

ORDINANCE NO. 5793

**AN ORDINANCE TO REGULATE STREETS, SIDEWALKS AND PUBLIC PLACES
BY REPEALING TITLE 12 OF THE RAPID CITY MUNICIPAL CODE AND
REPLACING IT WITH A NEW TITLE 12 OF THE RAPID CITY MUNICIPAL CODE**

WHEREAS, the City of Rapid City currently has ordinances which regulate streets, sidewalks and public places within the City; and

WHEREAS, the City's Utility Design Criteria Committee has reviewed Title 12 of the Rapid City Municipal Code and is recommending certain changes; and

WHEREAS, the changes being recommended include updating references to the City's Street Design Criteria Manual to the City's new Infrastructure Design Criteria Manual, combining chapters of the Rapid City Municipal Code regulating street improvements into one chapter, and generally updating some of the language; and

WHEREAS, the Common Council of Rapid City deems it to be in the City's best interests to adopt the recommendations of the City's Utility Design Criteria Committee and update the regulations on streets, sidewalks and public places within the City by repealing Title 12 of the Rapid City Municipal Code and replacing it with a new Title 12 containing the Committee's recommended changes.

NOW THEREFORE, BE IT ORDAINED by the City of Rapid City, that Title 12 of the Rapid City Municipal Code is hereby repealed.

BE IT FURTHER ORDAINED by the City of Rapid City, that a new Title 12 is hereby adopted to read in its entirety as follows:

TITLE 12: STREETS, SIDEWALKS AND PUBLIC PLACES

Chapter

12.04 Street Improvements

12.08 Sidewalk Construction and Repair

12.12 Street Use Regulation

12.16 High Clearance Routes

12.20 Parades

12.24 Park Use Regulations

12.28 Municipal Golf Courses

12.32 Trees

Chapter 12.04 Street Improvements

Section	
12.04.010	Purpose.
12.04.020	Definitions.
12.04.030	Design criteria.
12.04.040	Construction - Repairs and installation.
12.04.050	Liability for damages not affected by provisions.
12.04.060	Street names.
12.04.070	Street grades.
12.04.080	Roadway widths.
12.04.090	Work permit.
12.04.100	Blasting.
12.04.110	Supervision of work.
12.04.120	Plans and specifications.
12.04.130	Soil sampling and testing.
12.04.140	Special conditions.
12.04.150	Excavation permit required – Application.
12.04.160	Alley encroachments.
12.04.170	Infrastructure acceptance.
12.04.180	Two-year warranty.
12.04.190	Appeal procedure.

12.04.010 Purpose.

The characteristics of this chapter are so set forth as to indicate the type and general qualifications of a street improvement and shall, in no way, be construed to mean that the chapter in itself establishes the detailed technical aspects of the construction specifications.

12.04.020 Definitions.

- A. **CITY ENGINEER.** The person referred to in Section 2.44.070(B) of the Rapid City Municipal Code or his or her designee.
- B. **IDCM.** The current edition of the City of Rapid City Infrastructure Design Criteria Manual as adopted by the Common Council.
- C. **STANDARD SPECIFICATIONS.** The current edition of the City of Rapid City Standard Specifications for Public Works Construction as adopted by the Common Council.
- D. **STREET.** For the purposes of this chapter, the word *STREET* means the entire width between property lines of every way publicly maintained, when any part thereof is open to use of the public for purposes of vehicular travel.

12.04.030 Design criteria.

All public infrastructure shall be designed in accordance with the IDCM and built in accordance with the Standard Specifications. In cases where public regional facilities such as pump stations, reservoirs, large metering facilities or pressure reducing stations, and treatment facilities are proposed the City will provide design criteria and information supplemental to that contained within the IDCM.

12.04.040 Construction - Repairs and installation.

All public infrastructure improvements shall be constructed in the manner provided by the Rapid City Municipal Code. These improvements shall also be in accordance with the IDCM and the Standard Specifications.

12.04.050 Liability for damages not affected by provisions.

This chapter shall not be construed to relieve from or lessen the responsibility or liability of any person owning, operating, controlling or installing any equipment or infrastructure, for damages to persons or property caused by any defect therein or negligence in the handling thereof, nor shall the City be held as assuming any such liability by reason of the approval or disapproval by the City or any employee thereof, of any equipment or installations as authorized herein.

12.04.060 Street names.

The names of the streets and avenues in the city heretofore designated are fixed and adopted in accordance with and as shown by the map of the city now on file in the office of the City's Finance Officer, which is designated and adopted as the official map of Rapid City, South Dakota.

12.04.070 Street grades.

The record drawings of the grades of the streets and avenues in the city as heretofore established and as shown on the street profiles on file in the office of the City's Finance Officer are established and designated as the official grades of the streets of the city, and the profiles on file as aforesaid in the office of the city's Finance Officer are adopted as the official record of the street grades in the city.

12.04.080 Roadway widths.

The record drawings of the width of the roadways between curb lines for vehicular traffic on the various streets and avenues in the city heretofore established, are fixed and established in accordance with the official record of the width of roadways in the city as now on file in the office of the City's Finance Officer and are adopted as the official record of the width of roadways in the city.

12.04.090 Work permit.

No person shall either alter or construct, or cause to be either altered or constructed, any street or alley improvement, within public rights of way, on city property or within an easement designated for infrastructure owned and maintained by the City of Rapid City without first having obtained a permit from the Public Works Director. Applications for the permits shall be made to the Public Works Director, and shall describe the location of the intended improvements, the size, location and extent thereof, the purpose there for, and the name of the person for whom the work is being done. The application shall contain an agreement that the applicant will comply with all ordinances and laws relating to the work to be done. The application shall include a plan prepared in accordance with the Manual for Uniform Traffic Control Devices issued by the Federal Highway Administration, and City of Rapid City Standard Specifications for Public Works Construction (current edition), for temporary traffic control to be provided in the work area. All work shall also be in compliance with City of Rapid City Infrastructure Design Criteria Manual (current edition) and City of Rapid City Standard Specifications for Public Works Construction (current edition). Permits shall be valid for a period of six months, and may be renewed for an additional six months upon request to and approval of the Public Works Director. Inspection and permit fees for the installation of public and private infrastructure within the right of way shall be in accordance with Title 13.

12.04.100 Blasting.

All work shall be in compliance with the Rapid City Municipal Code principally Titles 8 and 13 of the code.

12.04.110 Supervision of work.

The construction of all infrastructure improvements within public rights of way, on City-owned property and within easements or other rights of way designated for infrastructure owned and maintained by the City of Rapid City shall at all times be under the supervision of the City Engineer.

12.04.120 Plans and specifications.

Any person doing work described by Section 12.04.110 shall

- A. provide plans and specifications in accordance with the provisions of Title 13 of this code, Infrastructure Design Criteria Manual (current edition) and City Standard Specifications for Public Works Construction (current edition), and
- B. receive approval from the City Engineer or his or her designee for all plans and specifications prior to initiation of construction.

12.04.130 Soil sampling and testing.

The City Engineer may require, at the expense of the person desiring to do work described by Section 12.04.110 sufficient soil samples in the area to be improved in order to establish a sound basis for the design of improvement. The field samples, as required by the City Engineer, shall be subjected to testing in a laboratory approved by the City Engineer and shall be in accordance with Title 13 of this code, Infrastructure Design Criteria Manual (current edition), and City Standard Specifications for Public Works Construction (current edition).

12.04.140 Special conditions.

All types of special problems, such as alleyway inverted crowns, high groundwater table conditions, poor surface drainage, high values of group index numbers, extreme traffic conditions, soil characteristics favorable to capillary action and its resulting frost heave, or any other unusual condition shall be considered by the City Engineer, and such construction shall be made in accordance with the requirements of the City Engineer.

12.04.150 Excavation permit required–Application.

It is unlawful for any person to tunnel under, or to make any excavation in, any street, alley or other public place in the city without having obtained a permit to do so from the Public Works Director. Applications for the permits shall be made to the Public Works Director, and shall describe the location of the intended excavation or tunnel, the size thereof, the purpose there for, the name of the person for whom the work is being done. The application shall contain an agreement that the applicant will comply with all ordinances and laws relating to the work to be done. Permits for excavations or tunneling in such streets, alleys, or other public places shall only be issued to entities holding a valid Trenching Contractor’s License issued by the City of Rapid City in accordance with Chapter 13.10 of this Code.

12.04.160 Alley Encroachments.

Alleys for purposes of this chapter are considered a subcategory of Streets and are further defined within the IDCM. No building shall be constructed or altered in a manner that allows a building entrance door to swing into or encroach into an alley nor shall any stoop or stairway be constructed into an alley. Other building appurtenances and fixtures, such as awnings, electrical equipment, HVAC units, exterior lighting, etc., may not extend into an alley regardless of their vertical height above the alley surface. The City Engineer and Building Official may jointly approve exceptions to this requirement on a case by case basis and develop guidelines and requirements to effectuate its purpose.

