

Title 12

STREETS, SIDEWALKS AND PUBLIC WORKS

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Chapter 12.04

PUBLIC WORKS SPECIFICATIONS

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12.04.010 Engineering standards.

12.04.010 Engineering standards.

The public works director may issue engineering standards, thereby establishing policies, standards, and administrative procedures that regulate the planning, design, construction, inspection and approval of public and private infrastructure improvements consisting of but not limited to streets, bridges, roadways, pathways, storm drainage courses and facilities, sanitary sewer facilities, telecommunication facilities and appurtenances of these and other infrastructure facilities.

The engineering standards shall be kept on file in the office of the public works director, the office of the finance director, and made available to the public. The engineering standards shall be updated periodically and kept current with local and regional regulations and standards. Nothing contained in the engineering standards shall be construed as overriding state or local statutes or codes. (Ord. 3035 § 1, 2000; Ord. 1423 § 1, 1963).

Chapter 12.08

OBSTRUCTIONS AND ENCROACHMENTS

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12.08.020 Special permits authorized when – Conditions.

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12.08.010 Deemed misdemeanor when.

Any person, association or corporation that places any container, merchandise, stand, permanent or temporary structure, or any other object upon, beside, or over any street or sidewalk so as to interfere with the free flow of traffic without having first obtained a permit to do so, is guilty of a misdemeanor. (Ord. 3216 § 2, 2004; Ord. 1748 § 1, 1974).

12.08.020 Special permits authorized when – Conditions.

The street committee of the city council is authorized to grant special permits for the occupancy of any street within the corporate limits of the city with any type of building material when the same may be necessary to be used for the construction or repair of buildings or other property. However, the same shall not take up more space than is necessary and construction and repair shall proceed as rapidly as possible. (Ord. 1748 § 2, 1974).

12.08.030 City rights not limited by provisions.

Nothing in this chapter shall be construed as limiting or prohibiting the city from enjoining the obstruction of or encroachment upon any street or sidewalk or other public place in the city, or the right of the city to seek a writ for the removal of any such encroachment or obstruction which is now or may hereafter be authorized by the general laws of the state of Washington. (Ord. 1748 § 3, 1974).

12.08.040 Enforcement authority.

The chief of police is authorized and directed to enforce this chapter. (Ord. 1748 § 4, 1974).

Chapter 12.12

INJURING STREET PAVEMENTS

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- 12.12.010 Building fires, slaking lime and mixing mortar prohibited where.
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- 12.12.054 Construction job site cleanup.
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12.12.010 Building fires, slaking lime and mixing mortar prohibited where.

No person shall build a fire, slake lime, or mix mortar upon any of the paved streets, avenues, alleys or public places of the city in such a manner as to permit such fire to heat, or such lime or mortar to come in contact with the pavement of such street, alley, avenue or public place; provided, that nothing herein contained shall be construed to authorize or permit the building of fires, or slaking of lime or mixing of mortar upon any of the streets, avenues or public places of the city. (Ord. 344 § 1, 1911).

12.12.020 Loose substances – Transport restrictions.

No person or persons shall move, transfer or transport over or along or across any of the paved streets, avenues, alleys or public places of the city any garbage, swill, manure, gravel, dirt, sand, rubbish or other loose substance whatsoever, unless it be in a tightly constructed wagon or vehicle, or in such manner as will prevent the contents or any part thereof from being deposited upon such paved street, avenue, alley or public place. (Ord. 344 § 2, 1911).

12.12.030 Heavy vehicles and machinery – Pavement protection required.

No person or persons shall ride, drive or haul any threshing engine, heavy machine or machinery or vehicle or anything of any kind or nature whatsoever along or across any paved street, alley, ave-

nue or public place, in the city without first suitably muffling the wheels thereof or otherwise protecting said pavement from injury by the same. (Ord. 344 § 3, 1911).

12.12.040 Excavations and cutting pavement – Permission and direction required.

No person or persons shall cut, break, excavate or in any other manner molest any street pavement or portion thereof on any paved street, alley, avenue or public place within the corporate limits of the city, except by and under the permission and direction of the city council, or unless duly permitted. (Ord. 3216 § 3, 2004; Ord. 344 § 4, 1911).

12.12.050 Deposit of refuse substances prohibited where – Exception.

No merchant, store keeper or person or persons whatever shall sweep or allow any shavings, paper, refuse, dirt or other substance whatsoever to be swept onto or deposited upon any pavement, within the corporate limits of the city, from the premises owned or occupied by him or under his or their control; provided, that this section shall not be construed to prevent the sweeping of snow, or dirt resulting from travel, from the sidewalk onto the pavement. (Ord. 344 § 5, 1911).

12.12.052 Deposit of mud and debris from vehicles prohibited where.

The owner of any property who drives or causes or permits to be driven any vehicle or truck from the owner’s property the wheels or tires of which carry onto or deposit in any street, public place or private premises within the city any mud, dirt, gravel, sand, litter or foreign matter of any kind shall be responsible for cleanup and removal of such substances whenever necessary for the safety and convenience of travelers on the streets or users of the affected areas, and not less than once each day; provided, however, that where vehicles are driven on property without the knowledge and consent of the property owner, such cleanup shall be the responsibility of the vehicle driver, and provided further, that cleanup of construction sites shall be the responsibility of the contractor as set forth in MVMC 12.12.054. (Ord. 2187 § 1, 1985).

12.12.054 Construction job site cleanup.

Each contractor shall be responsible for a job site in such a manner that litter, garbage, mud, dirt, sand, gravel or foreign matter of any kind will be prevented from being carried or deposited by vehicles, equipment or the elements upon any street,

public place or private premises to the extent reasonably practical. Such substances, including those resulting from normal construction processes, shall be removed by the contractor prior to leaving the job site at the close of each work day. (Ord. 2187 § 2, 1985).

12.12.060 Dumping or unloading firewood or fuel prohibited where.

No person or persons shall dump or unload any firewood, coal or other fuel in and upon any pavement or portion thereof within the corporate limits of the city. (Ord. 344 § 6, 1911).

12.12.070 Violation – Penalty.

Any person, firm or corporation violating any of the provisions of this chapter is deemed guilty of a misdemeanor and upon conviction thereof shall be punishable as set forth in MVMC 1.20.010. Repeat offenders may be subject to stop work orders and revocation of permits. (Ord. 3216 § 4, 2004; Ord. 2187 § 3, 1985; Ord. 344 § 7, 1911).

Chapter 12.16

STREET EXCAVATIONS

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12.16.010 Title for citation.

This chapter shall be known and may be cited as the “street excavation ordinance of the city of Mount Vernon.” (Ord. 1701 § 10-1001, 1974).

12.16.020 Definitions and construction of terms.

For the purposes of this chapter, the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word “shall” is always mandatory and not merely directory.

A. “Applicant” is any person making written application to the city engineer for an excavation permit hereunder.

B. “City” is the city of Mount Vernon.

C. “City council” or “council” is the city council of the city of Mount Vernon.

D. “City engineer” is the city engineer of the city of Mount Vernon.

E. “Excavation work” is the excavation and other work permitted under an excavation permit and required to be performed under this chapter.

F. “Permittee” is any person who has been granted and has in full force and effect an excavation permit issued hereunder.

G. “Person” is any person, firm, partnership, association, corporation, company or organization of any kind.

H. “Street” is any street, highway, sidewalk, alley, avenue, easement made to the city for public use, or other public way or public grounds in the city. (Ord. 3216 § 6, 2004; Ord. 1701 § 10-1002, 1974).

12.16.030 Permit – Required when.

It is unlawful for any person to dig up, break, excavate, tunnel, undermine or in any manner break up any street or to make or cause to be made any excavation in or under the surface of any street for any purpose or to place, deposit or leave upon any street any earth or other excavated material obstructing or tending to interfere with the free use of the street, unless such person shall first have obtained an excavation permit therefor from the city engineer as herein provided. (Ord. 3216 § 7, 2004; Ord. 1701 § 10-1003, 1974).

