumulating on the abutting sidewalks within 24 hours after any snowfall has ceased. If snow or ice cannot be removed the surface shall be sanded or otherwise treated to lessen the hazard for pedestrians until the climate permits removal.

#### **6.15 DAMAGE TO PUBLIC PROPERTY**

No person shall damage or deface any street, alley, sidewalk, public way, park or other public property, or any post, wire, lamp, street sign, traffic sign, tree, grass, vegetation, gutter, drain, manhole or any other appurtenance thereon.

#### **6.16 MOVING STRUCTURES**

No person shall move any building or structure on any street without a permit from the Building Department. The Building Department may impose such conditions deemed appropriate to protect the City and the public. Upon granting such permit, the applicant for such permit shall deposit \$1,000 in cash with the City as security for the protection of the streets and other City property exposed during the moving process. The deposit shall be returned, less a \$50 administration fee and any cost to repair public facilities damaged by the moving process. At no time shall a deposit be returned without written approval from the Coordinator of Public Works.

#### **6.17 BURNING LEAVES AND RUBBISH**

No person shall burn any leaves, paper, rubbish or other substances upon any street, sidewalk or alley.

#### **6.18 DRIVEWAYS**

A. PERMIT: No person shall construct a driveway entering any street without a permit from the Building Department. Said driveway shall be constructed according to the requirements of the Zoning Ordinance, however all driveways in areas not served by curb and gutter must be constructed of asphalt or concrete, as defined in Section 24.11 of this Code, from the lot line to the edge of the paved roadway.

B. CULVERTS: Culverts may be required in areas not served by curb, gutter and storm sewers prior to the point of entry of the driveway to the public road, as defined in Section 24.11 of this Code. The length, width, depth and location of the culvert shall be subject to the approval of the City Engineer or Coordinator of Public Works.

In the event driveways are to be altered where there have been no previous culverts or previous culverts are inadequate, new culverts shall be installed pursuant to Section 24.12 of this Code.

If, in the judgment of the City Engineer, culverts are needed to remove any obstructions in drainage ditches or swales, the City shall install a culvert of the size and length determined by the City Engineer. The cost of the culvert and repaving that portion of any driveway that may be affected shall be borne by the owner of the property.

The City shall bear the cost of installation and regravelling of that portion of any driveway that may be affected by the installation of any culvert.

Maintenance to ensure proper water flows of all culverts, ditches and swales shall be the responsibility of the abutting property owner or tenant.

#### **6.19 EASEMENTS, RIGHTS-OF-WAY, DITCHES/SWALES**

That portion of each property in the City from the front property stakes to the roadway has already been dedicated to the City to be used for utilities, surface drainage and future roadway.

1. Buildings, structures or any parts of appurtenances thereto shall not be constructed or placed in any easement so as to restrict drainage channels.
2. The placement of any fill material in the right-of-way between the property line of the property owner and the public road shall require a permit issued by the Building Department.
3. No permit to alter, build or fill any part of the dedicated roadway shall be issued by the Building Department until written approval is received from the City Engineer or Coordinator of Public Works that the proposed alteration, building or fill will in no way effect surface water run-off capacities or patterns of surrounding properties.
4. The cost of the engineering review shall be born by the person(s) desiring the modification and shall be paid prior to the review being made.
5. All ditches and swales shall have the appropriate vegetation in the form of grass to eliminate erosion and sedimentation that could be caused by water traversing the ditch or swale, unless some other form of erosion and sedimentation control is recommended by the City Engineer for the project.

#### **6.20 SUMP PUMP DISCHARGE**

No person shall construct, alter, maintain or in any way provide for the discharge of a sump pump, either directly or indirectly, to any public street, sidewalk or right-of-way.

#### **6.21 NUMBERING BUILDINGS** *Amended, 09-4-4*

A. **NUMBERING BUILDINGS:** All buildings abutting streets of the City shall be numbered in accordance with the City Map prepared by the City Engineer, which map shall be kept on file in the office of the Clerk.

B. **RESPONSIBILITY:** It shall be the duty of the owners and occupants of every building in the City to have placed thereon or on the property, in a place visible from the street showing the number of the building. The address shall be in Arabic numerals or alphabet letters (script not permitted) at least four inches high, contrasting with the background and having a minimum stroke width of 0.5 inch.