12.04.170 Infrastructure Acceptance.

All infrastructures within the jurisdictional area of the City of Rapid City that is or will be located within public right of way, on City-owned property or within an easement given to the City or the public shall not be utilized for public use until such infrastructure is formally accepted by the City through action of the Common Council. Private utilities and infrastructure contracted by or constructed directly by the City shall be exempt from this requirement.

The Public Works Director shall place on the Public Works Committee agenda an action item recommending acceptance of infrastructure when the project as a whole is ready for acceptance. Project components will not be accepted individually unless the Public Works Director believes such action is in the best interest of the City.

In order for infrastructure to be presented to the Common Council for consideration of acceptance, the infrastructure must be constructed in accordance with the IDCM, the Standard Specifications, and the City-approved construction drawings. In addition, all required tests and punch list items shall be addressed prior to consideration by the Common Council. Pavement structural integrity shall be verified by core sampling by the City prior to acceptance. All fees required by this Code shall be paid prior to the infrastructure being accepted. These fees are applicable even when the infrastructure is completed outside the platting process.

12.04.180 Two-year warranty.

During a period of two years after a work permit is issued or the completion of work, whichever is later, the contractor shall make all needed repairs arising out of settled ditches, defective workmanship and/or materials furnished by the contractor. The City may make such repairs at the contractor's expense if within 10 days after receipt of a written notice to the contractor or his agent, the repairs are not made. Further, in the case of an emergency, where in the judgment of the City delay would cause serious loss or damage, repairs may be made without notices to the contractor.

If the City causes repair work to be completed after due notice is given, the contractor will be assessed at one and one-half (1½) times the cost incurred. If repairs are made due to an emergency, the contractor shall pay only the actual cost incurred. The assessment shall be paid prior to issuance of any additional permits, and in no case later than thirty (30) calendar days after completion of the work.

The City reserves the right to extend the warranty period if excessive problems develop during the initial two-year period.

12.04.190 Appeal procedure.

Unless otherwise provided, any person aggrieved by a determination or order of the Public Works Director or his designee may appeal such determination or order within 10 days after such determination or order is imposed, by delivering to the Public Works Director a written notice of appeal, setting forth the specific grounds for the appeal. Upon receipt of such notice of appeal, the Public Works Director shall enter the appeal on the agenda of the next scheduled meeting of the City's Public Works Committee, and notify the applicant in writing of the time and place of the hearing.

Chapter 12.08 Sidewalk Construction and Repair

Section

- 12.08.010 Liability of property owner for failure to repair.
- 12.08.020 When required—Notice to property owners.
- 12.08.030 Work by city.
- 12.08.040 Specifications.
- 12.08.050 Width.
- 12.08.060 New and Existing Developments.

12.08.010 Liability of property owner for failure to repair.

Any owner of real property who shall fail to keep in repair the sidewalks in front or along the property if he or she resides thereon, or if he or she does not reside thereon, to repair the same forthwith when notified, shall be held liable to the city for any damage caused by the neglect.

12.08.020 When required—Notice to property owners.

Whenever the Common Council shall deem it necessary to construct, rebuild or repair any sidewalk, it shall notify all owners by return receipt mail of lots adjoining the sidewalk to construct, rebuild or repair the same at their own expense within a time designated. The notice shall be in writing and either be served personally on each owner or by publication once each week for 2 consecutive weeks. It shall set forth the character of the work and the time within which it is to be done. The notice may be general as to the owners, but must be specific as to the description of the lots.

12.08.030 Work by city.

If a sidewalk is not constructed, reconstructed or repaired in the manner and within the time prescribed in the notice given pursuant to § 12.08.010, the Common Council, by resolution, may cause the same to be done and the cost thereof assessed against the lots, plots or parcels of land fronting or abutting upon the sidewalk so constructed, reconstructed or repaired, as provided in SDCL Chapter 9-46.

12.08.040 Specifications.

The construction of sidewalks, whether done by the owner of the fronting or abutting property or by the city, direct or through a contractor, shall be according to the current editions of the City of Rapid City Standard Specifications for Public Works Construction and the Infrastructure Design Criteria Manual. All sidewalk construction and repair shall be of concrete or material approved by the City Engineer.

12.08.050 Width.

- A. The width of all sidewalks, except in the business district described in subsection B. of this section, shall be a minimum of 4 feet on lane, place and local roads and a minimum of 5 feet on all other roads. Sidewalks shall be constructed in the right-of-way 1 foot from the property line, unless otherwise directed or approved by the City Engineer. However, in any block in which the majority of the sidewalks have been constructed at a greater width, all newly constructed sidewalk shall be constructed at the same width as those existing sidewalks. Sidewalks to be constructed adjacent to the curb in accordance with the Infrastructure Design Criteria Manual (current edition) shall be a minimum of 5 feet in width for lane, place and local roads and a minimum of 6 feet for all other roads. Any proposed sidewalk to be constructed which will abut an existing wider sidewalk shall be constructed to provide a transition between the different widths as approved by the City Engineer.
- B. In the business district, which consists of the area between Rapid Street and Kansas City Street and between East Boulevard and West Boulevard, sidewalks shall be constructed from the curb line to the property line.

12.08.060 New and Existing Developments.

- A. *Conformance with sidewalk requirements – exceptions.* The construction of a permanent sidewalk fronting or abutting all streets, highways and avenues shall be accomplished by the builder, owner or developer of all new or existing residential or commercial buildings within the city, except in the following circumstances:
 - 1. When the Common Council, pursuant to Chapter 17.50 of this code, approves a planned unit development or planned residential development incorporating a sidewalk plan unique to the development;
 - 2. When the lot has a frontage in excess of 200 feet per dwelling unit located on the lot and is in the General Agricultural Zoning District; however, if the lot abuts or is adjacent to a lot with existing sidewalk, this exception shall not apply;
 - 3. When the property has frontage along an interstate highway, a sidewalk will not be required along the interstate;
 - 4. When the Common Council, in its sole discretion, approves a variance from sidewalk requirements.
 - 5. All property with existing development on the effective date of these regulations which is not in compliance with the provisions of these regulations shall be considered nonconforming and allowed to continue until such time as a building permit is granted to enlarge by 20% or more a structure or parking lot on the property or increase the occupant load by

20% or more. A waiver of right to protest shall be required prior to a building permit being granted to enlarge by less than 20% a structure or parking lot on the property or increase the occupant load by less than 20%. Nothing in this section shall limit the City Council's ability to order the installation of sidewalk in accordance with the provision of § 12.08.020.

- B. *Inspection prerequisite to certificate of occupancy–bond.* No certificate of occupancy shall be issued nor shall a water meter be released until a final inspection by the Building Official reveals that security in an amount equal to the estimated cost of construction of the sidewalk, whereby the sidewalk will be constructed without cost to the city in the event of default by the builder, owner or developer of the property. All bonds and other methods of guarantee shall be approved by the City Attorney.

- C. *Application for variance.* Any person aggrieved by any decision of the Building Official under this section may apply in writing to the Common Council for an exception from the requirements of this section.

Chapter 12.12 Street Use Regulation

Section

- 12.12.010 Utility installations–Map required.
- 12.12.020 Public rights-of-way–Unlawful obstructions–Exclusions.
- 12.12.030 Sidewalk cafés.
- 12.12.040 Sidewalk vendors.
- 12.12.050 Public rights-of-way – Structures prohibited – Exceptions.
- 12.12.060 Public rights-of-way – Unlawful deposits.
- 12.12.070 Public rights-of-way – Work impeding use.
- 12.12.080 Streets and alleys – Dumping water during freezing weather.
- 12.12.090 Sidewalks – Snow and ice removal.
- 12.12.100 Snow – Placing on public property.
- 12.12.110 Parkways -- Maintenance.
- 12.12.120 Public rights-of-way – Curb and gutter -- Maintenance.
- 12.12.130 Public rights-of-way – Gravel surfaces -- Maintenance.

12.12.010 Utility installations–Map required.

All public utility companies operating in the City shall file with the Finance Officer a map or plat showing the location of all their installations which lie in or along any public way or public place, and shall file additional maps or plats as new installations are placed therein or thereupon, so as to afford the public an exact showing of the location of all such installations within the city. At a minimum, such additional maps or plats shall be filed annually, and the utility shall certify the accuracy of all information so filed.