12.16.040 Permit – Application – Contents and plans required.

No excavation permit shall be issued unless a written application for the issuance of an excavation permit is submitted to the city engineer. The written application shall state the name and address of the applicant, the nature, location and purpose of the excavation, the date of commencement and date of completion of the excavation, and other data as may reasonably be required by the city engineer. The application shall be accompanied by plans showing the extent of the proposed excavation work, the dimensions and elevations of both the existing ground prior to said excavation and of the proposed excavated surfaces, the location of the excavation work, and such other information as may be prescribed by the city engineer. (Ord. 3216 § 8, 2004; Ord. 1701 § 10-1004, 1974).

12.16.044 Licensed contractor required.

A. Work done under a street excavation permit must be carried out by a contractor licensed by the state of Washington and bonded pursuant to the terms of this chapter; provided, that the director of public works may waive the requirement for good cause shown.

B. All contractors must have a valid city business license as required per Chapter 5.04 MVMC. (Ord. 3216 § 9, 2004).

12.16.050 Permit – Issuance fees.

A. A permit fee shall be charged by the city for the issuance of an excavation permit which shall be

in addition to all other fees for permits or charges relative to any proposed construction work. The excavation permit fee shall be in an amount varying with the type of surface to be opened, dug or excavated under the permit issued, as follows:

1. Permanent surface excavation: \$25.00;
2. Traveled surface excavation: \$20.00;
3. Nontraveled surface excavation: \$10.00;
4. Driveway culvert installation: \$10.00.

B. The permittee may be required to submit a deposit for as-built guarantee in an amount approved by the city engineer that is based on the cost of preparing the as-builts. The deposit will be refunded when the permittee has completed construction and submitted as-builts to the city engineer. (Ord. 3216 §§ 10, 11, 2004; Ord. 1701 § 10-1005, 1974).

12.16.060 Permit posting required where – Misrepresentation prohibited.

It shall be the duty of any permittee hereunder to keep the permit posted in a conspicuous place at the site of the excavation work. It shall be unlawful for any person to exhibit such permit at or about any excavation not covered by such permit, or to misrepresent the number of the permit or the date of expiration of the permit. (Ord. 3216 § 12, 2004; Ord. 1701 § 10-1006, 1974).

12.16.070 Permit – Bond prerequisite – Conditions.

Before an excavation permit as herein provided is issued, the applicant shall deposit with the city clerk-treasurer a surety bond in such reasonable amount as set by the city, payable to the city. The required surety bond must be:

- A. With good and sufficient surety;
- B. By a surety company authorized to transact business in the state;
- C. Satisfactory to the city attorney in form and substance;
- D. Conditioned upon the permittee's compliance with this chapter and to secure and hold the city and its officers harmless against any and all claims, judgments, or other costs arising from the excavation and other work covered by the excavation permit or for which the city, the city council or any city officer may be made liable by reason of any accident or injury to persons or property through the fault of the permittee either in not properly guarding the excavation or for any other injury resulting from the negligence of the permittee, and further conditioned to fill up, restore and place in good and safe condition as near as may be to its original condition, and to the satisfaction of the city

engineer, all openings and excavations made in streets, and to maintain any street where excavation is made in as good condition for the period of 24 months after said work shall have been done, usual wear and tear excepted, as it was in before said work shall have been done. Any settlement of the surface within said two-year period shall be deemed conclusive evidence of defective backfilling by the permittee. Nothing herein contained shall be construed to require the permittee to maintain any repairs to pavement made by the city if such repairs should prove defective. Any owner of real estate repairing or engaging another to repair his own sidewalk shall be required to give such bond. Recovery on such bond for any injury or accident shall not exhaust the bond but it shall in its entirety cover any or all future accidents or injuries during the excavation work for which it is given. In the event of any suit or claim against the city by reason of the negligence or default of the permittee, upon the city's giving written notice to the permittee of such suit or claim against the city by reason of the negligence or default of the permittee, upon the city's giving written notice to the permittee of such suit or claim, any final judgment against the city requiring it to pay for such damage shall be conclusive upon the permittee and his surety. An annual bond may be given under this provision which shall remain in force for one year conditioned as above, in the amount specified above and in other respects as specified above but applicable as to all excavation work in streets by the principal in such bond during the term of one year from said date;

E. The public works director shall have the authority to waive the requirement for such surety bond for minor uses at his discretion. (Ord. 3216 § 13, 2004; Ord. 1701 § 10-1007, 1974).

12.16.080 Permittee – Traffic routing responsibilities – Approval and notification required.

The permittee shall take appropriate measures to assure that, during the performance of the excavation work, traffic conditions as nearly normal as practicable shall be maintained at all times so as to cause as little inconvenience as possible to the occupants of the abutting property and to the general public; provided, that the city engineer may permit the closing of streets to all traffic for a period of time prescribed by him if in his opinion it is necessary. The permittee shall route and control traffic, including its own vehicles, as directed by the city police department. The following steps

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shall be taken before any highway may be closed or restricted to traffic:

A. The permittee must receive the approval of the city engineer and the police department therefor;

B. The permittee must notify the chief of the fire department of any street so closed;

C. The permittee may be required to submit a traffic control plan for review and approval by the city engineer prior to beginning any construction work;

D. Upon completion of construction work the permittee shall notify the city engineer and city police department before traffic is moved back to its normal flow so that any necessary adjustments may be made;

E. Where flagmen are deemed necessary by the city engineer, they shall be furnished by the permittee at the permittee's own expense. Through traffic shall be maintained without the aid of detours, if possible. In instances in which this would not be feasible, the city engineer will designate detours. The city shall maintain roadway surfaces of existing highways designated as detours without expense to the permittee but, in case there are no existing highways, the permittee shall construct all detours at its expense and in conformity with the specifications of the city engineer. The permittee will be responsible for any unnecessary damage caused to any highways by the operation of its equipment. (Ord. 3216 § 14, 2004; Ord. 1701 § 10-1008, 1974).

12.16.090 Fire equipment – Clearance required.

The excavation work shall be performed and conducted so as not to interfere with access to fire stations and fire hydrants. Materials or obstructions shall not be placed within 15 feet of fire plugs. Passageways leading to fire escapes or fire fighting equipment shall be kept free of piles of material or other obstructions. (Ord. 1701 § 10-1009, 1974).

12.16.100 Traffic protection requirements and specifications.

The permittee shall erect and maintain suitable barriers to confine earth from trenches or other excavations in order to encroach upon highways as little as possible. The permittee shall construct and maintain adequate and safe crossings over excavations and across highways under improvement to accommodate vehicular and pedestrian traffic at all street intersections. Vehicular crossings shall be constructed and maintained, and be of adequate

size to accommodate vehicular traffic safely. Pedestrian crossings shall be not less than four feet in width and shall be provided with a railing as required by the city engineer. (Ord. 3216 § 15, 2004; Ord. 1701 § 10-1010, 1974).

12.16.110 Utility facilities – Conditions for moving and protection from damage required.

The permittee shall not interfere with any existing utility without the written consent of the city engineer and the utility company or person owning the utility. If it becomes necessary to remove an existing utility this shall be done by its owner. No utility owned by the city shall be moved to accommodate the permittee unless the cost of such work be borne by the permittee. The cost of moving privately owned utilities shall be similarly borne by the permittee unless it makes other arrangements with the person owning the utility. The permittee shall support and protect by timbers or otherwise all pipes, conduits, poles, wires or other apparatus which may be in any way affected by the excavation work, and do everything necessary to support, sustain and protect them under, over, along or across said work. In case any of said pipes, conduits, poles, wires or apparatus should be damaged, they shall be repaired by the agency or person owning them and the expense of such repairs shall be charged to the permittee, and his or its bond shall be liable therefor. The permittee shall be responsible for any damage done to any public property by reason of the breaking of any water pipes, sewer, gas pipe, electric conduit or other utility and its bond shall be liable therefor. The permittee shall inform itself as to the existence and location of all underground utilities and protect the same against damage. (Ord. 1701 § 10-1011, 1974).