## **6.22 GAS PIPES**

No person owning or maintaining any gas pipes or mains beneath the surface of any street in the City shall permit any leak to occur in such pipes or mains within a radius of 40 feet of any tree growing in any street or public place in the City. In the event that a leak exists or occurs in any such pipe or main, it shall be the duty of the person owning or using such defective pipe or main to repair the same immediately and stop such leak in a manner so as to prevent a recurrence of the same trouble, after receiving notice in writing from the Coordinator of Public Works, calling the attention of such person to the fact that such leak exists. If such person fails within five days after the receipt of such notice to stop such leak in a manner so as to prevent a recurrence thereof, such person shall be subject to the penalty provided for violation of this Code.

## **6.23 MAILBOX INSTALLATION**

Mailboxes installed along City streets shall be in accordance with U.S. Postal Service regulations. Mailbox posts shall not be reinforced or fortified so as to prevent or hamper its destruction upon impact. The placement of such mailboxes shall not interfere with street maintenance projects, such as snow plowing and street cleaning. For purposes of this Section 6.23, mailboxes of masonry construction shall be considered reinforced or fortified.

## **6.24 TREES (LOCATED ON BOTH PUBLIC AND PRIVATE PROPERTY)**

### **A. APPLICABILITY; INTENT:**

1. **APPLICABILITY:** Notwithstanding any other provision of this Code, the provisions of this Section 6.24 shall apply to all trees on City-owned property or in City rights-of-way, and shall apply to such other tree-related matters as is stated herein. The City shall have the right and the authority to impose the regulations of this Chapter on all applicants, developers and other persons who place or maintain trees on City-owned property or in City rights-of-way, including, without limitation, the authority to review and approve tree species, locations and spacing under all circumstances. In the event of a conflict between the provisions of this Section 6.24 and the provisions of Chapter 22 of this Code or any other City code or ordinance, the provision deemed by the City Administrator to be most protective of promoting the proliferation and maintenance and care of trees shall apply and control.
2. **INTENT:** It is the intent of this Section 6.24 to promote increases in the quality of trees and tree care in the City and to promote increases in tree populations in the City whenever practicable.

**B. DEFINITIONS:** For the purposes of this Section 6.24, terms used herein are defined in Appendix A of this Code.

C. TREE SPECIES: The City shall maintain a list of acceptable tree species, to be used when planting in City-owned rights-of-way and on any other City-owned property. This list will consist of species currently deemed satisfactory by the City Forester. This list of trees, and no others unless approved by the City Forester, are hereby approved for planting as street trees within City-owned rights-of-way and on other City-owned property. Copies of this list shall be made available at City Hall.

D. TREE SPACING: The spacing of street trees shall be no less than 40 feet between plantings. Street trees shall be planted as close to the minimum spacing standard as possible. The Coordinator of Public Works may reduce the minimum spacing standards set forth herein for special planting areas designed or approved by a landscape architect.

E. DISTANCES FROM CURBS AND SIDEWALKS: Trees shall be planted a minimum of two feet from all curbs, curb lines and sidewalks. Parkway trees, as measured from the back of the curb to the closest edge of the sidewalk, smaller than four feet, shall not be suitable for parkway trees unless approved by the City Forester. Trees planted on parkways where a sidewalk exists shall be centered between the back of the curb and the closest edge of the sidewalk.

F. DISTANCES FROM CORNERS AND FIRE HYDRANTS: No street tree shall be planted closer than 35 feet to any street corner, measured from the point of nearest intersecting curbs or curb lines. No street tree shall be planted closer than 10 feet to any fire hydrant, unless the location is previously approved by the Coordinator of Public Works.

G. DISTANCES FROM UTILITIES: No street tree other than those listed as acceptable tree species in the Public Works administration file, shall be planted under or within 10 lateral feet of any overhead utility wire. Nor shall any tree other than a small tree be planted over or within five lateral feet of any underground water line, sewer line, transmission line or other underground utility.

H. CITY AUTHORITY TO CARE FOR TREES: The City and its authorized agents shall have the right, but not the obligation, to plant, prune, maintain and remove trees, plants and shrubs on City property and within any City right-of-way or utility easement, as may be necessary to ensure public safety, preserve and enhance the quality of vegetation, and beautify the City. The City also, for the same purposes, may prune or remove all portions of any tree or shrubs that overhang any City property, City right-of-way or utility easement.

The City may cause to be removed as soon as practical any tree on City property or within City right-of-way that is diseased or dying, or that poses an irreconcilable threat to a utility or that otherwise threatens the public health, safety or general welfare.