12.12.020 Public rights-of-way–Unlawful obstructions–Exclusions.

- A. It is unlawful for any person, without legal privilege to do so, to obstruct any public street, alley, sidewalk, way, place or building, whether alone or with others and who, after warning by a police officer, persists in so obstructing the same.
1. To **OBSTRUCT** means rendering impassable without reasonable inconvenience or hazard. No person shall be deemed to have violated this section solely because of a gathering of persons to hear him or her speak or otherwise communicate or solely because of being a member of the gathering.
 2. A person in a gathering commits a violation if he or she refuses to obey a reasonable request or order by a police officer to move.
 - a. To prevent obstruction of a public street, alley, sidewalk, public way, place or building; or
 - b. To maintain public safety by dispersing those gathered in dangerous proximity to a fire or hazard.
 3. A request or order to move addressed to a person whose speech or other lawful behavior attracts an obstructing audience shall not be deemed reasonable if the obstruction can readily be remedied by police control of the size or location of the gathering.
 4. **PUBLIC.** For the purposes of this section means affecting or likely to affect persons in a place to which the public or a substantial group has access, among such places are included public streets, alleys, places, public buildings and any places of business or amusement which the buildings, places of business or amusement are open to the public.
- B. It is unlawful for any person to loiter, stand or sit in or upon any public street, alley, sidewalk or crosswalk so as to in any manner hinder or obstruct the free passage therein or thereon of persons or vehicles passing or attempting to pass along the same, or so as to in any manner annoy or molest persons passing along the same.
- C. It is unlawful for any person to place any goods, wares or merchandise for exhibition or sale upon any public street, alley, sidewalk or any public grounds in the city, or place or cause to be placed thereon any goods, wares or merchandise, or bottles, cans, cases, packages, barrels, or other containers, at any time for exhibition, sale or any other purpose, or place or cause to be placed thereon, any advertising sign, bicycle rack, popcorn stand or rack, or any other moveable property, article or material which in any manner obstructs or interferes with the free use of such public street, road, alley, sidewalk or public ground.

- D. For purposes of subsections A. through C. of this section, the placement of tree planters and attached benches upon sidewalks by the owner of the abutting property, or his or her agent, shall not be construed as an obstruction; provided that, the sidewalk is approximately 15 feet in width and that there remains a minimum of 5 feet between the tree planter, attached benches and the property line, and that there remains a minimum of 3 feet between the tree planter, attached benches and the back of the curb.
1. The placement and design of the tree planters, attached benches and the types of trees used shall be approved by the Public Works Director or his or her designee;
 2. The owner of the abutting property or his or her agent, who places the planters and attached benches upon the sidewalk, shall keep the trees, the tree planters and the attached benches in a neat and satisfactory manner;
 3. No advertising of any kind or nature shall be permitted to be placed upon the tree planter or attached benches.

12.12.030 Sidewalk cafés.

Notwithstanding any other provision of this chapter, the City of Rapid City may authorize businesses to operate sidewalk cafés upon public sidewalks as hereinafter described, subject to the conditions hereinafter set forth. A sidewalk café is an outdoor area located in the public right-of-way which is operated and maintained by an establishment, coffeehouse, tea shop, restaurant or bar.

- A. *Approved Sidewalk Café Area.* The area in which sidewalk cafés may be permitted is the area within the following boundary: Commencing from the intersection of East Omaha and east Boulevard, west to West Boulevard, south to the alley between Kansas City Street and Quincy Street, east to Ninth Street, south to Quincy Street, east to 4th street, north to the alley between Quincy Street and Kansas City Street, east to 1st Street, north to Kansas city Street, east to East Boulevard, and north to the point of origin.
- B. *Application Procedure.* An application for a sidewalk café permit shall be processed according to the following procedures:
1. The Director of the Community Planning & Development Services Department shall have the authority to issue sidewalk café permits.
 2. An application for a sidewalk café shall be filed with the Community Planning & Development Services Department and be approved or denied within 14 business days by the Director.

3. Application for a sidewalk café permit is limited to an individual who holds a valid business license for the establishment issued pursuant to § 5.04 of this code.
 4. Processing fees for the application shall be set by City Council by resolution.
- C. *Application Contents.* An application for a sidewalk café permit shall include the following items:
1. Property Owner and Leaseholder, as applicable, name, address and contact information;
 2. A narrative description of the type of items to be sold and written operations plan.
 3. A site plan drawn to scale on an 8 ½ inch by 11 inch sheet of paper indicating that the sidewalk café complies with Section 4 of this ordinance.
- D. *Sidewalk Café Site Requirements.* Sidewalk café permits shall comply with the following site requirements:
1. The location of the sidewalk café must be directly in front of the business operating the café and may not extend beyond the side property lines.
 2. Sidewalk cafés are permitted only on sidewalks with a minimum width of 10 feet from the property line to the curb face. Sidewalk cafés must maintain a clear pedestrian path of at least 5 feet at all times. This pathway must be free of any obstructions such as trees, parking meters, and utilities or other facilities such as telephone poles, fire hydrants, fire protection appurtenances, parking meters, mailboxes, or signs located in the public right-of-way.
 3. All applicable sight triangle requirements shall be met at all times by sidewalk cafes.
 4. No café elements may be located within 2 feet of the curb face.
 5. Physical barricades are required if alcoholic beverages are sold at the sidewalk café and may not exceed 4 feet in height. Elements of the sidewalk café may not be attached permanently to the sidewalk of public right-of-way. The property owner is responsible for the restoration of the sidewalk of public right-of-way if any damage is caused by the sidewalk café. Bolting a barrier to the sidewalk is not considered permanent as long as the method of bolting allows the barrier and the bolts to be readily removed.

6. Sidewalk cafés must maintain at least 1 opening for ingress and egress at all times and shall comply with the accessibility requirements of the currently adopted Building Code.
7. Umbrellas must be at least 7 feet above the sidewalk when open. Umbrellas must be designed to be secure during windy conditions.
8. Any signs authorized hereunder shall be of a size, dimension, orientation and placement as to be directed toward the attention of pedestrians within 50 feet thereof and, under no circumstances, directed toward the attention of persons traveling in motor vehicles. The signs shall not exceed 42 inches in height above the sidewalk or more than 24 inches in width on any face or no more than 2 faces total. Any such sign shall contain no off-premises advertising, and shall display no logo or advertising copy other than for the primary business of the occupant of the abutting property.
9. Lighting for sidewalk cafés is subject to approval during the permitting process. Such lighting shall not cause a glare to passing motorists or pedestrians. Tabletop lighting may include candles and battery-operated fixtures.
10. Sidewalk cafés must adhere to size, design, and other applicable requirements of the City Municipal Code as adopted or amended.

E. *General Requirements.* In addition to the specific sidewalk café site requirements the following general requirements shall apply:

1. All elements associated with sidewalk cafés, including but not limited to tables, chairs, umbrellas, temporary barricades, heaters and awnings must be of quality design, workmanship, and materials to ensure safety and convenience to patrons. All such elements will be reviewed as part of the permit process.
2. Sidewalk cafés are prohibited from playing amplified music, whether live or recorded.
3. Vending machines, carts, or other objects for sale are prohibited from inclusion in a sidewalk café. Nothing in this section shall preclude the City from authorizing vending carts or similar uses outside of sidewalk cafes.
4. All services provided to sidewalk café patrons as well as all patron activity must occur within the designated sidewalk café area. No alcoholic beverages may be stored or mixed in the sidewalk café.

5. The permit holder is responsible for proper supervision of the sidewalk café in order to ensure the requirements of this section are met.
 6. Patrons and employees must wear proper attire including shoes and shirts at all times.
 7. All areas within and surrounding a sidewalk café must be maintained in a clean, neat, and sanitary condition. All cleaning must be performed in accordance with city regulations.
 8. All permit holders shall be required to abide by all federal, state, and local laws.
- F. *Certificate of Insurance.* Every sidewalk café permit holder shall furnish a certificate of insurance proving commercial liability insurance coverage of at least \$2,000,000 aggregate and \$1,000,000 per occurrence for bodily injury, death, disability, and property damage liability. The City of Rapid City shall be named as an additional insured on a primary, noncontributory basis for any liability arising directly or indirectly from the operation of a sidewalk café. In the event that the insurance is cancelled, the permit holder has 24 hours to reinstate the insurance or the permit shall be revoked.
- G. *Exceptions.* An exception may be granted by the Planning Commission to any of the provisions of the design criteria set forth in subsection 12.12.030(D), and the decision of the Planning Commission is appealable to the City Council. Any person or party has the right to appeal the decision of the Planning Commission regarding an exception for a sidewalk café permit. Appeals must be made in writing and submitted to the Planning Commission by close of business on the seventh full calendar day following action by the Planning Commission. Appeals shall be reviewed and acted upon by the Common Council within thirty (30) calendar days.
- H. *Permit review.* The Planning Commission shall have the power to review any permit issued hereunder at any time.
- I. *Permit – Revocation or suspension.*
1. The Planning Commission, in its discretion, may revoke or suspend any permit for reasons including, but not limited to the following: failure to maintain the standards required for the sidewalk café; revocation or suspension of the required business license issued under chapter 5.04; violation of any applicable federal, state or local statute, ordinance, rule or regulation; or violation of any provision of this Rapid City Municipal Code section.
 2. The penalty of permit revocation shall continue for a period of one year from the date the revocation became effective. Once the period of

revocation has ended a former permit holder upon which the penalty of permit revocation has been imposed may apply for a new permit, subject to the requirements of this section 12.20.025 (A).