12.16.120 Adjoining property protection requirements.

The permittee shall at all times and at his or its own expense preserve and protect from injury any adjoining property by providing proper foundations and taking other measures suitable for the purpose. Where in the protection of such property it is necessary to enter upon private property for the purpose of taking appropriate protective measures, the permittee shall obtain a license from the owner of such private property for such purpose and if he cannot obtain a license from such owner the city engineer may authorize him to enter the private premises solely for the purpose of making the property safe. The permittee shall, at its own expense shore up and protect all buildings, walls,

fences or other property likely to be damaged during the progress of the excavation work and shall be responsible for all damage to public or private property or highways resulting from its failure properly to protect and carry out said work. Whenever it may be necessary for the permittee to trench through any lawn area, the sod shall be carefully cut and rolled and replaced after ditches have been backfilled as required in this chapter. All construction and maintenance work shall be done in a manner calculated to leave the lawn area clean of earth and debris and in a condition as nearly as possible to that which existed before such work began. The permittee shall not remove even temporarily any trees or shrubs which exist in parking strip areas or easements across private property without first having notified and obtained the consent of the property owner, or in the case of public property the appropriate city department or city official having control of such property. (Ord. 1701 § 10-1012, 1974).

12.16.130 Sidewalk excavations – Footbridge required.

Any excavation made in any sidewalk shall be provided with a substantial and adequate footbridge over said excavation on the line of the sidewalk, which bridge shall be at least four feet wide and securely railed on each side so that foot passengers can pass over safely at all times; provided, however, sidewalks may be closed temporarily if an alternate pedestrian route has been approved by the city engineer prior to the start of the construction work. (Ord. 3216 § 16, 2004; Ord. 1701 § 10-1013, 1974).

12.16.140 Protective measures generally – Barriers and lights required when – Removal unlawful.

The permittee shall erect such fence, railing or barriers about the site of the excavation work as shall prevent danger to persons using the city streets or sidewalks, and such protective barriers shall be maintained until the work shall be completed or the danger removed. At twilight there shall be placed upon such place of excavation and upon any excavated materials or other obstructions to streets suitable and sufficient lights which shall be kept burning throughout the night during the maintenance of such obstructions. It is unlawful for anyone to remove or tear down the fence or railing or other protective barriers or any lights provided there for the protection of the public. (Ord. 1701 § 10-1014, 1974).

12.16.150 Hazardous nuisances prohibited.

It is unlawful for the permittee to suffer or permit to remain unguarded at the place of excavation or opening any machinery, equipment or other device having the characteristics of an attractive nuisance likely to attract children and hazardous to their safety or health. (Ord. 1701 § 10-1015, 1974).

12.16.160 Excavated material – Maintenance requirements – Hauling required when.

All material excavated from trenches and piled adjacent to the trench or in any street shall be piled and maintained in such manner as not to endanger those working in the trench, pedestrians or users of the streets, and so that as little inconvenience as possible is caused to those using streets and adjoining property. Where the confines of the area being excavated are too narrow to permit the piling of excavated material beside the trench, such as might be the case in a narrow alley, the city engineer shall have the authority to require that the permittee haul the excavated material to a storage site and then rehaul it to the trench site at the time of backfilling. It shall be the permittee's responsibility to secure the necessary permission and make all necessary arrangements for all required storage and disposal. (Ord. 1701 § 10-1016, 1974).

12.16.164 Trench restoration and street repair standards.

A. All materials and workmanship shall be in accordance with the Standard Specifications for Road, Bridge and Municipal Construction prepared by the Washington State Chapter of the American Public Works Association and the Washington State Department of Transportation and shall comply with the latest edition.

B. Utility services in new construction shall be placed outside the traveled portion of the right-of-way with adequate service crossings to prevent future street cuts.

C. Temporary restoration of trenches for overnight use, on high volume streets and intersections, shall be accomplished by using "cold mix," asphalt-treated base or steel plates as approved by the public works director.

D. Controlled density backfill shall be required in areas where compaction will be difficult, in arterial streets, and in areas of unblemished asphalt as determined by the public works director.

E. A tack coat shall be applied to the existing pavement at the edge of the saw cuts as specified in Section 5-04 of the standard specifications, prior to the permanent patching. All cold joints shall be

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sealed with AR 4000W paving asphalt or equivalent.

F. The final trench asphalt restoration shall be completed within 14 days of commencing trench work. The public works director, at his discretion, may allow for time extensions due to weather or other adverse conditions.

G. Street cuts for exploring the location of adjacent utilities are generally not allowed unless permission is granted on a case-by-case basis.

H. Trench restoration widths shall be increased to prohibit constructing a patch within a patch. This may require removing and reconstructing existing patches that are adjacent to or contiguous to the proposed trench. Trench restoration widths shall also be increased to prevent the creation of isolated sections of pavement. Resurfacing width shall be no less than four feet wide in the smallest dimension.

I. Asphalt surfaces within the trench restoration area shall comply with surface smoothness stated in Section 5-04.3(13) of the standard specifications.

J. The placing of the top or wearing course of the asphalt patch shall be as nearly continuous as possible. All joints shall be in compliance with Section 5-04.3(11) of the standard specifications.

K. Large asphalt paving operations shall comply with the city of Mount Vernon's asphalt acceptance standards.

L. Asphalt pitch depths shall be a minimum of four inches. (Ord. 3216 § 17, 2004).

12.16.166 Trench width/length.

A. The public works director shall determine the necessity of a full lane width or full street width asphalt overlay after evaluation of the severity of the street cut.

B. Street cuts that are permitted within a period of five years after significant asphalt improvement shall be subject to lane width or full street width asphalt overlays based on the location and length of proposed trench in the roadway cross section.

C. The width of street cut restoration shall be a minimum of one foot wider, on each side, than the proposed trench. The minimum width of restoration shall be four feet. Trench restoration located adjacent to existing curb or roadway edge shall include asphalt restoration to the lip of the gutter or roadway edge.

D. The public works director may determine, in the field, that wider trench restoration or lane width asphalt overlays are required due to changes in permit conditions such as the following:

1. Trenches need to be relocated in the field due to conflict with existing utilities.

2. Additional damage to the existing asphalt surface has occurred due to contractor's equipment.

3. The trench width was increased or the existing pavement was undermined.

4. There were other significant problems discovered during construction.

E. A modification to these requirements may be granted by the public works director at his discretion, in writing, on a case-by-case basis, upon his determination that an equivalent alternative is available. (Ord. 3216 § 18, 2004).

12.16.168 Asphalt acceptance.

A. Fill soils used for road embankment shall be compacted to 95 percent of maximum density as determined by ASTM D1557, and shall result in a firm and unyielding surface. Road embankment soils to a depth of two feet below finish grade shall be gravel borrow conforming to WSDOT Standard Specification 9-03.14. All utility trench backfill within rights-of-way shall be gravel borrow, or better. The gravel borrow shall conform to WSDOT Standard Specification 9-03.19.

B. The following conditions shall apply to all asphalt paving in the public right-of-way or on paved easements:

1. Prior to placement of pavement, the city shall make a determination of subgrade acceptance based on test results and the observations of a firm and unyielding surface. The city shall also establish test area boundaries. The contractor shall supply the city with a mix design including values for the theoretical maximum density of the asphalt being used on the project.

2. Specification for minimum allowable density for asphalt is 92 percent of the theoretical maximum density as determined by AASHTO test method T 209.

