

Title 12

STREETS, SIDEWALKS AND PUBLIC PLACES

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Chapter 12.04**STREET IMPROVEMENT AND
CONSTRUCTION SPECIFICATIONS**

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Article I. General Provisions**12.04.010 Scope.**

The purpose of this chapter is to provide minimum standards for improvements to existing streets or construction of new streets within the city. Homeowners, property owners, or real estate developers are required to comply with these standards when improving any portion of the existing streets or when platting and/or developing new streets. As used in this chapter, “street” refers to the paved portion of any right-of-way contained within the corporate limits of the city. (Ord. 127 § 1, 1961)

12.04.011 Definitions.

For the purposes of this title, the following words shall have the following meanings:

A. “Base course” means the lower portion of the roadway base, consisting of one and one-quarter-inch minus crushed surfacing.

B. “Construction stakes” means physical markers, such as wooden stakes, used to establish the horizontal alignment, profile and cross-sections of the roadway improvements.

C. “Profile of street” means the centerline grade of the improved portion of the right-of-way.

D. “Standard Specifications” means the Standard Specifications for Road, Bridge and Municipal Construction, 1996 Edition, as the same now exists or is hereafter amended, and as prepared jointly by the Washington State Department of Transportation and the American Public Works Association, Washington State Chapter.

E. “Subgrade” means the top surface of the soil, either native or imported, upon which is placed the roadway base and pavement.

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F. "Suitable material" means soil, native or imported, which meets the requirements of Chapter 12.04 CHMC for the intended use.

G. "Top course" means the upper portion of the roadway base, consisting of three-quarter-inch minus crushed surfacing used as a leveling course. (Ord. 744 § 1, 1996)

12.04.015 Adoption of Standard Specifications by reference.

The Standard Specifications for Road, Bridge and Municipal Construction, 1996 Edition, and as prepared jointly by the Washington State Department of Transportation and the American Public Works Association, Washington State Chapter, is hereby adopted by reference, as if the same were fully set forth herein. (Ord. 744 § 2, 1996)

12.04.020 Street classifications.

Streets within the city shall be classified as follows:

- A. Principal Arterials and State Routes.
 - 1. State Route 520 (SR520).
- B. Minor Arterials.
 - 1. N.E. 12th Street, from 84th Avenue N.E. to 86th Avenue N.E.; and
 - 2. 84th Avenue N.E., from N.E. 12th Street to State Route 520 (SR520).
- C. Collector Arterials.
 - 1. N.E. 24th Street, from 84th Avenue N.E. to 98th Avenue N.E.;
 - 2. 92nd Avenue N.E., from N.E. 12th Street to State Route 520 (SR520); and
 - 3. Points Drive, from 84th Avenue N.E. to 92nd Avenue N.E.
- D. Local Access Roads.
 - 1. All other streets not otherwise identified above, within the corporate limits of the city. (Ord. 681 § 1, 1993; Ord. 127 § 2, 1961)

12.04.030 Submission of plans and profiles – Approval.

No work will be allowed on city right-of-way without first submitting plan and profiles of the proposed improvements and obtaining

an approval from the city for the proposed development or activity. (Ord. 744 § 3, 1996; Ord. 127 § 4(1), 1961)

12.04.040 Plans – Information.

The plans shall show the location, extent and details of the proposed improvement. Three sets of plans shall be submitted, of which one approved set will be returned with the approval. (Ord. 744 § 4, 1996; Ord. 127 § 4(2), 1961)

12.04.050 Fee for checking and inspecting plans.

Upon completion of the project and before acceptance by the city, the applicant shall pay the applicable fee, set by the city council by resolution, for the city's costs associated with plan checking and inspection. (Ord. 744 § 5, 1996; Ord. 127 § 4(3), 1961)

12.04.060 Inspection of work.

Inspection of the work will be required periodically during each phase of the project and before starting the following phase. The following inspections constitute a minimum:

- A. Drainage – upon completion, except for backfill;
- B. Drainage backfill and compaction;
- C. Subgrade preparation – upon completion;
- D. Base course – upon completion;
- E. Top course – upon completion;
- F. Surfacing – during placement and upon completion;
- G. Final inspection before acceptance by the city. (Ord. 744 § 6, 1996; Ord. 127 § 4(4), 1961)

12.04.070 Compliance by applicant.

It shall be the responsibility of the applicant to furnish materials and workmanship in accordance with these specifications and the approved plans. (Ord. 744 § 7, 1996; Ord. 127 § 4(5), 1961)

12.04.080 Correction of unsatisfactory work.

Any unsatisfactory material or workmanship discovered shall immediately be removed or corrected by the applicant before proceeding with further portions of the project. (Ord. 744 § 8, 1996; Ord. 127 § 4(6), 1961)

12.04.090 Surety bond.

The city engineer may require that the applicant post with the city treasurer a bond, cash or other method of security in an amount and with surety and conditions satisfactory to the city engineer and city attorney, providing for and securing to the city the actual construction and installation of such improvements within a specified time and in accordance with the requirements of this chapter. The city shall enforce all bonds or other methods of security authorized under this section by appropriate legal and equitable remedies. The bond, deposit or securities shall be subject to forfeiture at the discretion of the city council if the improvements are not constructed within the specified time. Cash and/or certified checks shall be held in escrow pending the satisfactory completion of the required work by the specified time. The city engineer may authorize the release of a portion of such funds to the applicant in accordance with a prearranged time schedule. (Ord. 744 § 9, 1996; Ord. 127 § 4(7), 1961)

12.04.100 Guaranty.

The city engineer shall require the posting of a bond, cash or other method of security, in an amount and with surety and conditions satisfactory to the city engineer and city attorney for the successful operation of the improvements for two years after acceptance of the improvements. Two years after acceptance of all right-of-way improvements, and after all monuments have been properly placed according to city standards and approved by the city engineer, the bond or balance of funds held in escrow shall be released to the applicant. During such two-year period, all bonds and funds on

deposit shall be subject to use by the city for the purpose of repairing defects in the construction work which develop or become evident within the right-of-way improvements; provided the city shall not use such funds until the city engineer has first given written notice to the applicant of the defect and work toward correction thereof has not been commenced within 10 days of the date of such notice. When a deficit exists in the fund on deposit for checking and inspections, the applicant will be notified and asked to deposit an additional fund. If adequate funds are not deposited to cover all engineering charges, the amount of the deficit will be deducted from the cash bond on deposit for right-of-way construction and repair. (Ord. 744 § 10, 1996; Ord. 127 § 5, 1961)