3. The penalty of permit suspension shall continue for a period not to exceed 30 days from the date the suspension became effective. Once the period of suspension has ended, the Planning Commission may, at its discretion, require re-application for any suspended permit.
 4. The penalties of permit revocation or suspension shall be imposed only after the permit holder has had notice and an opportunity to be heard.
 5. The notice of intent to impose penalty shall be sent by first class mail to the permit holder's address of record on file with the Finance Office. The notice of intent to impose penalty shall be mailed no later than 14 days prior to the hearing date.
 6. The penalty hearing will take place at a regular or special Planning Commission meeting, at the discretion of the Planning Commission, provided the notice of intent is mailed no later than 14 days prior to the meeting date. A vote of a majority of Planning Commission members present shall be required to impose penalty.
 7. The Planning Commission shall provide written notice of its decision, to be sent by first class mail to the permit holder's address of record on file with the Finance Office. The effective date of any penalty imposed shall be 14 days from the date of mailing of the Planning Commission's written notice of decision.
 8. Should any applicant or permit holder be aggrieved by a decision of the Planning Commission, he or she may, within 10 days, provide written notice to the Director of Community Planning and Development Services of his or her intent to appeal the decision to the Council. After the aggrieved applicant or permit holder has provided written notice, he or she will have a hearing before the Council. The Council may affirm, modify or reverse the action of the Planning Commission. All decisions of the Council shall be final.
 9. Any permit holder subject to investigation by the Planning Commission shall cooperate fully with the Planning Commission. Failure to cooperate fully with the Planning Commission is a basis for permit revocation or suspension.
- J. *Criminal penalty.* Any person violating this Section shall be subject to the general penalty provision of § 1.12.010.

12.12.040 Sidewalk Vendors.

Notwithstanding any other provision of this chapter, the City of Rapid City may authorize sidewalk vendors to operate upon public sidewalks as hereinafter described, subject to the conditions hereinafter set forth.

- A. *Approved Vending Cart Area and Vending Cart Sites.* The City Council has approved a vending cart area and individual vending cart sites located within the Rapid City Central Business District. Additional vending cart sites may be approved by the Director of the Community Planning & Development Services Department.
1. The vending cart area shall be an area with a boundary commencing from the intersection of East Omaha and East Boulevard, west to West Boulevard, south to the alley between Kansas City Street and Quincy Street, east to Ninth Street, south to Quincy Street, east to 4th street, north to the alley between Quincy Street and Kansas City Street, east to 1st Street, north to Kansas City Street, east to East Boulevard, and north to the point of origin.
 2. Within the vending cart area the City has approved vending cart sites that have adequate sidewalk width and pedestrian traffic flow to minimize potential conflicts with existing businesses. Maps of approved vending cart sites are available at the Community Planning & Development Services Department. Additional vending cart sites may be approved by the Director of the Department of Community Planning & Development Services Department, provided the applicant can demonstrate through the application process that the proposed vending cart site complies with the application procedures and requirements defined in this section.
- B. *Permitted Vending Products and Goods.* The City of Rapid City permits the following types of goods for street vending in approved locations:
1. Cut flowers;
 2. Food;
 3. Non-alcoholic beverages; and
 4. Current newspapers and magazine periodicals.

C. *Application Procedure.* An individual applicant is allowed to have no more than four (4) sidewalk vending cart sites during a calendar year and must file an initial application and receive approval by the Community Planning & Development Services Department for the specific location(s) prior to operation. The initial application is valid from the date the application is approved and expires on December 31 of the same year. Following the initial permit term under this section 12.20.025, an applicant on an annual basis will have the first right to renew application(s) for each sidewalk vending cart site permit held by that applicant. An applicant who held a permit prior to the enactment of this section shall have the first right to renew as to no more than four (4) sidewalk vending cart sites held by the applicant. The following shall apply to annual first right to renew applications:

1. The Director of the Community Planning & Development Services Department shall have the authority to issue sidewalk vendor permits.
2. An application for a sidewalk vendor permit shall be filed with the Community Planning & Development Services Department and be approved or denied within 14 business days by the Director.
3. In order to maintain the right-to-operate at a specific location, an application to renew the permit shall be filed by the last business day in January of the following year. Failure to file an application for renewal by the last business day in January will allow the vending cart site to become available to a different applicant. The date and time that an application is filed shall be noted on the application form by the Community Planning & Development Services Department.
4. Application for sidewalk vending cart site permit(s) is limited to an individual who holds a valid, current sidewalk vending license, issued pursuant to § 5.56 of this code.
5. Processing fees for the initial application and annual application renewal shall be set by City Council by resolution.

D. *Application Contents.* Application for a sidewalk vendor permit shall include the following items:

1. Vendor name, address and contact information;
2. A narrative description of the type of items to be sold and written operations plan including but not limited to, a description of any mobile container or device to be used for transport or to display approved items or services.

3. A site plan drawn to scale on an 8 ½ inch by 11 inch sheet of paper indicating that the vending cart and other items permitted on the Vendor Cart Site comply with Section 5 of this ordinance.
4. A detailed scale drawing, picture or diagram and material specifications of the device or vending cart to be used including manufacturers identification number.
5. A copy of the permit issued by the State Department of Health for vendors who sell food and beverage.
6. A written letter of consent from an adjacent restaurant owner where applicable.
7. A valid sidewalk vendor license approved by the Rapid City Council per Chapter 5.56.

E. *Vendor Cart Site Requirements.* Sidewalk vendors conducting business on the sidewalks of the City of Rapid City with a valid permit issued under this chapter must comply with the following site requirements:

1. Vending units must be self-contained and portable, and no longer than 4 feet wide by 6 1/2 feet high and 6 feet long. A maximum of 60 square feet of space can be occupied by the vending unit;
2. No sidewalk vendor may conduct business on a sidewalk in any of the following places:
 - a. Within 10 feet of the intersection of the sidewalk with any other sidewalk;
 - b. Within 10 feet of any handicapped parking space, or access ramp;
 - c. Within 15 feet of a fire hydrant;
 - d. Within 15 feet of an entrance to a building;
 - e. Within 2 feet of a curb face; and
 - f. Within the site distance triangle area defined by Rapid City Municipal Code;

3. Sidewalk vendors are permitted only on sidewalks with a minimum width of 10 feet from the property line to the curb face. Sidewalk vendors must maintain a clear pedestrian path of at least 5 feet at all times. This pathway must be free of any obstructions such as trees, parking meters, and utilities or other facilities such as telephone poles, fire hydrants, fire protection appurtenances, parking meters, mailboxes, or signs located in the public right-of-way;
 4. No more than 3 ice chests, coolers or other accessory containers may be utilized. The containers must be placed on or immediately next to the vending unit, and not in the way of pedestrian or vehicular traffic. Coolers must be hard-plastic or hard metal finish, no Styrofoam, and must be located within the 60 square foot vending unit area;
 5. Vendors shall provide a receptacle for all waste material generated by the said vending operations and remove all paper, cardboard, metal, plastic or other litter in any form (including cigarette butts) from the vending cart site and surrounding sidewalk area within 30 minutes of the end of daily operations. Litter may not be placed in City trash receptacles;
 6. Any signs authorized hereunder shall be of a size, dimension, orientation and placement as to be directed toward the attention of pedestrians within 50 feet thereof and, under no circumstances, directed toward the attention of persons traveling in motor vehicles. The signs shall not exceed 42 inches in height above the sidewalk or more than 24 inches in width on any face or no more than 2 faces total. Any such sign shall contain no off-premises advertising, and shall display no logo or advertising copy other than for the primary business of the permittee;
 7. Umbrellas and canopies must be designed to be secure during windy conditions. Umbrellas and canopies must be at least 7 feet above the sidewalk when open; and
 8. Lighting for sidewalk vendors is subject to approval during the permitting process. Such lighting shall not cause a glare to passing motorists or pedestrians. Lighting may include battery-operated fixtures.
- F. *General Requirements.* All goods being sold by sidewalk vendors shall be located within the bounds of the site plan area approved as part of the permit issued by the City and be attended by the permittee at all times. In addition to the specific Vendor Cart Site requirements the following general requirements shall apply to vendor cart operations:

1. Street vending facilities shall be removed from the public right-of-way when not in use. Sidewalk vendors are only allowed to operate between the hours of 6:00 a.m. and 2:30 a.m. All vending units shall be removed from the public right-of-way during non-operational hours;
2. Sidewalk vendors shall display in a prominent and visible manner the license issued by the City of Rapid City in accordance with Chapter 5.56;
3. No permanent hardware shall be affixed to the sidewalk or adjacent buildings. The permittee is responsible for the restoration of the sidewalk or public right-of-way if any damage is caused by the vendor or any element of the vending unit;
4. Mobile electric generators are prohibited; however, propane heating devices may be used for cooking, heating, or warming of food and must be attached to the vending unit. The Rapid City Fire Department shall inspect and approve any vending unit to assure the conformance of all cooking or heating apparatus with the provisions of the currently adopted building and fire codes;
5. A vendor cannot receive electricity or water from any adjoining buildings by means of wires, hoses, or other connections;
6. A single vending unit can be approved for up to four (4) approved vending locations and can be moved from one approved location to another approved location;
7. No sidewalk vendor shall solicit, berate or make any unreasonably loud noise of any kind ~~by vocalization or otherwise,~~ for the purpose of advertising or attracting attention to his or her wares. No audible amplified music or sound shall be permitted;
8. The vendor shall not cause congestion or blocking of pedestrian traffic on the sidewalk; shall involve a short transaction period to complete the sale or render the service; shall not cause undue noise or offensive odors; and shall sell items that can be easily carried by pedestrians.
9. All areas within and surrounding a sidewalk vending unit must be maintained in a clean, neat, and sanitary condition. All cleaning must be performed in accordance with City regulations.
10. All permit holders shall be required to abide by all federal, state, and local laws, rules, and regulations.