3. The point of acceptance is when the asphalt reaches 175 degrees Fahrenheit.

4. When the contractor indicates that the pavement is ready for acceptance, or it reaches 175 degrees Fahrenheit, whichever is sooner, the city shall take/supervise five nuclear densometer readings at random locations within every test area. A test area shall not exceed 300 tons of asphalt. However, smaller areas, such as a cul-de-sac or individual streets within a street network, may be singled out as a test area, even though these areas would be less than 300 tons.

5. The results of the densometer readings for each test area shall be evaluated and the average

applied to the entire test area. If the average is below minimum, the developer and owner may request core tests to be taken at his expense and at locations determined by city personnel, within 24-hours of the final paving of the test area. Five core tests shall be taken for each test area and the results evaluated and the average applied to the whole test area.

6. If the pavement is below minimum compaction subsequent to the final testing procedures, the owner may increase depth of the final lift of asphalt as directed by the city engineer, or provide payment to the city as directed by the city engineer.

7. All isolated areas within test areas that fall below 88 percent shall be subject to extensive testing and subsequent removal of the asphalt, unless otherwise directed by the city engineer.

8. The use of a correction factor to correct density readings obtained from the nuclear densometer is acceptable upon authorization by the city engineer in the following instances:

a. First lift overlays on existing pavement;

b. First course over granular material.

9. At the option of the city engineer, a fog seal may be required over the asphalt if, in the opinion of the city engineer, the asphalt mat is too open-graded and will allow too much water intrusion.

10. A city representative shall be notified at least 24 hours in advance of all paving operations, and shall be on-site during asphalt placement. Lack of proper notification or on-site inspection shall require extensive testing, at the contractor's expense, to determine compliance with the plans, specifications, and these requirements.

11. Metal utility covers in the asphalt surface shall be raised after the asphalt has cooled sufficiently. The area shall be saw-cut in a 45-degree diamond pattern centered on the utility lid. The diamond pattern shall be oriented parallel with the flow of traffic to minimize the effect of surface inundations on vehicular traffic. (Ord. 3216 § 19, 2004).

12.16.170 Damage to existing improvements – Repair required – City to perform work when – Costs.

All damage done to existing improvements during the progress of the excavation work shall be repaired by the permittee. Materials and workmanship for such repair shall conform with the requirements of any applicable code or ordinance. If upon being ordered the permittee fails to furnish the necessary labor and materials for such repairs, the city

engineer shall have the authority to cause said necessary labor and materials to be furnished by the city and the cost shall be charged against the permittee, and the permittee shall also be liable on his or its bond therefor. (Ord. 1701 § 10-1017, 1974).

12.16.180 Property lines and easements – Work area limitations.

Property lines and limits of easements shall be indicated on the plan of excavation submitted with the application for the excavation permit and it shall be the permittee's responsibility to confine excavation work within these limits. (Ord. 1701 § 10-1018, 1974).

12.16.190 Cleanup requirements – City to perform work when – Costs.

As the excavation work progresses all streets and private properties shall be thoroughly cleaned of all rubbish, excess earth, rock and other debris resulting from such work. All cleanup operations at the location of such excavation shall be accomplished at the expense of the permittee and shall be completed to the satisfaction of the city engineer. From time to time as may be ordered by the city engineer and in any event immediately after completion of said work, the permittee shall at his or its own expense clean up and remove all refuse and unused materials of any kind resulting from said work, and upon failure to do so within 24 hours after having been notified to do so by the city engineer, said work may be done by the city engineer and the cost thereof charged to the permittee, and the permittee shall also be liable for the cost thereof under the surety bond provided hereunder. (Ord. 1701 § 10-1019, 1974).

12.16.200 Watercourses, sewers and drains – Protection and replacement requirements.

The permittee shall provide for the flow of all watercourses, sewers or drains intercepted during the excavation work and shall replace the same in as good condition as it found them or shall make such provisions for them as the city engineer may direct. The permittee shall not obstruct the gutter of any street but shall use all proper measures to provide for the free passage of surface water. The permittee shall make provision to take care of all surplus water, muck, silt, slickings or other runoff pumped from excavations or resulting from sluicing or other operations and shall be responsible for any damage resulting from its failure to so provide. (Ord. 1701 § 10-1020, 1974).

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12.16.210 Breaking through pavement – Procedures required.

Repealed by Ord. 3216. (Ord. 1701 § 10-1021, 1974).

12.16.220 Tunnels – Permission and procedure required.

Tunnels under pavements shall not be permitted except by permission of the city engineer. Where pipes or cables are placed under main thoroughfares, concrete streets, state highways, first grade asphalt streets, or wherever designated by the city engineer, such work shall be done by jacking or boring casings under street surfaces and placing said pipes or cables inside of the casing. (Ord. 1701 § 10-1022, 1974).

12.16.230 Backfilling – Requirements generally.

When water is taken from a fire hydrant, the permittee shall assign one man to operate the hydrant and shall make certain that said man has been instructed in the operation of the hydrant. The PUD shall likewise be notified at both the beginning and end of the job so that the condition of the fire hydrants can be checked on both occasions. Any damage done to the hydrant during the excavation shall be the responsibility of the permittee. Water shall be paid for by the permittee on the terms agreed upon with the PUD. (Ord. 3216 § 21, 2004; Ord. 1701 § 10-1023, 1974).

12.16.240 Backfilling – Water settling method.

Repealed by Ord. 3216. (Ord. 1701 § 10-1024, 1974).

12.16.250 Backfilling – Dry materials method.

Repealed by Ord. 3216. (Ord. 1701 § 10-1025, 1974).

12.16.260 Backfilling – Method for pipe laid in rock.

Repealed by Ord. 3216. (Ord. 1701 § 10-1026, 1974).

12.16.270 Backfilling – Surface completion requirements.

Repealed by Ord. 3216. (Ord. 1701 § 10-1027, 1974).

12.16.280 Surface restoration – Requirements and specifications.

A. The permittee shall restore the surface of all streets, broken into or damaged as a result of the excavation work, to its original condition in accordance with the specifications of the city engineer. The asphalt which is used shall be in accordance with the specifications of the city engineer. If, in the judgment of the city engineer, it is not expedient to replace the pavement over any cut or excavation made in the street upon completion of the work allowed under such permit by reason of the looseness of the earth or weather conditions, he may direct the permittee to lay a temporary pavement or other suitable material designated by him over such cut or excavation to remain until such time as the repair of the original pavement may be properly made.

B. Permanent restoration of the street shall be made by the permittee in strict accordance with the specifications prescribed by the city engineer to restore the street to its original and proper condition, or as near as may be.

C. Acceptance or approval of any excavation work by the city engineer shall not prevent the city from asserting a claim against the permittee and his or its surety under the surety bond required hereunder for incomplete or defective work if discovered within 24 months from the completion of the excavation work. The city engineer's presence during the performance of any excavation work shall not relieve the permittee of its responsibilities hereunder. (Ord. 3216 § 26, 2004; Ord. 1701 § 10-1028, 1974).

12.16.290 Surface restoration – City right to perform work when – Costs.

If the permittee shall have failed to restore the surface of the street to its original and proper condition upon the expiration of the time fixed by such permit or fails to prosecute the work in accordance with requirements of this chapter or shall otherwise have failed to complete the excavation work covered by such permit, the city engineer, if he deems it advisable, shall have the right to do all work and things necessary to restore the street and to complete the excavation work. The permittee shall be liable for the actual cost thereof and 25 percent of such cost in addition for general overhead and administrative expenses. The city shall have a cause of action for all fees, expenses and amounts paid out and due it for such work and the city shall also enforce its right under the permittee's surety bond provided pursuant to this chapter.

It shall be the duty of the permittee to guarantee and maintain the site of the excavation work in the same condition it was prior to the excavation for two years after restoring it to its original condition. (Ord. 1701 § 10-1029, 1974).