Article II. Construction Specifications**12.04.105 Compliance with Standard Specifications.**

All roadway and right-of-way construction shall comply with the requirements of the Standard Specifications. (Ord. 744 § 11, 1996)

12.04.110 Cross-sections of streets.

Cross-sections of all streets to be constructed within the city shall be in conformance to those specifications described and set forth in Standard Construction Detail No. 1 as shown in the drawing attached to Ordinance 744 as Exhibit A. Said Standard Construction Detail are made a part of this section by reference as though fully set forth in this chapter. (Ord. 744 § 12, 1996; Ord. 127 § 3(1), 1961)

12.04.120 Subgrade of streets.

A. The entire width of the road bed shall be cleared of all weeds, brush, vegetation and debris, and within the balance of the right-of-way all trees and vegetation that could be detrimental to the road surface and utilities shall also be removed. All such material shall be disposed of to the satisfaction of the city engineer.

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B. If the amount of suitable material in the right-of-way, including that obtained from the dressing of slopes, is insufficient to bring the subgrade to the line and grades shown on the plans, the contractor will be required to secure such additional suitable material as may be obtained from the widening of roadway cuts or from borrow pits, whichever is the most advantageous and/or whichever is necessary to produce suitable material.

C. Within certain areas of the city, streets may be constructed where the existing soils will not be adequate for subgrade purposes. Where such is encountered, the subgrade shall be constructed by removing all such undesirable material, providing underground drainage to carry off all subsurface water, and backfilling with suitable material. Such cases shall be treated individually under the supervision of the city engineer.

D. There shall be provided construction stakes which, in the opinion of the city engineer, are adequate to properly control the construction of the vertical and horizontal alignment of the entire project.

E. The subgrade shall be brought to a firm, unyielding surface, true to line, grade and cross-section, by rolling and compacting in layers with suitable equipment to produce 95 percent of maximum density as defined under Section 2-06.3(1) of the Standard Specifications. When directed by the city engineer, field density tests shall be made by qualified soils engineers using approved test equipment. Moisture content of the subgrade materials shall be controlled so as to produce the maximum compaction. (Ord. 744 § 13, 1996; Ord. 127 § 3(2), 1961)

12.04.130 Underground utilities.

Prior to final grading of the subgrade all utilities shall be constructed underground complete with service crossings. All utility trenches shall be backfilled with suitable materials and compacted to not less than 95 percent of maximum density.

In the event that it is necessary to make an opening in an existing street, in order to connect to existing utilities, controlled density fill may be required by the city. The determination as to the requirement for controlled density fill shall be made by the city engineer and consideration shall be given as to the classification of the street, the age of the street and the schedule of overlay for that street. (Ord. 744 § 14, 1996; Ord. 127 § 3(2.1), 1961)

12.04.135 Controlled density fill.

Controlled density fill shall meet the following:

Controlled Density Fill: 1/4" maximum aggregate size

Material	Pounds (SSD)	ABS Volume
Cement Type 1	30	0.15
Flyash	300	2.19
CDF Sand	2533	15.16
Water	300 (36 gal.)	4.81
% Entrained Air	18.00	4.86

Total	3165	27.16
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Air Entrainment	(Meets ASTM C260)	10 oz./C.P.
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Water/Cement Ratio	0.91
Slump	7" +/- 1"

(Ord. 744 § 15, 1996)

12.04.140 Crushed surfacing.

A. The base and top course shall be constructed in not less than two lifts. The base shall be not less than four inches of one and one-quarter-inch minus crushed stone. The top course shall be two inches of three-quarter-inch minus crushed stone. Crushed surfacing material shall comply with the requirements of the Standard Specifications.

B. Each course shall be rolled until the material is thoroughly compacted. The final result shall be an unyielding course, free from inequalities, with a smooth, tight, even surface, true to the grade, line and cross-section on the plans. Nonuniform materials caused by segregation of materials prior to spreading shall not

be permitted. Spreading equipment and techniques which cause segregation shall not be permitted and in the event segregation is encountered the affected areas shall be removed and replaced in compliance with these specifications.

C. Rolling shall be accomplished by the use of a self-propelled roller as specified under Section 5-04.3(4) of the Standard Specifications.

D. Each course of surfacing shall be rolled until the material does not creep under the roller, before a succeeding course of surfacing material is applied. (Ord. 744 § 16, 1996; Ord. 127 § 3(3), 1961)

12.04.150 Asphaltic concrete pavement.

A. The asphaltic concrete pavement shall comply with the Standard Specifications for a Class B mix and shall have a minimum compacted thickness of two inches.

B. The contractor shall place the asphalt concrete pavement in strict conformance with the line, graph and cross-section as shown in the approved plans, and the completed surface shall comply with the requirements of the Standard Specifications for surface smoothness.

C. All trucks shall be equipped with pneumatic tires, and both speed and load shall be so regulated as in the opinion of the city engineer will not be detrimental to the city streets. Any damage done to the prepared subgrade caused by the contractors' equipment shall be immediately repaired by the contractor at his own expense. (Ord. 744 § 17, 1996; Ord. 127 § 3(4), 1961)

12.04.160 Compacting asphalt concrete pavement.

Immediately after the asphalt concrete pavement has been placed, it shall be compacted in accordance with the Standard Specifications. Immediately after the asphalt concrete pavement has been compacted, depth tests may be required by the city engineer to determine the uniformity of the thickness of the asphalt pav-

ing. Should these tests show there is a deficiency from the specified thickness greater than one-half inch, the contractor shall be required to remove and re-lay the asphalt concrete pavement. (Ord. 744 § 18, 1996; Ord. 127 § 3(4.1), 1961)

12.04.170 Correction of defects.

Repealed by Ord. 744. (Ord. 127 § 3(4.2), 1961)