- G. *Restriction on Subleasing.* Subleasing, transfer or assignment of an approved vendor permit is not allowed. The permit holder may hire employees to operate on up to four (4) approved vending cart sites. The permittee is responsible for proper supervision of employees hired to operate at an approved vending cart site in order to ensure the requirements of this section are met.
- H. *Restriction on Adjacency to Restaurants.* Vending carts shall not be located along the linear street frontage of any restaurant without the written consent of the restaurant owner. Written consent shall be in the form of a letter from the restaurant owner or designee and provided with the initial application and annually with an application for renewal. The consent letter shall include the days and hours that a restaurant owner will allow a vendor to operate in front of the restaurant. Should a restaurant become operational in a commercial space that was formally not a restaurant adjacent to an approved vendor cart site, the written consent will not be required until such time as the next renewal application is made.
- I. *Certificate of Insurance.* Every sidewalk vendor permit holder shall furnish a certificate of insurance proving commercial liability insurance coverage of at least \$2,000,000 aggregate and \$1,000,000 per occurrence for bodily injury, death, disability, and property damage liability. The City of Rapid City shall be named as an additional insured on a primary, noncontributory basis for any liability arising directly or indirectly from the operation of a sidewalk vendor. In the event that the insurance is cancelled, the permit holder has 24 hours to reinstate the insurance or the permit shall be revoked.
- J. *Exceptions.* An exception may be granted by the Planning Commission to any of the provisions of the design criteria set forth in subsection 12.12.040(E), and the decision of the Planning Commission is appealable to the Common Council. Any person or party has the right to appeal the decision of the Planning Commission regarding an exception for a sidewalk vendor permit. Appeals must be made in writing and submitted to the Planning Commission by close of business on the seventh full calendar day following action by the Planning Commission. Appeals shall be reviewed and acted upon by the Common Council within thirty (30) calendar days.
- K. *Permit review.* The Planning Commission shall have the power to review any permit issued hereunder at any time.
- L. *Permit – Revocation or suspension.*
1. The Planning Commission, in its discretion, may revoke or suspend any permit(s) for reasons including, but not limited to the following: failure to maintain the standards required for the initial permit and annual permit renewal; sidewalk vending outside of the location(s) for which a sidewalk

vendor licensee holds a permit(s); expiration, revocation or suspension of the required sidewalk vendor license issued under chapter 5.56; violation of any applicable federal, state or local statute, ordinance, rule or regulation; or violation of any provision of this Rapid City Municipal Code section.

- a. The penalty of permit revocation shall continue for a period of one year from the date the revocation became effective. Once the period of revocation has ended a former permit holder upon which the penalty of permit revocation has been imposed may apply for a new permit, subject to the requirements of this section 12.12.040. Permit revocation shall result in the loss of the specific location renewal process outlined in Section 12.12.040(C)(3).
 - b. The penalty of permit suspension shall continue for a period not to exceed 30 days from the date the suspension became effective. Once the period of suspension has ended, the Planning Commission may, at its discretion, require re-application for any suspended permit(s). Permit suspension shall not result in the loss of the specific location renewal process outlined in Section 12.12.040(C)(3).
2. The penalties of permit revocation or suspension shall be imposed only after the permit holder has had notice and an opportunity to be heard.
- a. The notice of intent to impose penalty shall be sent by first class mail to the permit holder's address of record on file with the Finance Office. The notice of intent to impose penalty shall be mailed no later than 14 days prior to the hearing date.
 - b. The penalty hearing will take place at a regular or special Planning Commission meeting, at the discretion of the Planning Commission, provided the notice of intent is mailed no later than 14 days prior to the meeting date. A vote of a majority of Planning Commission members present shall be required to impose penalty.
 - c. The Planning Commission shall provide written notice of its decision, to be sent by first class mail to the permit holder's address of record on file with the Finance Office. The effective date of any penalty imposed shall be 14 days from the date of mailing of the Planning Commission's written notice of decision.

3. Should any applicant or permit holder be aggrieved by a decision of the Planning Commission, he or she may, within 10 days, provide written notice to the Director of Community Planning & Development Services of his or her intent to appeal the decision to the Council. After the aggrieved applicant or permit holder has provided written notice, he or she will have a hearing before the Council. The Council may affirm, modify or reverse the action of the Planning Commission. All decisions of the Council shall be final.
4. Any permit holder subject to investigation by the Planning Commission shall cooperate fully with the Planning Commission. Failure to cooperate fully with the Planning Commission is a basis for permit revocation or suspension.

M. Criminal penalty. Any person violating this Section shall be subject to the general penalty provision of § 1.12.010.

12.12.050 Public rights-of-way–Structures prohibited–Exceptions.

No person shall erect or maintain any building, fence, sign or structure upon any public right-of-way or upon any public property. This section shall not apply to:

- A. *Structures erected/maintained for public purposes.* Structures erected or maintained for public purposes by the city or under its authority;
- B. *Mailboxes.* Mailboxes, when erected and maintained in accordance with the following standards;
 1. The mailbox and supporting structure shall be set back 25 feet from every point of intersection of 2 street rights-of-way.
 2. The mailbox and supporting structure shall be set at the back of the curb if there is a curb and shall be set back 5 feet from the nearest edge if the traveled portion of the roadway if there is no curb.
 3. The mailbox and supporting structure shall not exceed 5 feet in height.
 4. No supporting structure shall exceed 3 feet in greatest horizontal dimension at any point and no supporting structure shall exceed 8 inches in greatest horizontal dimension at any point more than 2½ feet above the ground; provided, however, when authorized in writing by the City Engineer, the 3-foot limitation may be exceeded for structures supporting clustered mailboxes, subject to all other provisions of this section.

5. The mailbox and supporting structure shall be so located that it does not create a traffic hazard, sight hindrance or other safety hazard.
 6. The mailbox and supporting structure shall be removed by the owner at his or her sole expense at the direction of the City Engineer when reasonably necessary to expedite use of the public right-of-way by the city, other governmental agencies or franchised utilities. Upon failure of the owner to remove the mailboxes and supporting structure, the mailbox and supporting structure may be removed by the city or its agents and the owner shall pay the costs therefore including costs of collection.
- C. *Bus stop benches and shelters.* Bus stop benches and shelters may be installed in the public right-of-way by the city or by a person operating under contract with the Rapid City rapid transit system and in compliance with the following requirements:
1. *Clear sight triangles.* Bus stop benches and/or shelters may not be placed in a manner which obstructs the sight triangle as provided in § 17.50.335. Shelters may be constructed within this zone if they are designed of clear plastic or glass and do not block the vision of motorists.
 2. *Maintenance.* Bus stop benches and shelters must be placed upon a hard surface so as to prevent sinking and unsightliness. The owner/distributor of bus stop benches must maintain the benches in a safe, attractive and repaired condition. The area around the benches or shelters must be mowed and kept free of litter.
 3. *Advertising.* Advertising may be placed on benches commissioned by the Rapid City rapid transit system in accordance with § 15.28.020 of this code when the proposed benches are not in or immediately adjacent to a residential, central business, park forest or general agricultural zoning district.
- D. *Structures in existence.* Structures, including mailboxes and mailbox supports, in existence as of the effective date of this ordinance, provided such structure is not a sign. The structure shall be removed by the owner at his or her sole expense at the direction of the Director of Public Works or his or her designee when reasonably necessary to expedite use of the public right-of-way by the city, other governmental agencies or franchised utilities. Upon failure of the owner to remove the mailboxes and supporting structure, the structure may be removed by the city or its agents and the owner shall pay the costs therefore including costs of collection.

12.12.060 Public rights-of-way–Unlawful deposits.

- A. It is unlawful for any person to deposit on any street any material which may be harmful to the pavement thereof, or for any person to deposit, or for the owner of the adjacent property to allow, any deposit of any waste material, glass, rocks, dirt or other articles

which may do injury to any person, animal or property, including any person traveling across the street or right-of-way.

- B. In addition to any penalty provided for the preceding, if the owner of the adjacent property does not remove the material within 5 days after receiving notice to remove the items, he or she shall be liable to the city for all costs incurred by the city in removing the material, glass, rock, dirt or other articles from the street or right-of-way adjacent to his or her property.

12.12.070 Public rights-of-way–Work impeding use.

Any person, firm or corporation performing any work in or immediately adjacent to the public right-of-way in such manner that the public use is impeded in any manner shall comply with the requirements of the Rapid City Municipal Code. A work permit, as provided for in § 12.04.090, shall be required when any such work is being performed.

12.12.080 Streets and alleys–Dumping water during freezing weather.

No person shall pour, place or throw, or otherwise discharge water upon any street or alley in the city during a time when the temperature in the city is below freezing.