12.16.300 Trench requirements and restrictions.

Except by special permission from the city engineer, no trench shall be excavated more than 100 feet in advance of pipe laying nor left unfilled more than 200 feet where pipe has been laid. The length of the trench that may be opened at any one time shall not be greater than the length of pipe and the necessary accessories which are available at the site ready to put in place. Trenches shall be braced and sheathed according to generally accepted safety standards for construction work. No timber bracing, lagging, sheathing or other lumber shall be left in any trench. (Ord. 1701 § 10-1030, 1974).

12.16.310 Work to be completed promptly.

The permittee shall prosecute with diligence and expedition all excavation work covered by the excavation permit and shall promptly complete such work and restore the street to its original condition, or as near as may be, as soon as practicable and in any event not later than the date specified in the excavation permit therefor. (Ord. 1701 § 10-1031, 1974).

12.16.320 Urgent work – Authorized when – Procedure.

If in his judgment traffic conditions, the safety or convenience of the traveling public or the public interest require that the excavation work be performed as emergency work, the city engineer shall have full power to order, at the time the permit is granted, that a crew of men and adequate facilities be employed by the permittee 24 hours a day to the end that such excavation work may be completed as soon as possible. (Ord. 1701 § 10-1032, 1974).

12.16.330 Emergency action without permit authorized when – Limitations.

In the event of any emergency in which a sewer, main, conduit or utility in or under any street breaks, bursts or otherwise is in such condition as to immediately endanger the property, life, health or safety of any individual, the person owning or controlling such sewer, main, conduit or utility, without first applying for and obtaining an excavation permit hereunder, shall immediately take proper emergency measure to cure or remedy the dangerous conditions for the protection of prop-

erty, life, health and safety of individuals. However, such person owning or controlling such facility shall apply for an excavation permit not later than the end of the next succeeding day during which the city engineer's office is open for business, and shall not proceed with permanent repairs without first obtaining an excavation permit hereunder. (Ord. 1701 § 10-1033, 1974).

12.16.340 Noise, dust and debris restrictions.

Each permittee shall conduct and carry out the excavation work in such manner as to avoid unnecessary inconvenience and annoyance to the general public and occupants of neighboring property. The permittee shall take appropriate measures to reduce to the fullest extent practicable in the performance of the excavation work, noise, dust and unsightly debris and between the hours of 10:00 p.m. and 7:00 a.m. shall not use, except with the express written permission of the city engineer or in case of an emergency as herein otherwise provided, any tool, appliance or equipment producing noise of sufficient volume to disturb the sleep or repose of occupants of the neighboring property. (Ord. 1701 § 10-1034, 1974).

12.16.350 Monuments – Moving, preservation and restoration requirements.

The permittee shall not disturb any surface monuments or hubs found on the line of excavation work until ordered to do so by the city engineer. All street monuments, property corners, bench marks and other monuments disturbed during the progress of the work shall be replaced by the city engineer and the cost of the same shall be paid by the permittee. (Ord. 1701 § 10-1035, 1974).

12.16.360 Inspections – Rule and regulation promulgation and enforcement authority.

The city engineer shall make such inspections as are reasonably necessary in the enforcement of this chapter. When so made, the permittee shall pay for such inspections at the city's cost. The city engineer shall have the authority to promulgate and cause to be enforced such rules and regulations as may be reasonably necessary to enforce and carry out the intent of this chapter. (Ord. 1701 § 10-1036, 1974).

12.16.370 Plans and drawings of subsurface facilities “as-built” required when.

A. The permittee shall furnish the city engineer with “as-built” drawings upon completion of the

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permitted project. The permittee shall deposit with the city, as part of the permit fee, an amount approved by the city engineer that is equal to the cost of preparing and submitting “as-built” drawings for the project. Submittal of “as-built” drawings by the permittee shall cause refund of said deposit to the permittee. If deemed necessary by the city engineer, said deposit may be confiscated and used to pay the project engineer or other engineer to provide the required “as-builts.”

B. Users of subsurface street space shall furnish the city engineer with accurate drawings, plans and profiles showing the location and character of all underground structures being installed, including abandoned installations. Horizontal locations are to be referenced to street centerlines, as marked by survey monuments, and shall be accurate to a tolerance of plus or minus one foot. The depth of said utility or structure being installed may be referenced to the elevation of the street above said utility, with depths to the nearest one-half foot being shown at a minimum of 50-foot intervals along the location of said utility. Said maps shall be submitted to the city engineer’s office within 20 days after new installations, changes or replacements are made.

C. In the event that the permittee does not have qualified personnel to furnish the above “as-built” drawings, he shall advise the city engineer in order that necessary field measurements may be taken by the city engineer during construction, and the maps be prepared by the city engineer’s office. The cost of said field inspection and measurement, and the preparing of the “as-built” maps, shall be at the expense of the permittee. (Ord. 3216 § 27, 2004; Ord. 1701 § 10-1037, 1974).

12.16.380 Applicability – City work excepted.

The provisions of this chapter shall not be applicable to any excavation work under the direction of competent city authorities by employees of the city or by any contractor of the city performing work for and in behalf of the city necessitating openings or excavations in streets. (Ord. 1701 § 10-1038, 1974).

12.16.390 Insurance requirements.

A permittee, prior to the commencement of excavation work hereunder, shall furnish the city engineer satisfactory evidence in writing that the permittee has in force and will maintain in force during the performance of the excavation work and the period of the excavation permit public liability insurance of not less than \$100,000 for any one person and \$300,000 for any one accident and

property damage insurance of not less than \$50,000 duly issued by an insurance company authorized to do business in this state. (Ord. 1701 § 10-1039, 1974).

12.16.400 Liability limitations.

This chapter shall not be construed as imposing upon the city or any official or employee any liability or responsibility for damages to any person injured by the performance of any excavation work for which an excavation permit is issued hereunder; nor shall the city or any official or employee thereof be deemed to have assumed any such liability or responsibility by reason of inspections authorized hereunder, the issuance of any permit or the approval of any excavation work. (Ord. 1701 § 10-1040, 1974).

12.16.410 Violation – Penalty.

Any person violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punishable as set forth in MVMC 1.20.010. (Ord. 1701 § 10-1041, 1974).

Chapter 12.20

UTILITY LINES IN STREETS

Sections:

- 12.20.010 Franchise or permit required.
- 12.20.015 Construction standards for the regulation of use of public rights-of-way and public property.
- 12.20.020 Violation – Penalty.

12.20.010 Franchise or permit required.

It is unlawful for any person, company or corporation to excavate for, place or string any telegraph, telephone, electric light or power pole or poles or wire or wires in, upon or over any street, avenue or alley of the city by any person, company or corporation who has not obtained a franchise or a permit from the said city so to do. (Ord. 436 § 1, 1915).

12.20.015 Construction standards for the regulation of use of public rights-of-way and public property.

All developments shall be required to construct and install telecommunications conduit on all streets that are affected, disturbed, constructed and/or improved by development unless otherwise approved, pending a review by the city engineer. This conduit shall be for the purpose of installing telecommunications cable, fiber optic wiring or other infrastructure as necessary.

This conduit shall be placed at horizontal and vertical locations as determined by the city engineer. The conduit shall conform to the size, shape and characteristics as determined by the city engineer based on industry standards. Once installed and accepted by the city, the conduit shall become the property of the city of Mount Vernon.

Development as defined in this section shall mean the construction of improvements such as buildings, homes, subdivisions, streets, and utilities. (Ord. 2927, 1999).

12.20.020 Violation – Penalty.

Any person, company or corporation violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor and upon conviction therefor shall be punished as set forth in MVMC 1.20.010. (Ord. 436 § 2, 1915).