12.04.180 Shoulders.

Shoulders shall be constructed to the lines, grades and cross-section as shown on the plans and in accordance with these specifications. (Ord. 127 § 3 (4.3), 1961)

12.04.190 Unfavorable weather.

Asphalt concrete pavement shall not be placed during rainy weather, unless otherwise approved by the city engineer, or when the subgrade is wet or frozen. The asphalt pavement shall be placed within the temperature parameters of the Standard Specifications. Asphalt concrete pavement shall not be placed when the compaction cannot be completed before dark. (Ord. 744 § 20, 1996; Ord. 127 § 3(4.4), 1961)

Article III. Drainage Specifications

12.04.200 Standard details.

All new construction shall provide streets constructed in accordance with the Standard Specifications and Details incorporated in this chapter and including storm sewers complete with the necessary appurtenances. Adequate provisions for drainage routes beyond the limits of a private development must be approved by the city engineer prior to final acceptance of any plat. (Ord. 744 § 21, 1996; Ord. 127 § 3(5.1), 1961)

12.04.210 Driveway culverts.

Repealed by Ord. 744. (Ord. 127 § 3(5.2), 1961)

12.04.220

12.04.220 Cross-culverts.

Repealed by Ord. 744. (Ord. 127 § 3(5.3), 1961)

12.04.230 Storm sewer pipe.

Section 7-04.2 of the Standard Specifications is hereby modified as follows:

A. The use of steel spiral rib and steel storm sewer pipe, aluminum and aluminum spiral rib storm sewer pipe is prohibited.

B. In addition to concrete pipe, PVC (poly-vinyl-chloride) pipe conforming to Section 9-05.12 of the Standard Specifications, as well as ADS N-12 storm sewer pipe as manufactured by Advanced Drainage Systems of Columbus, Ohio, are also permitted.

These types of pipe must comply with the Standard Specifications, or the manufacturer's specifications for the ADS pipe, as it relates to strength, types of joints and installation specifications. Under certain circumstances, such as topography, soil or other deleterious conditions, the city engineer may direct which type of pipe shall be used. (Ord. 744 § 24, 1996; Ord. 127 § 3(5.41), 1961)

12.04.240 Storm sewer and culvert pipe – Fill test.

Repealed by Ord. 744. (Ord. 127 § 3(5.42), 1961)

12.04.250 Storm sewer and culvert pipe – Joints.

Repealed by Ord. 744. (Ord. 127 § 3 (5.43), 1961)

12.04.260 Manholes.

Manholes shall be precast reinforced concrete manholes complying with the Standard Plans and Specifications, or as otherwise approved by the city engineer. The word "STORM" shall be shown on the manhole cover. (Ord. 744 § 27, 1996; Ord. 127 § 3(5.51), 1961)

12.04.270 Catchbasins and curb inlets.

Catchbasins and curb inlets shall be precast reinforced concrete complying with the Standard Plans and Specifications. (Ord. 744 § 28, 1996; Ord. 127 § 3(5.52), 1961)

12.04.280 Pipe installation, bedding and backfill.

Storm sewer pipe installation, including the use of pipe bedding, and trench backfilling shall comply with the Standard Plans and Specifications, or the manufacturer's specifications, for the type of pipe being used. The city engineer may require soil test reports showing that the material used complies with the Standard Specifications.

Pipe trenches shall be kept free from water during the installation and backfill of the pipe. Before trench excavation begins, adequate pumping equipment or other machinery shall be available on the site to assure that this provision is met.

Ledge rock, boulders, or stones shall be removed from the trench so as to provide a minimum clearance of six inches under the pipe. All materials thus removed shall be replaced with bedding material as directed by the city engineer. (Ord. 744 § 29, 1996; Ord. 127 § 3(5.6), 1961)

Article IV. Storm Sewers

12.04.290 Design.

The city engineer will establish the design criteria for all storm sewer and detention systems. No work will be allowed on said facilities without first submitting plans and specifications of the proposed improvements and obtaining city approval. (Ord. 744 § 30, 1996; Ord. 127 § 3(5.7), 1961)

12.04.300 Restoration of damaged facilities.

All existing utilities, landscaping and other facilities which are damaged during the construction work shall be restored by the appli-

cant to a condition equal to their condition prior to the start of the roadway or right-of-way construction. (Ord. 744 § 32, 1996)

12.04.310 Pavement restoration.

Where an existing pavement is cut to provide for the installation of new utilities or drainage facilities, the pavement shall not be repaved until all trench backfill and compaction have been approved by the city engineer. If so directed by the city engineer, a temporary cold mix patch shall be placed over the trench backfill and maintained in a neat, smooth, condition until such time as the permanent patch work is done.

Trench restoration shall include a minimum of six inches of crushed surfacing and an asphalt concrete patch to match the existing pavement, or two-inch minimum, whichever is greater.

The edges of the existing paving shall be painted with an asphalt tack coat before paving and the joints sealed with an asphalt emulsion after the patch work is completed. (Ord. 744 § 34, 1996)

12.04.320 Pipe bedding.

Repealed by Ord. 744. (Ord. 127 § 3(5.712), 1961)

12.04.330 Pipe alignment.

Repealed by Ord. 744. (Ord. 127 § 3(5.713), 1961)

12.04.340 Pipe grades.

Repealed by Ord. 744. (Ord. 127 § 3(5.713), 1961)

12.04.350 Filling.

Repealed by Ord. 744. (Ord. 127 § 3(5.713), 1961)

12.04.360 Pipe joints.

Repealed by Ord. 744. (Ord. 127 § 3(5.713), 1961)

12.04.370 Trench backfill – Pipe embedment.

Repealed by Ord. 744. (Ord. 127 § 3(5.714), 1961)

12.04.380 Backfill above pipe embedment.

Repealed by Ord. 744. (Ord. 127 § 3(5.714), 1961)

12.04.390 Trench backfill – Mounding.

Repealed by Ord. 744. (Ord. 127 § 3(5.714), 1961)

12.04.400 Trench backfill – Excess of insufficient material.

Repealed by Ord. 744. (Ord. 127 § 3(5.714), 1961)

12.04.410 Repaving – Time interval.

Repealed by Ord. 744. (Ord. 127 § 3(5.715), 1961)

12.04.420 Repaving – Base course.

Repealed by Ord. 744. (Ord. 127 § 3(5.715), 1961)

12.04.430 Bituminous repavement.

Repealed by Ord. 744. (Ord. 127 § 3(5.715), 1961)

12.04.440 Concrete repavement.

Repealed by Ord. 744. (Ord. 127 § 3(5.715), 1961)

Chapter 12.08

STREET OPENING PERMITS

Sections:

- 12.08.010 Street opening – Prohibited – Permit required.
- 12.08.015 Application for street opening permit.
- 12.08.020 Permit information.
- 12.08.030 Fees – Cash deposit.
- 12.08.040 Conditions.
- 12.08.050 City right of abatement – Warning structures.
- 12.08.060 Civil penalty.