12.12.090 Sidewalks–Snow and ice removal.

It shall be the duty of the owner or person in possession or in charge of any lot, parcel or plot of ground fronting or abutting upon any sidewalk to keep the sidewalk free from snow and ice at all times. When it is impossible to take the snow and ice from the walk by reason of its being frozen to the sidewalk the owner or occupant shall sprinkle or spread some suitable material upon the same to prevent the walk from becoming slippery and dangerous to travel. Sidewalks that are not kept free from snow and ice are declared a nuisance, and upon the failure, neglect or refusal of any owner or person in possession or in charge of any lot, parcel or plot of ground fronting or abutting any sidewalk to comply with the provisions of this section, the Community Resources Director or his or her designee, is authorized and empowered to cause such work as may be necessary to provide for compliance, and may defray the cost of the work, including administrative costs, by special assessment against the property. In addition to the abatement remedies provided in this section, any person violating this section shall be subject to the general penalty provision as set forth in § 1.12.010 of the Code.

12.12.100 Snow–Placing on public property.

It is unlawful for any person, firm or corporation to cause any snow removed from private property to be placed upon any public sidewalk, street or other public property without the written consent of the Director of Public Works. Any person violating this section shall be subject to the general penalty provision as set forth in § 1.12.010 of the Code.

12.12.110 Parkways–Maintenance.

A. Maintenance by property owner.

1. The owner of any lot, parcel of ground or tract of land shall be responsible for the condition and upkeep of that portion of any street or public right-of-way abutting upon his or her property and not used as a roadway for vehicular traffic. This section, however, shall not apply to the center parkways on boulevards. The property owner shall keep all weeds cut on his or her parkways and is granted the right to make the same into grass plots and lawns and to plant and maintain shrubs, flowers and trees, except cottonwood and Chinese elms, under the supervision of the Parks and Recreation Director, for the purpose of beautifying the city streets. The owner may prohibit pedestrian traffic thereon except on concrete sidewalks where concrete sidewalks exist. When concrete sidewalks have not been installed, pedestrians may walk on parkways and shall not walk in streets. This shall not be construed to authorize pedestrian traffic in areas where dedicated streets have not been opened to travel.
2. The property owner shall keep the grass cut in a neat and satisfactory manner and shall not place or allow to grow any shrub, tree or plant of any kind so as to interfere with the view of the driver of any vehicle traveling on any roadway or in any alley.

- B. No parkway shall be fenced or otherwise enclosed and the city reserves the right to remove, or order removed, at any time, all trees, shrubs and other plants, where necessary, in order to construct or widen sidewalks, or to widen the roadway used for vehicular traffic, or where the trees or shrubs interfere with the vision of the drivers of motor vehicles on the streets or in the alleys.

12.12.120 Public rights-of-way–Curb and gutter– Maintenance.

All sections of curb and gutter, no matter the type or material makeup, which are used as an entrance to a driveway, shall be considered a part of that driveway. Maintenance, repair and replacement of that portion of curb and gutter shall be the responsibility of the property owner.

12.12.130 Public rights-of-way–Gravel surfaces–Maintenance.

The city's Public Works Department shall maintain, on an as-needed basis, graveled rights-of-way constructed for the use by the general public for vehicular traffic, as determined by the Director of Public Works his or her designee. It shall be the property owner's responsibility to maintain roadways constructed as private roads or driveways.

Chapter 12.16 High Clearance Routes

Section

12.16.010	Established–Map.
12.16.020	Wires–Height requirements.
12.16.030	Wires and signs–Removal and repair–Authority–Cost.
12.16.040	Temporary wires or cables.
12.16.050	Traffic signs and signals.

12.16.010 Established–Map.

- A. There is established for the city designated high clearance routes to facilitate the movement of large structures through the city. The routes are set out in detail on the high clearance route map on file with the city’s Finance Officer. The high clearance routes shall include only the road identified and not any side street or approach. The map is incorporated by reference as though drawn and set out in detail in this chapter.
- B. All existing high clearance routes shall be automatically extended to the corporate limits of the city whenever the corporate limits are extended.

12.16.020 Wires–Height requirements.

No utility line, cable or other wire of any kind shall hereafter be installed less than 25 feet above the surface of any roadway designated as a high clearance route. This shall include, but not be limited to present lines, cables or wires that are replaced or substantially repaired or altered for any reason. This section shall not affect the right of the city to install necessary traffic signs or signals at a lesser height where necessary and proper.

12.16.030 Wires and signs–Removal and repair–Authority–Cost.

If any utility line, cable or wire of any kind is installed in an area prescribed by § 12.16.010, and at a height less than 25 feet above the surface of the road, no person who is authorized to move large structures along the route shall be charged for the cost of removal or relocation of the line, cable, wire or sign except as provided in § 12.16.050. However, no person is authorized to remove any utility line, cable, wire or sign except by authority of the owner thereof.

12.16.040 Temporary wires or cables.

Nothing in this chapter shall prevent a public utility from installing an emergency temporary wire or cable, in order to provide prompt installation of utility service at a height of 18 feet or above over the high clearance route provided that the utility, upon request by the city, shall promptly move at its own expense the wire or cable in order to allow a 25-foot clearance.

12.16.050 Traffic signs and signals.

- A. The city intends, where feasible, to provide movable sign or signal structures if the structure overhangs a high clearance route as defined in this chapter.
- B. Notwithstanding § 12.16.030, the city may recover its costs for removing or relocating any city or government-owned sign, signal, structure, wire, cable, light, or other property and any other expense incurred by the city to accommodate the move.

Chapter 12.20 Parades

Section

- 12.20.010 Definitions.
- 12.20.020 Permit–Required–Application.
- 12.20.030 Permit–Issuance–Required findings.
- 12.20.040 Exemption of event permittee from certain requirements.
- 12.20.050 Permit–Issuance–Large parades.
- 12.20.060 Permit–Contents.
- 12.20.070 Permit–Denial–Appeal procedure.
- 12.20.080 Deviation from permit.
- 12.20.090 Permit–Revocation.
- 12.20.100 Throwing items from vehicles prohibited.
- 12.20.110 Use of sirens by emergency vehicles participating in parade.

12.20.010 Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

EVENT. Any assembly, block party, demonstration, rally, or gathering of a group of 10 or more persons, animals, vehicles, or a combination thereof, having a common purpose, design or goal, upon any public street, sidewalk, alley or other public thoroughfare, which assembly substantially inhibits the usual flow of pedestrians or vehicular travel or which occupies any public area, other than a parade.

PARADE. Any scheduled walk, demonstration, procession, march or motorcade consisting of persons, animals, vehicles, or a combination thereof having a common purpose, design, designation or goal, upon any public street, sidewalk, alley, or other public thoroughfare, which does not comply with normal and usual traffic regulations and controls.

12.20.020 Permit–Required–Application.

- A. No person shall conduct, manage or participate in any parade or event unless a permit has been issued in accordance with this chapter. The provisions of this chapter shall not apply to or affect funeral processions.

- B. A permit must be applied for in writing on a form obtained from the Police Department and shall be filed at least 15 days prior to the commencement of any parade or event. Late applications may be accepted at the discretion of the Police Chief or his or her designee under unusual circumstances beyond the control of the applicant. The application shall set forth the following information:
 - 1. Name, address and telephone number of any individual, group, association, firm or corporation requesting the permit, and the applicable title or office of the person so applying;
 - 2. The name, address and telephone number of the person(s) responsible for the organization, coordination and conduct of the proposed activity;
 - 3. Time and date of commencement and termination of the proposed activity, and its nature and purpose;
 - 4. The location, assembly area and/or route;
 - 5. The anticipated maximum number of persons, vehicles, bands, floats and other units of persons, horses or other animals to participate; and
 - 6. Such other reasonably relevant information as the Chief of Police may request for investigation of the application.

12.20.030 Permit–Issuance–Required findings.

- A. Parade permit. The Chief of Police or his or her designee shall issue a parade permit as provided for herein when, from a consideration of the application and from such other information as may otherwise be obtained, he or she finds that:
 - 1. The proposed activity will not substantially interrupt the safe and orderly movement of contiguous traffic;
 - 2. The proposed activity will not require the diversion of so great a number of police officers of the city to properly police the activity and the areas contiguous thereto as to prevent normal police protection to the city;
 - 3. The proposed activity will not require the diversion of so great a number of ambulances as to prevent normal ambulance service to portions of the

city other than that to be occupied by the activity and other areas contiguous thereto;

4. Any concentration of persons, animals, units, floats or vehicles at assembly points of the proposed activity will not unduly interfere with proper fire and police protection of, or ambulance service to, areas contiguous to the assembly areas;
 5. The proposed activity is scheduled to be held, or to move from its point of origin to its point of termination, expeditiously and without unreasonable delay;
 6. Other similar scheduled activities for which permits have been issued will not conflict with the permit application; and
 7. Adequacy of applicant supervision for the proposed activity.
- B. Event permit. The Chief of Police or his or her designee shall issue an event permit as provided for herein when, from a consideration of the application and from such other information as may be otherwise obtained, he or she finds that the criteria for a parade permit as listed in subsection A. above are met and the applicant is a civic, fraternal, social, religious, educational, or other non-profit organization with a charitable purpose.