Chapter 12.22

RIGHT-OF-WAY USE

Sections:

- 12.22.010 Short title.
- 12.22.020 Purpose.
- 12.22.030 Territorial application.
- 12.22.040 Construction – Intent.
- 12.22.050 Definitions.
- 12.22.060 Powers of the director.
- 12.22.070 Permit requirements.
- 12.22.080 Right-of-way use permits.
- 12.22.090 Applications and processing of permits.
- 12.22.100 Location rules and review.
- 12.22.110 Liability and insurance.
- 12.22.120 Permit fees and charges.
- 12.22.130 Specifications.
- 12.22.140 Revocation of permits.
- 12.22.150 Renewal of permits.
- 12.22.160 Inspections.
- 12.22.170 Correction and discontinuance of unsafe, nonconforming, or unauthorized conditions.
- 12.22.180 Billings and collections.
- 12.22.190 Adoption of procedures.
- 12.22.200 Violation – Penalty.

12.22.010 Short title.

This chapter is known as the right-of-way use code. It is referred to as the “code.” (Ord. 3216 § 28, 2004).

12.22.020 Purpose.

It is the purpose of this code to provide for the issuance of right-of-way use permits in order to regulate activities within the right-of-way in the city of Mount Vernon in the interest of public health, safety and welfare; and to provide for the fees, charges, warranties, and procedures required to administer the permit process. (Ord. 3216 § 28, 2004).

12.22.030 Territorial application.

This code and the procedures adopted hereunder shall be in effect throughout the city of Mount Vernon. (Ord. 3216 § 28, 2004).

12.22.040 Construction – Intent.

A. This code is enacted to protect and preserve the public health, safety and welfare. Its provisions shall be liberally construed for the accomplishment of these purposes.

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B. It is expressly the purpose of this code and any procedures adopted hereunder 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 protected or benefited by the terms of this code or any procedures adopted hereunder.

C. It is the specific intent of this code and any procedures adopted hereunder to place the obligation of complying with the requirements of this code upon the permittee, and no provision is intended to impose any duty upon the city of Mount Vernon, or any of its officers, employees or agents. Nothing contained in this code or any procedures adopted hereunder is intended to be or shall be construed to create or form the basis for liability on the part of the city of Mount Vernon, or its officers, employees or agents, for any injury or damage resulting from the failure of the permittee to comply with the provisions hereof, or by reason or in consequence of any act or omission in connection with the implementation or enforcement of this code or any procedures adopted hereunder by the city of Mount Vernon, its officers, employees or agents. (Ord. 3216 § 28, 2004).

12.22.050 Definitions.

The following words and phrases when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

A. "City" means the city of Mount Vernon, Washington.

B. "City inspector" means the designated employee(s) of the department responsible for inspecting the installation of warning and safety devices in the public right-of-way.

C. "Clear passageway" means an area in the traveled pedestrian way that must be kept clear of any obstructions.

D. "Department" means the development services department or other department designated by the city council.

E. "Development services department" means the development services division of the engineering department or other city division designated by the city council.

F. "Directive memorandum" means a letter from the city to a right-of-way use permittee notifying the recipient of specific nonconforming or unsafe conditions and specifying the date by which corrective action must be taken.

G. "Director" means the director of the development services department, or his/her designated

representative, or other person designated by the city council.

H. "Emergency" means a condition of imminent danger to the health, safety, and welfare of property or persons located within the city including, but not limited to, damage to persons or property from natural or manmade consequences, such as storms, earthquakes, riots or wars.

I. "Notice of violation" means a document mailed to a permittee or unauthorized user and posted at the site of a nonconforming or unsafe condition.

J. "Oral directive" means a directive given orally by city personnel to correct or discontinue a specific condition.

K. "Permit" means a document issued by the city granting permission to engage in an activity not allowed without a permit.

L. "Permit center" means the central location for applying for permits.

M. "Person" means and includes corporations, companies, associations, joint stock companies or associations, firms, partnerships, limited liability companies and individuals and includes their lessors, trustees and receivers.

N. "Private use" means use of the public right-of-way for the benefit of a person, partnership, group, organization, company, or corporation, other than as a thoroughfare for any type of vehicles, pedestrians or equestrians.

O. "Procedure" means a procedure adopted by the director to implement this code, or to carry out other responsibilities as may be required by this code or by other codes, ordinances, or resolutions of the city or other agencies.

P. "Right-of-way" means all public streets and property granted or reserved for, or dedicated to, public use for street purposes, together with public property granted or reserved for, or dedicated to, public use for walkways, sidewalks, bikeways and trails, whether improved or unimproved, including the air rights, subsurface rights and easements related thereto.

Q. "Sidewalk" means that portion of the street between the curb lines or the lateral lines of roadway and the adjacent property lines intended for use by pedestrians.

R. "Sidewalk cafe" means serving food or beverage from an adjacent cafe or restaurant to patrons seated at tables located within the sidewalk area adjacent to the cafe or restaurant.

S. "Stop work notice" means a notice posted at the site of activity that requires all work to be stopped until the city approves continuation of work.

T. “Unsafe condition” means any condition which the director determines is a hazard to health, or endangers the safe use of the right-of-way by the public, or does or may impair or impede the operation or functioning of any portion of the right-of-way, or which may cause damage thereto. (Ord. 3216 § 28, 2004).

12.22.060 Powers of the director.

The director shall have the power to:

A. Administer the provisions of this code including but not limited to interpreting the code and issuing rules necessary for its administration. The director may correct errors and omissions and is authorized to adjust the amount of fees required by this code to be proportional to the scope of the work for which the permit is required.

B. Administer and coordinate the enforcement of this code and all procedures adopted hereunder relating to the use of rights-of-way.

C. Advise the city council, mayor and other city departments on matters relating to use of the right-of-way.

D. Carry out such other responsibilities as required by this code or other codes, ordinances, or procedures of the city.

E. Request the assistance of other city departments to administer and enforce this code.

F. Assign the responsibility for interpretation and application of specified procedures to the development services department. (Ord. 3216 § 28, 2004).

12.22.070 Permit requirements.

A. It is unlawful for anyone to make private use of any public right-of-way without first having obtained a right-of-way use permit issued by the city or to use any right-of-way without complying with all the provisions of such right-of-way use permit issued by the city; provided, that a right-of-way use permit shall not be required for any use or activity subject to and requiring a permit pursuant to the city’s special events policy permit process.

B. No person shall operate any restaurant or cafe, to provide food or alcoholic liquor, on any public street or sidewalk unless such person has obtained a valid permit, to operate that business in such manner, pursuant to this chapter. (Ord. 3216 § 28, 2004).

12.22.080 Right-of-way use permits.

The following types of right-of-way use permits are established:

A. Type A – Short-Term.

1. Type A permits may be issued for use of right-of-way which does not involve the physical disturbance of the right-of-way.

2. This type of use may involve disruption of pedestrian and vehicular traffic or access to private property and may require inspections, cleanup and police surveillance.

3. Type A permits include but are not limited to the following:

- a. Assemblies;
- b. Bike races;
- c. Block parties;
- d. Parades and processions;
- e. Parking;
- f. Processions;
- g. Nonmotorized vehicle races;
- h. Street dances;
- i. Street runs;
- j. Fairs;
- k. Temporary sale of goods;
- l. Temporary street closures.

B. Type B – Long-Term.

1. Type B permits may be issued for use of right-of-way for activities for extended periods of time but which will not physically disturb the right-of-way.

2. The use of right-of-way for structures, facilities, and uses that involve capital expenditures and long-term commitments of use require this type of permit.

3. Type B permits include but are not limited to:

- a. Bus shelters/stops;
- b. Construction site/haul roads;
- c. Loading zones;
- d. Mobile peddling;
- e. Newspaper sale;
- f. Recycle facilities;
- g. Sales structures;
- h. Sidewalk cafes;
- i. Special and unique structures, fountains, clocks, flagpoles, awnings, marquees, benches, kiosks, signs, mailboxes, banners, street furniture, decorations. (Ord. 3216 § 28, 2004).

12.22.090 Applications and processing of permits.

A. To obtain a right-of-way use permit the applicant shall file an application with the development services department or other department designated by the city council.