12.08.010 Street opening – Prohibited – Permit required.

A. “Street opening” is defined as:

1. The placing or construction of any structure, device or natural or artificial thing which requires any invasive action into the public street or right-of-way; or

2. The collection, channeling and discharging of storm or service water, which threatens or endangers the whole or any portion of any street or right-of-way within the city or which tends to endanger persons traveling thereon, or obstructs or tends to obstruct or constitutes a hazard to vehicles or persons traveling thereon; or

3. The digging or cutting into or mar-
ring, defacing or altering the surface of any street or right-of-way, including both the improved and unimproved portions thereof, within the city.

B. “Street opening” does not include the planting of street trees or shrubs as regulated by Chapter 8.21 CHMC.

C. In order to perform any acts which constitute “street opening,” a street opening permit must be obtained from the city administrator.

D. The performance of said “street opening” acts without receiving a permit shall be unlawful, and shall subject the person to civil

penalties pursuant to CHMC 12.08.060. (Ord. 746 § 2, 1996; Ord. 349, 1974; Ord. 263 § 1, 1970; Ord. 82 § A, 1959)

12.08.015 Application for street opening permit.

An application for any street opening permit issued under this chapter shall contain the following:

A. The location of the proposed action and the reason or reasons for it being taken;

B. A drawing that clearly shows the exact location of all of the proposed work in the street or right-of-way;

C. The name, address, and phone number of the contractor or contractors who will perform the work and proof that the contractor or contractors holds a current state license, state registration, surety bond and insurance as required by Chapter 18.27 RCW as it now exists or may hereafter be amended or recodified;

D. A work plan which sets forth the dates for commencing work and the date on which the work is expected to be completed. (Ord. 746 § 3, 1996)

12.08.020 Permit information.

Any permit issued under this chapter shall contain the following:

A. The location of the proposed action and the reason or reasons for its being taken;

B. Whether or not warning or protection structures, signs, signals or devices shall be maintained and their approximate locations;

C. The time within which the street or roadway surface must be restored;

D. The amount of the deposit or bond, if any, required to guarantee the restoration of the street or roadway surface. (Ord. 82 § E, 1959)

12.08.030 Fees – Cash deposit.

A. The fee for each permit to do any of the acts referred to in CHMC 12.08.010 shall be set forth in a fee schedule to be adopted by the city council. Fees and charges adopted pursu-

ant to this section may be increased or decreased by the council on the city administrator's recommendation in accordance with changes in the costs incurred by the city. The city council shall, upon recommendation of the city administrator, establish the amount, rates and formulas for the following fees and charges.

B. Fees and Charges.

1. **Application Processing Fee.** A nonrefundable application processing fee shall be charged for each street opening permit application that is accepted for processing. This fee covers the costs of initial processing, counter service, record keeping, one inspection, and one hour of staff review time.

2. **Surface Cut Fee.** A base fee will be charged for all permits that authorize surface cuts to any improved right-of-way which includes paved surfaces, streets or sidewalks. The base fee shall be charged for surface cuts less than 15 square feet or less than 10 feet in length. An additional fee shall be charged for surface cuts of more than 15 square feet or more than 10 feet in length based upon the relative size of the cut. This additional fee shall be charged for each additional square foot. All fees will be tripled for cutting into improved rights-of-way less than two years old. All fees will be doubled for cutting into improved rights-of-way greater than two years old and less than five years old. If the city discovers, upon inspection of the work, that the street was opened in excess of what was permitted, the city may charge an additional fee and deduct the additional fee from the cash deposit referenced in subsection (C) of this section.

3. **Excess Inspection and Review Costs.** The city may incur extra costs for certain permits that require more than one inspection or more than one hour of review time. These costs may be incurred because of situations related to observed quality of work, traffic problems, schedule problems and cooperation of the permittee. The nonrefundable application processing fee covers the cost of one

inspection and one hour of staff review time only. Excess inspection and review fees will be charged based on the hourly rate of actual costs incurred by the city. In the event that it is necessary that the city administrator or his designee inspect the work more than once or requires additional staff review time, the cost of such inspection or review shall be deducted from any cash deposit required under this chapter.

4. **Repair and Replacement Charges.** If the city should incur any costs in repairing or replacing any property as the result of the permittee's actions, the costs of repair and replacement will be charged to the permittee. These charges will be for the actual costs to the city.

C. **Cash Deposit.** No permit shall be granted by the city administrator until the city is furnished with a cash deposit in a sum to be established by the city administrator. The decision whether to require a cash deposit is within the discretion of the city administrator. The cash deposit shall guarantee restoration of the street or right-of-way surfaces in accordance with the provisions of this chapter. The cash deposit shall be delivered to the clerk of the city prior to commencement of any activity authorized by the permit granted by the city administrator. If the permit is issued for work within an improved right-of-way, the cash deposit shall be retained by the city for a period of three years following completion of the work involved. The three-year period begins upon final inspection and acceptance of the permittee's restoration work by the city administrator or his designee. If the permit is issued for work within an unimproved right-of-way, the cash deposit may be retained, at the city administrator's sole discretion, for a period less than three years. Any interest earned on a cash deposit required under this section shall become the property of the city for administrative expenses in maintaining