Guidelines set forth by the National Arborist Association will be used for tree trimming and maintenance activities performed by the City or its agents.

I. TOPPING PROHIBITED: No person shall cause or allow the topping of any tree on

City property or within any City right-of-way provided, however, that the City may permit the topping of a tree under exceptional circumstances, such as when the tree has been severely damaged by a storm or other cause, or when topping is otherwise the only practicable action.

J. SITE CLEARANCE PRUNING: The owner of any tree on private property that overhangs any street or right-of-way within the City shall prune the branches of such tree, if necessary, so that such tree shall not obstruct the safe passage of vehicles, the light from any street lamp, the view of any street sign or the view of any street intersection. The owner also shall prune such tree so that there is a minimum of 10 feet of clear space between the surface of the street or a minimum clear space of eight feet between the surface of the sidewalk and the lowest hanging branch on such tree. The failure to so prune is hereby declared to be a public nuisance. If the owner fails or refuses to accomplish such pruning within 14 days after written notice to do so from the Coordinator of Public Works, or his designee, the City shall have the right, but not the obligation, to cause such pruning to be accomplished by City staff, or by contractors hired by the City for such purposes.

If the owner fails to pay to the City all of the costs incurred by the City for such clearance pruning within 30 days after receipt of a written invoice, then the City shall have the right, to the extent provided by law, to place a lien on the property on which such tree was located and to perfect such lien as provided by law.

K. SAFETY PRUNING: The owner of any tree overhanging any street or right-of-way within the City shall prune all dead, diseased, decaying, broken or dangerous branches from such tree and shall prune from such tree all branches that constitute a menace to the safety of the public or to the health of any other tree. The failure to so prune is hereby declared to be a public nuisance. If the owner fails or refuses to accomplish such pruning within 14 days after written notice to do so from the Coordinator of Public Works, or his designee, the City shall have the right, but not the obligation, to cause such pruning to be accomplished by City staff or by contractors hired by the City for such purposes.

If the owner fails to pay to the City all of the costs incurred by the City for such safety pruning within 30 days after receipt of a written invoice, then the City shall have the right, to the extent provided by law, to place a lien on the property on which such tree was located and to perfect such lien as provided by law.

L. REMOVAL OF TREES AND STUMPS: The owner of any tree or stump in the City that constitutes a hazard to life or property or that harbors harmful insects or disease constituting a threat to other trees shall remove such tree within 60 days after written notice to do so from the Coordinator of Public Works, or his designee. The failure to remove such tree or stump is hereby declared to be a public nuisance. If the owner fails or refuses to accomplish such removal within the required time period, the City shall have the right, but not the obligation, at the owner's expense, to cause such tree or stump to be removed by City staff or by contractors hired by the City for such purposes.

If the owner fails to pay to the City all of the costs incurred by the City for such removal within 30 days after receipt of a written invoice, then the City shall have the right, to the extent provided by law, to place a lien on the property on which such tree was located and to perfect such lien as provided by law. No person, except those authorized or employed by the City, shall remove, destroy, break, cut, deface, trim or in any way injure or interfere with any tree growing in any street or right-of-way without the written permission of the City Forester.

M. TAMPERING: No person shall attach or place any rope, wire, sign, poster, handbill or other thing on any tree growing in any street, right-of-way, or any guard or protection of the same. No person shall remove, injure or misuse any guard or device placed or intended to protect any tree growing in any street or right-of-way.

N. PROTECTION OF TREES: Unless otherwise specifically authorized in this Code, it shall be unlawful for any person without a written Tree and Stump Removal Permit from the City to remove, injure, destroy or undertake any procedure the result of which is to cause the death or substantial destruction of any tree, within the City limits, having a diameter of 10 inches DBH or larger. Tree and Stump Removal Permits authorizing the removal of such trees may be issued by the City Forester for, but not limited to, the following reasons:

1. The tree is dead or dying;
2. The tree is diseased;
3. The tree is damaged or injured to the extent that it is likely to die or become diseased, or that it constitutes a hazard to persons or property;
4. Removal of the tree is consistent with good forestry practice; and/or
5. Removal of the tree will enhance the health of remaining trees within the immediate vicinity.

The City Forester may issue a Tree and Stump Removal Permit where it is found that removal of the tree and/or stump will avoid or alleviate an economic hardship or hardship of another nature on the lot or residence located on the lot.