B. Every application shall be on forms provided by the development services department and shall include five copies of each of the following:

1. The applicable application forms:

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- a. Type A – Short-term application;
 - b. Type B – Long-term application;
 - c. Sidewalk cafe application;
2. The location of the proposed right-of-way use;
3. A detailed description of the use;
 4. A drawing that shows the area requested for use and all items to be placed in the right-of-way;
 5. The planned duration of the use;
 6. Applicant contact information;
 7. A signed hold harmless statement;
 8. Certificate of liability insurance;
 9. Traffic control plan;
 10. All other information which may be required as specified in procedures adopted hereunder, and shall be accompanied by payment of the required fees.

C. The director shall examine each application submitted for review and approval to determine if it complies with the applicable provisions of this code and procedures adopted hereunder. Other departments that have authority over the proposed use activity will be required to review and approve or disapprove the application. The director may inspect the right-of-way proposed for use to determine any facts which may aid in determining whether a permit should be granted. If the director finds that the application conforms to the requirements of this code and procedures adopted hereunder, that the proposed use of such right-of-way will not unduly interfere with the rights and safety of the public, and if the application has not been disapproved by a department with authority, he may approve the permit, and may impose such conditions thereon as are reasonably necessary to protect the public health, welfare and safety and to mitigate any impacts resulting from the use.

D. All applications for permits will be submitted 30 days or more before the planned need for the permit. If unforeseen conditions require expedited processing time the city will attempt to cooperate, but additional fees to cover additional costs to the city may be charged.

E. Upon submittal of a completed application, the development services division shall collect from the applicant an application fee per the fee schedule adopted by the council. (Ord. 3216 § 28, 2004).

12.22.100 Location rules and review.

The applicant will be guided by the following in the drawing required in MVMC 12.22.090:

A. Clear passageway for pedestrians must be maintained at all times.

B. The area to be considered for use must have sidewalks that are eight feet in width or greater. A minimum of 60 inches (five feet) must be maintained as clear passageway for pedestrians.

1. In unique instances where the adjacent sidewalk is less than eight feet wide, the director may accept an application; provided, that a minimum of 48 inches (four feet) of clear pedestrian passageway shall be maintained.

2. The director shall forward an administrative recommendation to the city council for review. The city council shall either accept or deny the recommendation.

3. The decision by the city council shall be final. (Ord. 3216 § 28, 2004).

12.22.110 Liability and insurance.

A signed statement that the permittee shall hold harmless the city of Mount Vernon, its officers and employees, and shall indemnify the city of Mount Vernon, its officers and employees for any claims for damage to property or injury to persons which may be occasioned by any activity carried on under the terms of the permit. Permittee shall furnish and maintain such public liability and property damages insurance as will protect permittee and city from all claims for damage to property or bodily injury, including death, which may arise from operations under the permit or in connection therewith. Such insurance shall provide coverage of not less than \$100,000 for bodily injury for each person, \$300,000 for each occurrence and not less than \$300,000 for property damage per occurrence. Such insurance shall be without prejudice to coverage otherwise existing therein, and shall name as additional insured the city of Mount Vernon, its officers and employees, the property owner, and shall further provide that the policy shall not terminate or be canceled prior to the completion of the contract without 30 days' written notice to the city of Mount Vernon.

As a condition to the issuance of any permit under this chapter, the permittee shall submit a signed statement agreeing to defend, indemnify and hold harmless the city, its officers, employees and agents for any and all suits, claims or liabilities caused by, or arising out of, any use authorized by any such permit. (Ord. 3216 § 28, 2004).

12.22.120 Permit fees and charges.

A. The fee for each permit shall be set forth in a fee schedule to be adopted by the city council. Fees and charges adopted pursuant to this section may be increased or decreased by the council on the director's recommendation in accordance with

changes in the costs incurred by the city. The city council shall, upon recommendation of the director, establish the amount, rates and formulas for the following fees and charges.

B. Fees and Charges.

1. **Application and Processing Fee.** A nonrefundable application and processing fee shall be charged for each right-of-way use permit application that is accepted for processing. This fee covers the costs of initial processing, review, inspection and record keeping. The fees shall be as follows:

- a. Type A – Short-term \$25.00;
- b. Type B – Long-term \$100.00.

2. **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. Review and Adjustment of Fees and Charges.

1. The director will initiate, as needed, a review of right-of-way use permit fees and charges to determine their continuing capacity to offset costs incurred by the city in providing services related to the administration of right-of-way use permits.

2. The director may recommend to the city council increases or decreases in the amounts, rates, and formulas of the subject fees and charges to reflect changes in the city's costs in providing the related services. Factors to be considered by the director include the costs of labor, materials, supplies, vehicles and equipment, taxes and changes in operating procedures.

3. The city council will review and approve all changes to fees and charges. (Ord. 3216 § 28, 2004).

12.22.130 Specifications.

All work to be performed under any permit issued under this code shall conform to all other city codes, the current engineering standards of the engineering department and all other standards used by the city in the administration of this code. (Ord. 3216 § 28, 2004).

12.22.140 Revocation of permits.

A. The director may revoke or suspend any permit issued under this chapter whenever:

1. The work or activity does not proceed in accordance with the plans as approved, or conditions of approval, or is not in compliance with the requirements of this code or procedures, or other city ordinances or state law;

2. The city has been denied access to investigate and inspect how the right-of-way is being used;

3. The permittee has made a misrepresentation of a material fact in applying for a permit;

4. The progress or condition of the approved work or activity indicates that it is or will be inadequate to protect the public and adjoining property or the street or utilities in the street, or any excavation or fill endangers or will endanger the public, the adjoining property or street, or utilities in the street.

B. Upon suspension or revocation of a permit, all use of the right-of-way shall cease, except as authorized or directed by the director. (Ord. 3216 § 28, 2004).

12.22.150 Renewal of permits.

Each permit shall be of a duration as specified on the permit and may not be renewed. If continued use of the right-of-way is desired by the permittee after expiration of a permit, he must apply for a new permit. (Ord. 3216 § 28, 2004).

12.22.160 Inspections.

As a condition of issuance of any permit or authorization which requires approval of the department, each applicant shall be required to consent to inspections by the department or any other appropriate city department. (Ord. 3216 § 28, 2004).

12.22.170 Correction and discontinuance of unsafe, nonconforming, or unauthorized conditions.

A. Whenever the director determines that any condition on any right-of-way is in violation of, or any right-of-way is being used contrary to, any provision of this code or procedures adopted hereunder or other applicable codes or standards, or without a right-of-way use permit, the director may order the correction or discontinuance of such condition or any activity causing such condition.

B. The director is authorized to order correction or discontinuance of any such condition or activities following the methods specified in procedures adopted pursuant to this code.

C. The director shall also have all powers and remedies which may be available under state law, this code, and procedures adopted hereunder for securing the correction or discontinuance of any condition specified in this section.

The director is authorized to use any or all of the following methods in ordering correction or dis-

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continuance of any such conditions or activities as the director determines appropriate:

1. Serving of oral or written directives to the permittee or other responsible person requesting immediate correction or discontinuance of the specified condition;

2. Service of a written notice of violation, ordering correction or discontinuance of a specific condition or activity within 10 days of notice, or such other reasonable period as the director may determine;

3. Revocation of previously granted permits where the permittee or other responsible person has failed or refused to comply with requirements imposed by the city related to such permits;

4. Issuance of an order to immediately stop work until authorization is received from the city to proceed with such work;

5. Service of summons and complaint certified by the prosecuting attorney or a citation and notice to appear by an arresting peace officer upon the permittee or other responsible person who is in violation of this or other city ordinances;

6. Any object or thing which shall occupy any right-of-way without a permit is declared a nuisance. The department may attach a notice to any such object or thing stating that if it is not removed from the right-of-way within 24 hours of the date and time stated on the notice, the object or thing may be taken into custody and stored at the owner's expense. The notice shall provide an address and phone number where additional information may be obtained. If the object or thing is a hazard to public safety, it may be removed summarily by the city. Notice of such removal shall be thereafter given to the owner, if known. This section does not apply to motor vehicles;

7. All expenses incurred by the city in abating the condition or any portion thereof shall constitute a civil debt owing to the city jointly and severally by such persons who have been given notice or who own the object or thing or placed it in the right-of-way, which debt shall be collectible in the same manner as any other civil debt;

8. The city shall also have all powers and remedies which may be available under law, this code and procedures adopted hereunder for securing the correction or discontinuance of any conditions specified by the city. (Ord. 3216 § 28, 2004).