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said cash deposit. (Ord. 898 § 1, 2009; Ord. 746 § 4, 1996; Ord. 423 § 2, 1980; Ord. 318, 1973; Ord. 263 § 2, 1970; Ord. 82 § D, 1959)

12.08.040 Conditions.

A permit to perform the acts referred to in CHMC 12.08.010 shall be subject to the following conditions:

A. The applicant shall be required to sign an agreement to indemnify and hold the city harmless from any and all claims for bodily injury and/or property damage that may arise out of or in connection with the permit. Such agreement shall be signed and delivered to the city administrator prior to commencement of any activity authorized by the city administrator;

B. The applicant shall maintain adequate warning or protective structures, signs, signals or devices in relation to the activity for which permission has been given, until the street or right-of-way has been restored to a condition which will allow vehicles or persons to travel thereon in safety;

C. The applicant shall restore the street or right-of-way surface within a reasonable length of time. Such time limit shall be specified by the city administrator;

D. The applicant shall restore a street by grinding the surface of the improved right-of-way and overlaying the affected area according to the specifications approved by the city engineer. The applicant shall restore all other rights-of-way to at least as good condition as that existing at the time the work of the permittee commenced thereon. (Ord. 898 § 2, 2009; Ord. 746 § 5, 1996; Ord. 263 § 1, 1970; Ord. 82 § C, 1959)

12.08.050 City right of abatement – Warning structures.

The provisions of this chapter shall in no way preclude the city from exercising its rights pertaining to abatement of the act or acts described in this chapter on the basis of public nuisance and shall not prevent or make unlaw-

ful the use, placing or construction of any warning or protective structure, sign, signal or device in relation to an act or acts performed on the surface of any street or right-of-way within the city:

A. Pursuant to a permit requested and obtained from the city administrator; or

B. At the request of, or as necessary incident to any contract with, the city council. (Ord. 746 § 6, 1996; Ord. 263 § 1, 1970; Ord. 82 § B, 1959)

12.08.060 Civil penalty.

A. Any person violating or failing to comply with any of the provisions of this chapter shall be subject to a cumulative penalty in an amount not greater than \$250.00 for each day during any portion of which any violation of any provision of this chapter is committed.

B. Notices of violation shall be issued by the city administrator or his designee. Any person who receives a notice of violation shall respond within 15 days from the date the notice is served. The date of service is the date the notice of violation is either (1) served on the violator(s) personally, or by leaving a copy of the notice at the house of the violator's usual abode with some person of suitable age and discretion then resident therein, (2) deposited into the United States mail, postage prepaid, via first class and certified mail, return receipt requested, or (3) is otherwise received, whichever occurs first.

C. Persons wishing to contest the notice of violation and people who do not wish to contest the notice of violation but wish to explain mitigating circumstances shall file a request for a hearing within 15 days of the date the notice of violation is served and, upon the city's receipt of a timely request, a hearing shall be scheduled before the mayor. The determination by the mayor shall be final, binding and conclusive unless a judicial appeal is filed with the King County superior court within 21 days of the date of issuance of the written determination by the mayor. Failure to

timely appeal the notice of violation results in the notice becoming the final binding order of the city.

D. In those instances where a civil penalty has been imposed for failure to obtain a street opening permit required under CHMC 12.08.010, such permit shall not be issued until such time as the civil penalty has been paid and all other requirements have been met. As a condition of the final determination of the amount of the civil penalty to be imposed, the city administrator or the mayor, as the case may be, may require abatement of any nonpermitted construction. (Ord. 898 § 3, 2009; Ord. 746 § 7, 1996)

Chapter 12.12

CONNECTION OF ELECTRICAL SERVICES TO UNDERGROUND DISTRIBUTION SYSTEMS

(Repealed by Ord. 747)

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Chapter 12.14**PUBLIC PLACE USE PERMITS**

Sections:

- 12.14.010 Disclaimer of city liability.
- 12.14.020 Definitions.
- 12.14.030 Compliance with law.
- 12.14.040 Permit required.
- 12.14.045 Permit types.
- 12.14.050 Applications.
- 12.14.060 Processing of applications.
- 12.14.070 Surety bond – Liability insurance.
- 12.14.080 Revocation.
- 12.14.090 Appeal.
- 12.14.100 Specific uses.
- 12.14.110 Fees, insurance and bond.
- 12.14.120 Installation of underground facilities.
- 12.14.130 Civil penalty.

12.14.010 Disclaimer of city liability.

A. Issuance of any permit pursuant to this chapter does not constitute the creation of a duty by the city to any person or to indemnify any person for any wrongful acts of a permit holder against any person or the public, or to otherwise shift responsibility from the licensee to the city.

B. Nothing contained in this chapter is intended to be nor shall be construed to create or form the basis for any liability on the part of the city, or its officers, employees or agents, for any injury or damage resulting from the failure of a permit holder or applicant for a permit to comply with the provisions of this chapter, or by reason or in consequence of any act or omission in connection with the implementation or enforcement of this chapter on the part of the city, its officers, employees or agents.

C. It is expressly the purpose of this chapter to provide for and promote the health, safety and welfare of the general public, and not to create or otherwise establish or designate any particular class or group of persons who will or should be especially benefited by the terms of this chapter.

D. It is the specific intent of this chapter to place the obligation of complying with its requirements upon the permit holder or applicant for permit within its scope, and no provision of nor term used in this chapter is intended to impose any duty whatsoever upon the city or any of its officers or employees, for whom the implementation of this chapter shall be discretionary and not mandatory. (Ord. 702 § 1, 1994)

12.14.020 Definitions.

The words and phrases used in this chapter shall be construed as follows, except where the same shall be clearly contrary to or inconsistent with the context of the chapter or the section in which used:

A. “Abutting property” means and includes the property adjacent to the margin of a public place contiguous to and with reference to said public place.

B. “Administrator” means the administrator of the city, or the administrator’s designee.

C. “Council” means the city council for Clyde Hill.

D. “Decision-maker” means the person or body who makes the decision under this chapter. For public place use permits for siting a WCF, the council shall be the decision-maker. For all other public place use permits, the administrator shall be the decision-maker.

E. “Driveway” means and includes that portion of a public place which provides access to an off-street vehicular facility as is well-defined or as is designated by authorized signs or markings.