Upon receipt of a Tree and Stump Removal Permit, the permittee shall replace the tree so removed in each of the following instances:

1. In the event the removal of a tree or trees will avoid or alleviate an economic hardship or hardship of another nature on the lot or the residence located on such lot.
2. In the event a tree is damaged or injured by other than natural causes to the extent that it is likely to die or become diseased, or it constitutes a hazard to

persons or property.

The permittee is encouraged to replace the tree in the event the tree is diseased, dead or dying from natural causes, or in the event the tree is damaged or injured by natural causes where it is likely to die or become diseased.

The permittee may not be required to replace the tree in the event the City Forester determines that removal of the tree is consistent with good forestry practice, or in the event the removal of such tree will enhance the health of remaining trees within the immediate vicinity.

The permittee shall make all replacements with a new tree or trees of not less than 2½ inches DBH, the cumulative DBH of which shall equal or exceed the diameter of the tree or trees so removed, provided however, that the DBH of replacement trees may be less than the diameter of the tree or trees so removed in the event the City Forester determines that full replacement would result in the unreasonable crowding of trees upon the lot. Such replacement shall be made within 12 months of the date of the removal of any trees for which such replacement is required, and such trees shall be installed at the time of year most beneficial for transplanting the particular species.

Tree and Stump Removal Permits may be denied by the City Forester for, but not limited to, the following reasons:

1. Tree does not meet any of the criteria outlined in this section;
2. Tree is rare to the area and/or is a desirable specimen;
3. Tree is to be used for milling;
4. Tree is to be used for firewood;

The owner of a tree for which a Tree and Stump Removal Permit has been denied may appeal the decision of the City Council. A written request for review must be submitted to the City Council in care of the Coordinator of Public Works. All findings and decisions of the City Council shall be final. Disregard for the decision of the City Forester or the City Council shall be considered a violation of this Section 6.24.

O. TREE PRESERVATION DURING CONSTRUCTION: In connection with projects involving the construction of new homes, additions or detached accessory buildings requiring building permits, a Tree Preservation Plan shall be filed with the building permit application in order to assure that all buildings and other structures shall be located upon a lot or parcel of land in such a way as to minimize tree damage and/or removal, consistent with the various setback requirements of the City Zoning Ordinance. The Tree Preservation Plan shall specify the following:

1. Tree preservation area and building activity area upon the lot or parcel of land for which a building permit application has been filed. (Note: The tree

preservation area shall be protected physically from the building activity area by a barrier to prevent penetration of construction vehicles, materials, spoils and equipment into or upon the tree preservation area); and

2. The general contractor, who shall be responsible for the construction, erection and maintenance of temporary fencing or other physical barrier around tree preservation areas so that all trees in tree preservation areas shall be preserved.

A Tree and Stump Removal Permit will be issued only in the event the City finds that all reasonable efforts have been undertaken in the architectural layout and design of the proposed development to preserve existing trees. No building permit will be issued unless the Tree Preservation Plan has been filed with the building permit application and approved by the City Forester.

During construction all reasonable steps necessary to prevent the destruction or damaging of trees (other than those specified to be removed) shall be taken, including, but not limited to the following:

1. No construction activity, movement and/or placement of equipment or material or spoils storage shall be permitted outside the building activity area or within the tree preservation area. No excess soil, additional fill, liquids or construction debris shall be placed within the root zone of any tree that is required to be preserved;
2. Crushed limestone, hydrocarbons and other materials detrimental to trees shall not be dumped within the root zone of any tree, nor at any higher location where drainage toward the tree could conceivably affect the health of the tree;
3. Appropriate protective fencing shall be temporarily installed for protection of remaining trees;
4. All required protective fencing or other physical barrier must be in place and approved by the City Forester prior to beginning construction. The fencing must remain in place during the entire construction period to prevent the impingement of construction vehicles, materials, spoils and equipment into or upon the tree preservation area. All fencing must be secured to metal posts driven into the ground spaced no further than 10 feet apart;
5. No attachments, fences or wires, other than those approved for bracing, guying or wrapping, shall be attached to trees during the construction period;
6. Other measures such as construction pruning and root pruning of trees

directly impacted by construction must also be indicated on the plan or on an accompanying sheet and approved by the City Forester; and

7. Unless otherwise authorized by the Tree and Stump Removal Permit, no soil is to be removed from within the root zone of any tree that is to remain.