12.20.040 Exemption of event permittee from certain requirements.

Any person who participates in an event that has been issued an event permit pursuant to this chapter shall be exempt from § 9.08.020 of this code.

12.20.050 Permit-Issuance–Large parades.

For any parade which will contain any combination of more than 70 vehicles, floats, bands or other units composed of persons, horses or other animals, the applicant must obtain permission of the Common Council prior to issuance of a parade permit.

12.20.060 Permit–Contents.

The permits required by this chapter shall include all information in the application and shall be signed by the Chief of Police or his or her designee with a signed copy kept with the application on file in the office of the Chief of Police.

12.20.070 Permit–Denial–Appeal procedure.

Any person aggrieved shall have the right to file a written appeal of the denial of a permit to the Common Council not later than 7 days after notice of denial. The reason for the denial shall be provided in writing.

12.20.080 Deviation from permit.

No person organizing, conducting, coordinating or participating in any activity for which a permit has been granted under the provisions of this chapter shall deviate from or alter any of the terms or contents of the permit without the express permission of the Chief of Police or his or her designee.

12.20.090 Permit–Revocation.

Any permit issued under the provisions of this chapter may be revoked by the Chief of Police or his or her designee for the violation by the permittee of any applicable provisions of the permit, state law or city ordinance.

12.20.100 Throwing items from vehicles prohibited.

No person participating in a parade or event shall throw or scatter candy, balloons, pamphlets or any other items from any vehicle, float or other unit onto the street or sidewalk. The items may be distributed by walking persons.

12.20.110 Use of sirens by emergency vehicles participating in parade.

Emergency vehicles participating in any parade or event shall not sound sirens except when and if any emergency should arise and the vehicle must clear the area.

Chapter 12.24 Park Use Regulations

Section

- 12.24.010 Hours.
- 12.24.020 User's responsibilities.
- 12.24.030 Traffic regulations.
- 12.24.040 Disorderly conduct and loafing in parks.
- 12.24.050 Bicycle and pedestrian trail system – Operation of motorized vehicles prohibited – Exceptions.
- 12.24.060 Use of electricity.
- 12.24.070 Peddling.
- 12.24.080 Concessions.
- 12.24.090 Canyon Lake – Operation of motorboats.
- 12.24.100 Dinosaur Park – Vandalizing art work prohibited.

12.24.010 Hours.

All city parks shall be closed to the public each day from 10:00 p.m. until daylight the following morning, except upon special permission from a city official in charge of the area.

12.24.020 User's responsibilities.

All persons using any picnic, recreational or playground area and equipment in any city park shall be responsible for the proper care of the equipment and shall clean up all litter and refuse caused by their occupancy, before leaving the area.

12.24.030 Traffic regulations.

All provisions of this code and other ordinances governing travel or traffic upon the streets of the city shall be applicable within and upon all city parks.

12.24.040 Disorderly conduct and loafing in parks.

No person shall act in a disorderly, unchaste or lewd manner, or habitually loaf or sleep on the ground or on benches within any city park.

12.24.050 Bicycle and pedestrian trail system– Operation of motorized vehicles prohibited– Exceptions.

No person shall operate any automobile, motorcycle, golf cart or other motorized vehicle upon the primary and secondary bicycle and pedestrian trail system; provided, however, that, the street and traffic engineer may authorize operation of golf carts on the system in the immediate area of the Meadowbrook Golf Course and may authorize operation by handicapped persons of the vehicles and in a manner as he or she shall determine not inconsistent with the purpose of the trail system. This section shall not apply to the operation of city maintenance vehicles, nor to motorized law enforcement vehicles.

12.24.060 Use of electricity.

- A. No person shall use any electricity in any city park, except for the preparation of food. It shall be a violation of this section if it is established that some item is plugged into an electrical outlet and the item is not primarily used for the preparation of food.
- B. This section, however, shall not prohibit the use of electricity by employees of the city in the performance of their official duties, or to any lessee, licensee or concessionaire who has authority from the city to use the electricity.

12.24.070 Peddling.

It is unlawful for any peddler or other person excepting a person occupying a portion of the park under a valid concession agreement to sell or offer to sell, to any person within any municipal park of the city, any goods, wares, merchandise, books, pictures, novelties, souvenirs or trinkets, or any other article of commerce and trade, including goods of his or her own production or manufacture.

12.24.080 Concessions.

- A. *Parks.* Authorized concessions for the sale or distribution of foods and beverages for immediate consumption shall be permitted at the following municipal parks and pools, limited to the specific areas as shown on the park concession map on file in the Rapid City Parks Department and herein incorporated by reference:
 - 1. College Park;
 - 2. Horace Mann Park;
 - 3. Robbinsdale Park;
 - 4. Robbinsdale Pool;
 - 5. Roosevelt Park;
 - 6. Sioux Park (East);
 - 7. Sioux Park (swimming pool);
 - 8. Wilson Park; and
 - 9. Canyon Lake Park (no concessions authorized).
- B. *Concession proposal.* No concession within any of the areas listed in subsection A. of this section shall be authorized, nor shall any concession agreement be

entered into without approval of a written proposal by the Common Council, which shall contain the following information:

1. The specific municipal park or pool proposed to be operated under a concession agreement by the applicant, not to exceed 2 of the areas designated in subsection A. of this section;
 2. Types and kinds of foods and beverages to be sold by applicant at a particular area;
 3. Satisfactory evidence that applicant is or will be in compliance with all applicable state food service licensing requirements at the time of operation of the proposed concession;
 4. Specification of the type and kind of concession structure proposed to be placed by applicant at a particular area, including, but not limited to construction materials, mobility or portability of the structure, colors, lighting or other similar devices, all to be consistent with the particular park or pool setting proposed. The use of amplified sound, bells, sirens, whistles or other similar devices in connection with the proposed concession shall be strictly prohibited. Signs may be allowed as regulated by Chapter 15.28 of this code;
 5. The season or seasons (not to exceed 3 consecutive seasons) of proposed operation. The term *SEASONS* used herein refers to the period running from the Saturday before the last Monday in May to and including the first Monday of September;
 6. The hours of operation of the proposed concession, not to extend beyond the established hours of operation of a particular park or pool. No concession shall operate 1 hour before, during and ½ hour after any official soccer, softball, baseball, horseshoe or midget football league game, unless otherwise requested and agreed to by the governing board of the affected league;
 7. Proposed monthly license payment for reach particular area on a fixed basis, payable in advance on the first day of each month of the season.
- C. *Determination.* Any proposal submitted pursuant to this section must be received by the city's Finance Officer on or before January 15 of the year of proposed operation, or within 2 weeks of the effective date of this section. All proposals submitted will be referred to the Parks Department Director for review. Within 60 days of the above date, the Common Council shall determine the highest, most satisfactory and most advantageous proposal with respect to each park concession area, taking into consideration any recommendation of the Parks Department Director together with applications submitted therefor, public need for the proposed concession, background of applicant, aesthetics, public health, design

problems of the concession structure and safety standards. All applicants shall be immediately notified of a determination in writing.

- D. *Renewal.* The privilege to operate a concession granted pursuant to this section shall be limited to the next concession season, but may be renewed for 1 season at a time for a total of 3 consecutive seasons, subject to approval by the Common Council of previous operations and renegotiations of the monthly license payment.
- E. *Termination.* A concession granted hereunder may be terminated by the city in the event a monthly license payment is in arrears and remains unpaid for a period of 15 days after the same is due, or in the event of any of the other provisions, terms or conditions of this section or any concession agreement hereunder have been violated, upon giving 10-days' written notice to the concessionaire of the city's intention to so terminate, and, at the end of the 10 days, if the violation has not been cured, all rights of the concessionaire hereunder shall terminate.
- F. *Utilities–trash.* Concessionaire shall pay the cost of all utility service incident to the operation of the concession at a metered, or flat rate where applicable, and shall permanently install, at its own expense, in accordance with all city and state requirements, any necessary utilities at the proposed concession area. The installed utilities shall remain affixed to the concession area upon termination of the concession. The concessionaire shall collect and dispose of trash and garbage at least once every 24 hours, or more often as directed by the Director of the Parks Department, within the entire area of the concession as designated by the park concession map on file in the Rapid City Parks Department. The concessionaire shall provide adequate garbage receptacles to store trash and garbage for pickup by city garbage trucks.
- G. *Fees.* Upon a determination made by the Common Council pursuant to subsection C. of this section, and upon payment of a nonrefundable fee in the amount of \$100 for city garbage pickup for the season, the applicant shall be granted an exclusive, nontransferable concession for a particular park area.
- H. *Insurance–indemnity.* Before exercising any privilege, the concessionaire shall obtain and maintain at all times liability insurance in the minimum amount of \$300,000 for the injury to or death of any number of persons per occurrence and \$100,000 for property damage per occurrence. The policy shall provide for 30-days' notice of cancellation or material change to the city. The concessionaire shall indemnify and save harmless the city, its officers, employees and agents against any and all claims arising from the concession operation.