F. “Nonprofit” means the use of the public place for any charitable or municipal purpose or for the personal, nonbusiness use of an abutting property owner.

G. “Profit” or “for-profit” means the use of any public place for any business purpose or any other purpose that does not meet the definition of “nonprofit.”

H. “Private use” means use of the public place for any use other than use as a thorough-

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fare for any type of vehicles, pedestrians or equestrians.

I. "Public place" means and includes streets, avenues, ways, boulevards, drives, places, alleys, sidewalks and planting (parking) strips, squares, triangles and rights-of-way open to the use of the public, and above or beneath the surface of the same, or any other property which is owned or leased by the city.

J. "Use" means and includes to construct, store, erect, place upon or maintain, or operate in, upon, over or under any public place, area, way or awning; or to use or occupy any public place for the storage or placement of any material, equipment or thing; or to open, excavate, or in any manner disturb or break the surface or foundation of any permanent pavement that is not a part of a street or roadway, or to alter the established grade of any street, or to disturb the surface of, dig up, cut, excavate or fill in any public place that is not a part of a street or roadway; or to construct, reconstruct, maintain or remove any sidewalk or crosswalk, pavement, sewers, water mains, grading, driveways, street lighting or appurtenances thereto, except when permitted by ordinance; or to do any work in, or erect any structure under, along or over any public place. This definition shall not include any actions defined as "street opening" in Chapter 12.08 CHMC.

K. "WCF" means wireless communications facility as defined by Chapter 17.77 CHMC. (Ord. 777 § 1, 1997; Ord. 772 § 1, 1997; Ord. 748 § 1, 1996; Ord. 702 § 1, 1994)

12.14.030 Compliance with law.

All work to be done under the authority of this chapter shall be accomplished in compliance with the city's building code, the State Safety Code, and any other applicable law, and shall diligently proceed without undue delay or inconvenience to the public. (Ord. 702 § 1, 1994)

12.14.040 Permit required.

No person shall use any public place without first obtaining a public place use permit. (Ord. 702 § 1, 1994)

12.14.045 Permit types.

The following types of public place use permits are established:

A. Type A – Short-Term Nonprofit.

1. Type A permits may be issued for use of the public place for less than 24 continuous hours for nonprofit purposes which do not involve significant physical disturbance of a right-of-way. A Type A use may involve disruption of pedestrian or vehicle traffic or access to private property and may require inspections, clean-up, and police surveillance. For periods in excess of 24 continuous hours, the applicant shall apply for a Type D permit

2. Type A permits include, but are not limited to, the following, when for nonprofit purposes:

- a. Assemblies;
- b. Bicycle races;
- c. Parades and processions;
- d. Nonmotorized vehicle races;
- e. Street dances; or
- f. Street runs.

B. Type B – Short-Term Profit.

1. Type B permits may be issued for use of a public place for less than 72 continuous hours for profit purposes which do not involve physical disturbance of a right-of-way. A Type B use may involve disruption of pedestrian or vehicle traffic or access to private property and may require inspections, clean-up, and police surveillance. For periods in excess of 72 continuous hours, the applicant shall apply for a Type E permit.

2. Type B permits include, but are not limited to, the following, when for profit purposes:

- a. Fairs;
- b. Temporary sale of goods; or
- c. Temporary street closures.

C. Type C – Disturbance of Public Place.

1. For opening or cutting into a right-of-way, a permit for street opening under Chapter 12.08 CHMC must be obtained.

2. Type C permits may be issued for use of a public place for activities that will alter the appearance of or disturb the surface, supersurface, or subsurface, of a public place on a temporary or permanent basis, but which activities do not constitute street opening as defined by CHMC 12.08.010.

3. Type C permits include, but are not limited to, the following activities:

- a. Installation or demolition of culverts, curb cuts, drainage facilities, or driveways;
- b. Installation or demolition of fences or landscaping.

D. Type D – Long-Term and Permanent Nonprofit.

1. Type D permits may be issued for use of a public place for nonprofit activities for extended periods of time and may be issued in conjunction with a street opening permit under Chapter 12.08 CHMC. The use of a public place for structures, facilities, and uses that involve capital expenditures and long-term commitments of use require a Type D permit.

2. Type D permits include, but are not limited to, the following activities:

- a. Air rights, if for nonprofit purposes;
- b. Bus stops or shelters;
- c. Construction site;
- d. Driveways;
- e. Fences;
- f. Landscaping;
- g. Nonprofit recycle facilities;
- h. Unique structures such as flag poles, fountains, clocks, awnings, benches, and banners;
- i. Underground rights.

3. A Type A use that exceeds 24 hours shall be treated as a Type D use.

E. Type E – Long-Term and Permanent For-Profit.

1. Type E permits may be issued for use of a public place for activities for extended periods of time and may be issued in conjunction with a street opening permit under Chapter 12.08 CHMC. The use of a public place for structures, facilities, and uses that involve capital expenditures and long-term commitments of use require a Type E permit.

2. Type E permits include, but are not limited to, the following activities:

- a. Air rights if for a profit purpose;
- b. Construction site;
- c. For-profit recycle facilities;
- d. Underground rights;
- e. Utility or similar facilities, including WCFs; or
- f. Waste facilities.

3. A Type B use that exceeds 72 hours shall be treated as a Type E use. (Ord. 777 § 2, 1997)

12.14.050 Applications.

Applications for public place use permits shall be made as follows:

A. For siting a WCF within the city, the applicant shall comply with the application requirements set forth in Chapter 17.77 CHMC.