It shall be unlawful for any person, firm or corporation to fail to abide by the terms of any Tree Preservation Plan pursuant to which a building permit or Tree and Stump Removal Permit has been issued.

If, in the opinion of the City Forester, the necessary precautions as specified in the Tree Preservation Plan were not undertaken before construction commenced, or are not maintained at any time during construction, a stop work order shall be issued by the Building Commissioner until such time as the permittee complies with the precautions herein.

Tree preservation during road construction shall be strictly enforced. Specific requirements of tree preservation during road construction are available from the City Forester.

P. APPLICATION FOR TREE AND STUMP REMOVAL PERMITS: In the event a Tree and Stump Removal Permit is applied for in connection with work for which no building permit is required, there shall be no charge for such permit. The application for a Tree and Stump Removal Permit shall contain:

1. Name of applicant;
2. Commonly known address of the lot or property where said tree or trees are proposed to be removed is located (PIN of parcel if tree is in an undeveloped area of the City);
3. A written statement indicating the reason for removing the tree or trees;
4. A general description of other trees on the lot, including size and species; and
5. Name and address of contractor or other person who will have the responsibility for tree removal and landscaping.

In the event a Tree and Stump Removal Permit is applied for in connection with construction requiring a building permit, the application shall be accompanied by:

1. The Tree and Stump Removal Permit fee, to be determined from time to time by the City Council;
2. A tree survey of the lot, which shall be drawn on a scale of not less than one inch equals 30 feet, and shall show trees having a DBH of 10 inches and

larger, including a listing of species. In the event construction activity is to take place in the root zone of such trees, protected trees on adjoining lots should be shown;

3. A Tree Preservation Plan in conformance with the requirements of Section 6.24-Q herein; and
4. A report from a certified arborist if required by the City Forester.

Q. EMERGENCIES: In order to avoid danger or hazard to persons or property, during emergency conditions requiring the immediate cutting or removal of a tree or trees protected hereunder, a Tree and Stump Removal Permit will be issued by the City Forester without formal application.

In the event of such an emergency, if neither the City Forester, Coordinator of Public Works or Street Superintendent is available to issue such a Tree and Stump Removal Permit, it shall be lawful to proceed with the cutting of the tree or trees to the extent necessary to avoid immediate danger or hazard. In such event, the person causing the cutting shall report the action taken to the City Forester within 48 hours thereof.

R. INTERFERENCE WITH CITY TREE WORK: No person shall prevent, delay or in any other way interfere with work undertaken by the City and its authorized representatives to plant, cultivate, mulch, prune, spray or remove any stump, street tree, park tree or other tree as authorized by this Section 6.24.

S. PENALTY: Any person, firm or corporation who violates any provision of this Section 6.24 shall be subject to a fine of not less than \$25 nor more than \$1,000 for each offense, and a separate offense shall be deemed committed on each day during or on which a violation continues to occur. Further, a separate offense shall be deemed committed for each tree injured, removed, destroyed or for any undertaking of any procedure, the result of which is to cause the death or substantial destruction of any tree, within the City limits, having a diameter of 10 inches DBH or larger.

#### 6.25 UTILITIES IN RIGHT-OF-WAY *06-6-4*

A. DEFINITIONS: For purposes of this Section 6.25:

1. "City initiated improvements" or "City operations" shall include but not be limited to, anything required by the City in annexation, final plat requirements or other agreements with third parties including those intended to benefit other property within the City, City road construction, expansion or relocation projects, public works projects or other City operations, maintenance and planning projects.

2. "Public right-of-way" shall include but not be limited to, any street, alley, parkway, other land or waterway, dedicated or commonly used for utility or cable purposes, including utility or cable easements.
3. "Utility" shall include, in addition to all other commonly and legally accepted definitions of the term, cable providers and facilities, and video service providers.

B. PERMITS:

1. PERMIT REQUIRED: No person shall erect or maintain any poles or wires on or over any street, alley or other public way or public right-of-way without a permit from the Public Works Coordinator. A permit shall also be required for the installation, maintenance or replacement of any underground facilities, including, but not limited to wires, pipes, cables, conduits and ducts, within any street, alley or other public way.
2. EFFECT OF PERMIT: A permit from the City authorizes the permit holder to undertake only certain activities in accordance with this Section 6.25, and does not create a property right or grant authority to the permit holder to impinge upon the right of others who may have an interest in the public right-of-way.
3. FEE: The permit fee shall be determined by the City Council from time to time.