12.24.090 Canyon Lake–Operation of motorboats.

No person shall operate any motorboat upon the waters of Canyon Lake, except with written authorization of the city. The authorization shall be made by the Common Council for such purposes and special events, and subject to such limits and conditions, as the Council deems

to be in keeping with the nature and purposes of the lake. For the purposes of this section, motorboats shall include any boat powered by gasoline, diesel or electric motor; provided, nothing herein shall prohibit the use of electric trolling motors, not large enough to move the craft faster than 7 mph.

12.24.100 Dinosaur Park–Vandalizing art work prohibited.

No person shall injure, deface, climb upon, color, paint, mark the surface of, nor throw any substance upon, any of the works of art, monuments or prehistoric animal figures in Dinosaur Park.

Chapter 12.28 Municipal Golf Courses

Section

12.28.010 Fees – Amount.

12.28.020 Fees – Payment required.

12.28.010 Fees – Amount.

Fees for the use of golf courses owned and operated by the city shall be determined by the Common Council and shall be established by resolution.

12.28.020 Fees – Payment required.

No person shall go upon any fairway, tee or green of the municipal golf course unless he or she first pays the required fee for playing golf. Any person violating this Section shall be subject to the general penalty provision of § 1.12.010.

Chapter 12.32 Trees

Section

12.32.010	Purpose.
12.32.020	Definitions.
12.32.030	Urban Forestry Board – Created – Composition.
12.32.040	Urban Forestry Board – Members – Terms – Vacancies.
12.32.050	Urban Forestry Board – Members – Compensation.
12.32.060	Urban Forestry Board – Officers – Quorum – Recordkeeping.
12.32.070	Urban Forestry Board–Duties.
12.32.080	Street trees.
12.32.090	Trees on public property.
12.32.100	Trees on private property.
12.32.110	Requirement for Removal of Mountain Pine Beetle Infested Trees.
12.32.120	Storage of wood.
12.32.130	Trimming of trees overhanging streets, sidewalks, alleys.
12.32.140	Interference with Parks Department.
12.32.150	Appeals.
12.32.160	Violation – Penalty.

12.32.010 Purpose.

The City finds and determines that in order to protect existing neighborhoods, promote good design in new areas and provide for sensitive and compatible infill development in existing commercial areas, the Urban Forestry Board shall be created to review and make recommendations on city tree plans developed, created or approved by the Parks Department. The purpose and intent for regulating the planting, removal and maintenance of trees, bushes, shrubs and other woody vegetation on public and private property is threefold:

- A. To protect and increase property rights and values;
- B. To enhance and conserve the city’s aesthetic environment and physical characteristics of the land; and
- C. To generally protect and enhance the quality of life and general welfare of the city.

12.32.020 Definitions.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

- A. ***PARK TREES.*** Trees, shrubs, bushes and all other woody vegetation in any public park or in area owned by the city.

- B. **PERSON.** Any person, firm, partnership, association, corporation, company or organization.
- C. **PEST.** Any organism, insect, rodent, fungus, virus, bacteria or other agent that causes any damage, abnormal growth or mortality of any tree, shrub, bush or woody vegetation.
- D. **PROPERTY LINE.** The outer edge of a street or highway right-of-way and does not pertain to the traveled surface itself.
- E. **STREET TREES.** Trees, shrubs, bushes and all other woody vegetation on land lying between property lines on either side of all streets, avenues or ways within the city.
- F. **URBAN FORESTER.** The urban forester employed by the parks department of the city.

12.32.030 Urban Forestry Board–Created– Composition.

There is created and established an Urban Forestry Board which shall consist of nine members, citizens and residents of this city, who shall be appointed by the Mayor with the approval of the Common Council. The Urban Forester shall serve as an ex officio member in an advisory capacity of the Urban Forestry Board.

12.32.040 Urban Forestry Board–Members– Terms–Vacancies.

The terms of the 9 members of the Urban Forestry Board to be appointed by the Mayor shall be 3 years, except that the term of three of the members appointed to the first Board shall be for only 1 year and the term of 3 members of the first Board shall be for 2 years. In the event that a vacancy shall occur during the term of any member, a successor shall be appointed for the unexpired portion of the term.

12.32.050 Urban Forestry Board–Members–Compensation.

Members of the Board shall serve without compensation.

12.32.060 Urban Forestry Board–Officers– Quorum–Recordkeeping.

The Board shall choose its own officers and shall keep a journal of its proceedings. Three members shall constitute a quorum.

12.32.070 Urban Forestry Board–Duties.

- A. It shall be the responsibility of the Board to review and make recommendations on city tree plans developed by the city’s Planning Department and/or the city’s Parks Department.

- B. The Board, when requested by the Common Council or the city's Parks Department shall consider, investigate and make findings, reports and recommendations upon any special matter or question coming within the scope of its work.

12.32.080 Street trees.

- A. No street trees shall be planted unless and until the Urban Forester shall have first approved the kind, size, variety and location thereof, and granted a permit therefor. This permit is in addition to any permit required by Chapter 12.04. Trees proposed within 10 feet of any water, sanitary sewer or drainage system component shall be subject to the approval of the Director of Public Works. The permit shall be issued without charge.
- B. A street tree list for Rapid City shall be developed by the urban forester and approved by the Urban Forestry Board.
- C. Maintenance of street trees shall be the responsibility of the owner of the abutting property.
- D. It is unlawful for any person to top any street tree or other tree on public property. **TOPPING** is defined as the severe cutting back of limbs to stubs larger than 6 inches in diameter within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. Trees severely damaged by storms or other causes, or trees under utility wires or other obstructions where other pruning practices are impractical may be topped only with the approval of the Urban Forestry Board.
- E. All stumps of street and park trees shall be cut below the surface of the ground so that the top of the stump shall not project above the surface of the ground.

12.32.090 Trees on public property.

- A. The city shall have the right to plant, prune, maintain and remove trees, plants and shrubs within the public right-of-way and on public grounds, as it may determine.
- B. The City may remove or cause or order to be removed, any tree or part thereof which is in unsafe condition or which by reason of its nature is injurious to sewers, electric power lines, gas lines, waterlines or other public improvements, or is infested with any pest. This section shall not prohibit the planting of street trees by owners of adjacent property provided that the selection and location of the tree is made in accordance with § 12.32.080.

12.32.100 Trees on private property.

- A. The city shall have the right to inspect and cause the removal of any dead or diseased trees on private property within the city if the trees constitute a hazard to life or

property or harbor pests which constitute a threat to other trees within the city. The city shall notify the owners of such trees, in writing, to remove the trees within such reasonable time as shall be determined by the Urban Forester. Removal shall be made by the owners at their own expense. In the event of failure of owners to comply with the provisions, the city shall have the authority to remove the trees and charge the cost of removal to the owners or to assess the costs thereof against the property.

B. Any person claiming an interest in any tree ordered to be removed under subsection A. of this section may appeal the order to the Urban Forestry Board within 7 days of the date of the order.

12.32.110 Requirement for Removal of Mountain Pine Beetle Infested Trees.

Trees infested with mountain pine beetle are declared a public nuisance. If a property contains trees infested with mountain pine beetle the City shall notify the owner in writing. Infested trees must be removed by the property owner within sixty (60) days after notification. Upon written request, the Director of Parks and Recreation or his designee may provide an extension not to exceed an additional thirty (30) days. Infested trees identified between June 1st and September 1st of any year shall be removed as soon as possible. The City's Urban Forester shall have discretion to impose a time frame for removal that is less than 60 days for infested trees that are discovered between these dates. If the tree(s) are not removed within the timeframe allowed, the trees may be abated or otherwise removed pursuant to state law and/or Chapter 8.16 of the Rapid City Municipal Code (RCMC). The City may defray the cost of abating or removing this nuisance by taxing the cost thereof by special assessment against the real property on which the nuisance occurred. Any person violating this provision may also be subject to the general penalty provision as set forth in § 1.12.010 of the RCMC.

12.32.120 Storage of wood.

No person shall store or permit the accumulation of any elm wood in the city. No person shall store any tree or part thereof declared to harbor or contain any pest infestation as defined in § 12.32.020, unless the wood is debarked prior to storage.

12.32.130 Trimming of trees overhanging streets, sidewalks, alleys.

All trees overhanging any city sidewalk shall be kept trimmed so that the space between the sidewalk and the lowest branch overhanging the sidewalk is not less than 7 feet. All trees overhanging any street or alley in the city shall be kept trimmed so that the space between the street or alley and the lowest branch overhanging said street or alley is not less than 11 feet.

12.32.140 Interference with Parks Department.

It is unlawful for any person to prevent, delay or interfere with the Parks Department or any of its agents engaged in the planting, cultivating, mulching, pruning, spraying, inspecting or removing of any street trees, park trees or trees on private grounds, as authorized in this chapter.

12.32.150 Appeals.

Any decision of the Urban Forestry Board may be appealed to the Common Council within 7 days of the decision.

12.32.160 Violation – Penalty.

Any person violating a provision of this Chapter shall be subject to the general penalty provision of § 1.12.010.

CITY OF RAPID CITY

Mayor

ATTEST:

Finance Officer

(SEAL)