B. For all other public place use permits, the applicant shall apply to the administrator on a format as prescribed and provided by said administrator. The application shall contain such information as the administrator may deem necessary, including, but not limited to, the following:

- 1. An accurate description of the public place or portion thereof desired to be used;
- 2. A full and complete description of the use to be made of the public right-of-way or public place by the applicant and the duration of such proposed use;
- 3. The plans and specifications for any utility or structure desired to be constructed,

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erected or maintained by the applicant in or on a public place;

4. For construction of driveways pursuant to CHMC 12.14.100, the application shall include a clear drawing which shows the location of the proposed driveway, utilities crossing the driveway and location of “joints” in the proposed section of driveway in the right-of-way; and a description or pattern of the proposed material for use in the driveway, such as concrete, pavers, brick, aggregate, etc.;

5. For applications to permanently or temporarily locate something in the right-of-way, the application shall include a clear drawing that shows the specific location of the item or items in the right-of-way, and the utilities that cross the proposed improvement in the right-of-way;

6. If applicable to the use sought, documentation showing that the applicant is either the record owner or entitled to possession of the property abutting the public right-of-way or place sought to be used. (Ord. 777 § 3, 1997; Ord. 772 § 2, 1997; Ord. 748 § 2, 1996; Ord. 702 § 1, 1994)

12.14.060 Processing of applications.

Applications for siting a WCF within the city shall be processed in accordance with Chapter 17.77 CHMC. All other applications made under this chapter shall be processed by the administrator as follows:

A. The administrator shall examine each application submitted for approval to determine if it complies with the provisions of this chapter and which permit type(s) are applicable to the use sought. The administrator, or administrator’s designee, may inspect the premises which are desired to be used in order to ascertain any facts which may aid in determining whether a permit shall be granted.

B. The decision to issue or not issue a public place use permit, as authorized under this chapter, shall be at the sole discretion of the administrator. This chapter shall in no way be

construed as granting or creating a right in any applicant to obtain a public place use permit.

C. If the administrator finds that the application presented for approval conforms to the requirements of this chapter, and also that the proposed use of such public place will not unduly interfere with the rights of the public, the administrator may approve such application, fix the duration for which the permit shall be effective, and notify the applicant that, upon the applicant’s compliance with the requirements of the administrator relative to indemnification, insurance and payment of all required fees, including any permit fee as determined by the city council in a resolution adopted for this purpose, the permit shall be issued.

D. The administrator shall condition the public place use permit on such conditions which may reasonably assure that the applicant’s use does not create a likelihood of endangering the public. Such conditions shall include, but not be limited to:

1. If the proposed use involves obstruction of a portion of a public sidewalk or other walkway, permits shall be issued for a period not to exceed 30 days.

2. The applicant shall be required to indemnify and hold the city harmless from any and all claims for bodily injury or property damage that may arise out of or in connection with the applicant’s permitted use. A surety bond and liability insurance shall be obtained in accordance with the provisions of CHMC 12.14.070.

E. All conditions shall be subscribed on or attached to the permit.

F. Applicant shall consent that in the event the city is required to take enforcement actions to enforce the terms and conditions of the permit, that the city shall be entitled to recover its costs, disbursements and expenses including its attorneys’ fees, which sums may be filed as a lien against applicant’s premises and enforceable in the manner provided for the enforcement of mortgages on real property.

(Ord. 777 § 4, 1997; Ord. 772 § 3, 1997; Ord. 722 § 2, 1995; Ord. 702 § 1, 1994)

12.14.070 Surety bond – Liability insurance.

A. Bond.

1. If the decision-maker determines that there is a probability of injury, damage or expense to the city arising from an applicant's proposed use of any public place, the applicant, upon notice from the decision-maker, shall deposit with the city treasurer a surety bond approved as to surety and to form by the city attorney or cash deposit, which bond or cash deposit shall assume all of the following obligations:

a. To pay the cost plus 15 percent for inspections, surveys, plans and other services performed by the city;

b. To pay the cost of restoring the public place and removing any earth or other debris from the public place;

c. To pay for the replacement of any utility interrupted or damaged, or the completion of any work left unfinished; and

d. To pay any other costs incurred by the city in connection with the permitted work.

2. The bond or cash deposit shall run for the full period of the permit, and shall be in an amount to be fixed by the decision-maker, and conditioned such that applicant shall faithfully comply with all the terms of the permit and all the provisions of this chapter and all other ordinances of the city, and indemnify and save the city free and harmless from any and all claims, actions or damages of every kind and description which may accrue to, or be suffered by, any person by reason of the use of any public place, as provided for in the application.

B. Insurance. An applicant for a permit shall maintain in full force and effect during the full period of the permit public liability insurance in an amount sufficient to cover potential claims for any bodily injury, death, or disability and for property damage, which may arise

from or be related to the permit and naming the city as an additional insured. The decision-maker shall establish the amount of such insurance as at least \$1,000,000, and require that such insurance be provided prior to issuance of the permit. Said insurance shall not be cancelable or reduced without prior written notice to the city, not less than 30 days in advance of the cancellation or alteration. Said insurance shall name the city as a named or additional insured and shall be primary as to any other insurance available to the city. However, the decision-maker shall be permitted to waive or reduce these insurance requirements for Type A permits based upon good cause shown by the applicant and the nature of the use sought. (Ord. 798 § 1, 1999; Ord. 777 § 5, 1997; Ord. 772 § 4, 1997; Ord. 702 § 1, 1994)

12.14.080 Revocation.

A. All permits issued pursuant to this chapter shall be temporary, shall vest no permanent right in the applicant and may be revoked by the decision-maker upon the occurrence of any of the following:

1. Immediate revocation in the event of a violation of any of the terms and conditions of the permit;

2. Immediate revocation, in the event such use becomes, for any reason, dangerous or any structure or obstruction permitted becomes insecure or unsafe;

3. Upon 30 days' notice if the permit is not otherwise used for a specified period of time and is not covered by the preceding subsections.

B. If any use or occupancy for which the permit has been revoked is not immediately discontinued, the administrator may remove any such structure or obstruction or cause to be made to such repairs upon the structure or obstruction as may be necessary to render the same secure and safe, the cost and expense of which shall be assessed against the permittee, including all fees, costs and expenses incurred, including attorneys' fees associated with the

12.14.090

enforcement of or collection of the same. (Ord. 772 § 5, 1997; Ord. 702 § 1, 1994)

12.14.090 Appeal.

Any decision by the council with respect to issuance, refusal to issue, revocation or refusal to revoke a permit for siting a WCF under this chapter and Chapter 17.77 CHMC may be appealed in accordance with CHMC 17.77.070 (F).