C. GAS PIPES: Any person or company maintaining any gas pipe in the City shall keep such pipe free from leaks so that no injury shall be done thereby to any person or property.

D. REMOVAL, RELOCATION OR MODIFICATIONS OF UTILITY FACILITIES: Within 60 days following written notice from the City, any person or company shall, at its own expense, temporarily or permanently remove, relocate, change or alter the position of any utility or cable facilities within the public right-of-way whenever the corporate authorities have determined that such removal, relocation, change or alteration is reasonably necessary for the construction, repair, maintenance or installation of any City initiated improvements or City operations on, over, under or within, such public right-of-way. To the extent this provision conflicts with the terms of an existing franchise agreement or with state law, the terms of the franchise agreement or state law shall govern. However nothing in this provision shall be interpreted as a fee to any utility or cable company for the use of the City's rights-of-way.

E. REMOVAL OF UNAUTHORIZED FACILITIES: Within 30 days following written notice from the City, any utility that owns, controls or maintains any unauthorized facility or related appurtenances within the public right-of-way shall, at its own expense, remove all or any part of such facilities or appurtenances from such public right-of-way. A facility is unauthorized and subject

to removal in the following circumstances:

1. Upon expiration or termination of the permit holder's license or franchise, unless otherwise permitted by applicable law;
2. If the facility was constructed or installed without the prior grant of a license or franchise, if required;
3. If the facility was constructed or installed without prior issuance of a required permit in violation of this Section 6.25; or
4. If the facility was constructed or installed at a location not permitted by the permit holder's license or franchise.

F. EMERGENCY REMOVAL OR RELOCATION OF FACILITIES: The City retains the right and privilege to cut or move any facilities located within the City public right-of-way as the City may determine to be necessary, appropriate or useful in response to any public health or safety emergency. If circumstances permit, the City shall attempt to notify the utility, if known, prior to cutting or removing a facility and shall notify the utility, if known, after cutting or removing a facility.

G. ABANDONMENT OF FACILITIES: Upon abandonment of a facility within the City public right-of-way, the utility shall notify the City within 90 days. Following receipt of such notice the City may direct the utility to remove all or any portion of the facility if the Public Works Coordinator determines that such removal will be in the best interest of the public health, safety and welfare. In the event the City does not direct the utility that abandoned the facility to remove it, by giving notice of abandonment to the City, the abandoning utility shall be deemed to consent to the use, alteration or removal of all or any portion of the facility by another utility or person.

H. CLEANUP AND RESTORATION: Upon completion of all construction or maintenance of facilities, the utility shall, at its own expense, remove all excess material and restore all turf and terrain in a timely manner and to the satisfaction of the City. This includes restoration of entrances and side roads. Restoration of roadway surfaces shall be made using materials and methods approved by the Public Works Coordinator. Such cleanup and repair may be required to consist of backfilling, regrading, reseeding, resodding or any other requirement to restore the right-of-way to a condition substantially equivalent to that which existed prior to the commencement of the project.

I. ANNUAL REGISTRATION REQUIRED: Every utility that occupies a City public right-of-way shall register on January 1 of each year with the Public Works Coordinator, providing the utility's name, address and regular business telephone and facsimile numbers, the name of one or more contact persons who can act on behalf of the utility in connection with emergencies involving the utility's facilities in the right-of-way and a 24-hour telephone number for each such person, and the name, address and regular business telephone and facsimile number of one or more contact

persons who shall receive any notices resulting from this Section 6.25. Each utility also shall provide evidence of insurance coverage reasonably consistent with industry standards.

J. Nothing in this Section 6.25 shall exempt any utility working in the right-of-way from any other provisions of this Chapter 6. To the extent other provisions of this Code may conflict with the provisions of this Section 6.25, the more restrictive provisions shall prevail.

K. PENALTIES: Any person who violates, disobeys, omits, neglects or refuses to comply with any provision of this Section 6.25 shall be subject to a fine in accordance with Section 1.06 herein. There may be times when the City will incur delay or other costs, including third party claims, because the utility will not or cannot perform its duties under its permit and this Section 6.25. Unless the utility shows that another allocation of the cost of undertaking the requested action is appropriate, the utility shall bear the City's cost of damages and its cost of installing, maintaining, modifying, relocation or removing the facility that is the subject of the permit and improvements. No other administrative agency or commission may review or overrule a permit related cost apportionment of the City. Sanctions may be imposed upon a utility that does not pay the costs apportioned to it.