Any decision of the administrator with respect to the issuance, refusal to issue, revocation or refusal to revoke a permit with respect to any use, other than siting a WCF within the city, may be appealed to the city council by filing a notice of intent to appeal such decision with the city clerk within 10 days of the date of issuance of the decision being appealed. If an appeal from any such decision is taken, the appellant shall be required to pay a nonrefundable appeal fee in an amount determined by the city council in a resolution adopted for this purpose. Said appeal shall include a complete statement of the reason or reasons that form the basis of the appeal. The decision of the city council shall be final, binding and conclusive, said decision being solely within the discretion of the legislative body. (Ord. 772 § 6, 1997; Ord. 722 § 3, 1995; Ord. 702 § 1, 1994)

12.14.100 Specific uses.

A. Driveways.

1. All driveways constructed on public places where paved roadways and curbs exist shall be constructed according to the city's standard plans and specifications.

2. The minimum width of driveways for residential property shall be as described in Chapter 17.44 CHMC and the city's standard plans and specifications.

3. Any applicant for a public place use permit may request assistance of the city in the improvement of the street serving the abutter's premises, all as provided in RCW 35.21.275,

as the same now exists or may hereafter be amended.

4. Any applicant for a public place use permit who plans to improve the public place abutting his or her property by installing a driveway using materials other than those described in the city's standards and specifications, shall include a request to use such alternate materials in his/her application for the permit. The application shall also include drawings of the proposed improvement showing all construction or expansion joints, for review and approval by the city engineer. Any permit issued by the city may contain conditions which describe a process for notice to the applicant when repairs and/or replacements are necessary, and which will also put the applicant on notice of the city's intent to commence such repair or replacement, which notice shall be provided after a reasonable period of time, or immediately, if a public health or safety hazard exists. The city shall not be responsible to repair and/or replace any driveway made of alternate materials approved under this section, and shall have complete discretion in any decision relating to the materials to be used for street and sidewalk repair and replacement.

B. Fences. All fences constructed on public places must conform to the requirements set forth in CHMC Title 17.

C. Retaining Walls. In addition to the permit described in this chapter, retaining walls shall not be constructed in the public right-of-way without approval from the city engineer, and the applicant shall obtain any other applicable permits for such work.

D. WCFs. All WCFs constructed and/or located within the city must conform to the requirements set forth in Chapter 17.77 CHMC. (Ord. 772 § 7, 1997; Ord. 702 § 1, 1994)

12.14.110 Fees, insurance and bond.

The application fee for a public use permit shall be as follows:

A. For all applications under this chapter, the fee shall be set by resolution of the city council.

B. For all permits issued under this chapter, the permit fee shall be set by resolution of the city council.

C. For applications for driveway installation, pursuant to CHMC 12.14.100, the requirement of providing insurance and a bond is waived. For all other applications under this chapter, the applicant shall be required to provide insurance as detailed in this chapter and post a bond or cash deposit in an amount to be set by the city administrator. (Ord. 772 § 8, 1997; Ord. 748 § 3, 1996)

12.14.120 Installation of underground facilities.

Unless otherwise approved by the city administrator and the city engineer (or on appeal, the city council), all electrical and/or communications facilities, including but not limited to wires or cables, which are permitted to locate in any public place under this chapter, shall be installed underground. (Ord. 777 § 6, 1997)

12.14.130 Civil penalty.

A. Any person violating or failing to comply with any of the provisions of this chapter shall be subject to a cumulative penalty in the amount of \$250.00 for each day during any portion of which any violation of any provision of this chapter is committed.

B. The penalty imposed by this section shall be collected by civil action brought in the name of the city. The city shall be entitled to recover its reasonable attorneys' fees and cost in bringing any action under this section to collect the penalty. (Ord. 777 § 7, 1997)

Chapter 12.18

DISPLACEMENT FOR PUBLIC USE¹

Sections:

12.18.010 Definitions.

12.18.020 Displacement for public use.

12.18.010 Definitions.

A. "Facilities," as used herein, means all conduits, wires, lines, poles, pipes, cables, communication and signal lines, braces, guys, anchors, vaults, and all other structures, equipment and appurtenances thereto owned, operated or maintained by a public utility or any other permittee.

B. "Public improvement," as used herein, means all work, construction, alterations, repair or improvements, executed at the cost or under contract of the city, or caused to be performed by any person or entity as a condition or requirement of an approval or permit for zoning, land use, construction or development if dedicated or required to be dedicated to the public use, benefit or enjoyment.

C. "Public utility," as used herein, means a company or entity engaged in any business or service regularly supplying the public with some commodity or service which is a public need and consequence, such as gas, electricity, water, sanitary sewer, telephone, or transportation, including any business subject to regulation as to rates and service by the Utilities and Transportation Commission under the provisions of RCW Title 81; provided, that it shall not include any such company the issuance of stocks and securities of which is subject to regulation by the Interstate Commerce Commission; provided further, that it shall not include any "motor carrier" as that term is used in RCW 81.80.010 or any other "garbage and refuse collection company" subject to the provisions of Chapter 81.77 RCW; provided fur-

1. Ordinance 851 added this chapter as Chapter 12.14. It has been editorially renumbered to avoid duplication.

12.18.020

ther, that it shall not include any company or entity otherwise meeting this definition of a public utility that is specifically regulated for use of the public right-of-way by any other chapter of this code exempting the company or entity from the provisions of this chapter. (Ord. 851 § 1, 2003)

12.18.020 Displacement for public use.

A public utility or any other permittee allowed to place facilities in the public right-of-way, under order of the city administrator or his designee, shall, under a minimum of 45 days' notice at its own costs and expense, move any underground, service or overhead facilities which interfere with any local improvement district work or with any construction for street or transportation purposes or other public improvement authorized or ordered by the city. The actual number of days shall be specified by the administrator in the administrator's order. All above ground facilities ordered to be moved shall be placed underground consistent with the requirements of CHMC 12.04.130; provided, the provisions of this section shall not be enforced so as to conflict with any state law, including but not limited to any approved tariff or state statutes regulating the relocation and undergrounding of telecommunications and cable services in the right-of-way as provided in Chapter 35.99 RCW as amended from time to time. (Ord. 851 § 1, 2003)