12.22.180 Billings and collections.

The department, jointly with the finance department, may establish administrative rules and procedures pertaining to the billing and collection of

fees and charges adopted pursuant to this code. (Ord. 3216 § 28, 2004).

12.22.190 Adoption of procedures.

The director may prepare and adopt procedures for the purpose of implementing this code, or to carry out other responsibilities as may be required by this code or other codes, ordinances of the city or other agencies. Such procedures do not require approval by the city council. (Ord. 3216 § 28, 2004).

12.22.200 Violation – Penalty.

A. The violation of or failure to comply with any provision of this chapter is declared to be unlawful.

B. In addition to or as an alternative to any other penalty provided by this chapter or by law, any person who violates any provision of this chapter shall be guilty of a misdemeanor. (Ord. 3216 § 28, 2004).

Chapter 12.24**HOUSE NUMBERS AND STREET NAMES**

Sections:

- 12.24.010 Required.
- 12.24.020 Size and display of numbers.
- 12.24.030 City to perform work when.
- 12.24.040 Penalty for violation of MVMC 12.24.010 and 12.24.020.
- 12.24.050 Policy for naming streets.
- 12.24.060 Policy for numbering buildings.
- 12.24.070 Street names and numbers to comply with policy.
- 12.24.080 Committee to determine building and street number changes – Membership – Appeals.

12.24.010 Required.

Any person, organization, or corporation owning any interest in real estate abutting upon any street in the city whereon there is now or shall hereafter be constructed any improvement fronting such street and having an entrance by door, hall, or stairway entering any place of business, habitation, shop, hall, house, or office shall place in a conspicuous place the number thereof which number shall be assigned by the building official pursuant to the policy adopted under MVMC 12.24.060. (Ord. 2300 § 1, 1988; Ord. 299 § 1, 1910).

12.24.020 Size and display of numbers.

The number or numbers required in MVMC 12.24.010 shall be of a size and displayed in the manner and location determined by the building official pursuant to the policy adopted under MVMC 12.24.050. (Ord. 2300 § 2, 1988; Ord. 1735 § 1, 1974; Ord. 299 § 2, 1910).

12.24.030 City to perform work when.

In the event of the failure of such owner or owners to comply with the provisions of MVMC 12.24.010 and 12.24.020, the city fire marshal may cause the numbering to be done by his or her direction. In such event the cost thereof, including the cost of material and labor necessarily employed, shall be charged to said owner, which charge shall become a lien upon the real estate and shall be collected by due process of law. This remedy shall be in addition to any other remedy available at law and the city is authorized to pursue any other or additional action necessary to compel compliance. (Ord. 2300 § 3, 1988; Ord. 299 § 2, 1910).

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12.24.040 Penalty for violation of MVMC 12.24.010 and 12.24.020.

Any owner or owners failing to comply with the provisions of MVMC 12.24.010 and 12.24.020 shall be guilty of a misdemeanor punishable as set forth in MVMC 1.20.010. (Ord. 2300 § 4, 1988).

12.24.050 Policy for naming streets.

The city engineer with the concurrence of the fire department shall establish a written policy for the naming of new streets within the city. Such policy shall at a minimum be designed to facilitate a logical system for location of streets and addresses to assure prompt response by emergency vehicles and easy access by visitors to the area. A copy of the policy shall be on file with the city finance director. (Ord. 2300 § 5, 1988).

12.24.060 Policy for numbering buildings.

The building official with the concurrence of the fire chief shall establish a written policy for a numbering system to assign addresses to all buildings and improvements within the city. Due regard shall be given in such policy for the existing numbering systems within the city (see for example Section 1, Ordinance 299 as it existed prior to amendment by the ordinance codified in this section.) Such policy shall at a minimum be designed to facilitate a logical system for location of streets and addresses to assure prompt response by emergency vehicles and easy access by visitors to the area. A copy of the policy shall be on file with the city finance director. (Ord. 2300 § 6, 1988).

12.24.070 Street names and numbers to comply with policy.

All new streets shall be named in accordance with the policy established pursuant to the ordinance codified in this section. All new buildings and improvements shall have an address in accordance with the policy established. (Ord. 2300 § 7, 1988).

12.24.080 Committee to determine building and street number changes – Membership – Appeals.

If at any time the fire chief or police chief shall determine that a change in a street number or the number of any building or improvement is necessary to avoid the hindrance of the provision of emergency services, the matter shall be referred to a committee consisting of the building official, fire chief and police chief. Such committee shall have the authority upon majority vote to order such changes as may be deemed necessary provided that

such changes shall be consistent with the policies established pursuant to the ordinance codified in this section. Any person aggrieved by the determination of such committee to change a street name or address may appeal such decision to the city council within 10 days after receiving notification of such change. (Ord. 2300 § 8, 1988).

Chapter 12.28

STREET TREES

Sections:

- 12.28.010 Intent.
- 12.28.020 Definitions.
- 12.28.030 Power and authority.
- 12.28.040 Urban forestry advisory board – Powers and duties.
- 12.28.050 Tree planting on public property.
- 12.28.060 Tree maintenance on public and private property.
- 12.28.070 Violation – Penalty.
- 12.28.080 Appeal.
- 12.28.090 City maintenance responsibility list for street trees, park trees, historical trees.

12.28.010 Intent.

It is the intent of the council to provide for the planting, maintenance, and removal of trees in the public rights-of-way and on city-owned property, including those trees that might affect said property, and to encourage the preservation of trees on private property where new development is planned. The council finds that trees have substantial positive benefits, such as improving the environmental, economic, social, and aesthetic well-being of the community. (Ord. 2703 § 1, 1995).

12.28.020 Definitions.

For purposes of this chapter, the following terms shall have the following definitions:

A. “Major pruning” means trimming or cutting out of branches two inches in diameter or greater, root pruning, or trimming or cutting out of branches and limbs constituting greater than 10 percent of the tree’s foliage bearing area, and conducted in a manner that retains the natural form of the tree.

B. “Other vegetation” means trees, bushes, shrubs, grasses, or other plant material on or encroaching upon improved rights-of-way.

C. “Planting strip” means that portion of an improved street right-of-way not used for transportation and thus available for the purpose of planting and maintaining trees and other vegetation.

D. “Small tree” means any mature tree which would reach a maximum height no greater than 25 feet and/or maximum spread of 25 feet.

E. “Street tree” means any tree which is located upon property within the right-of-way in the city of Mount Vernon.

F. “Topping” means the cutting back of large limbs to stubs within the crown of the tree. (Ord. 2703 § 2, 1995).

12.28.030 Power and authority.

A. The city shall have the exclusive power and authority over the planting, care, and removal of trees and vegetation within all city rights-of-way, parks, and public properties as necessary to insure public safety or to preserve and enhance the quality and beauty of such areas.

B. The Mount Vernon department of parks and recreation (parks department) shall oversee the planting, care, and removal of trees listed on the city maintenance responsibility list. The parks department may plant trees or promote and support the planting of trees in these and other areas. They shall maintain trees planted by the department and remove, or cause to be removed, any tree, or part thereof, which is in an unsafe condition, or which, by its nature, is disruptive of utilities or public improvements or is infected with any significant disease or insect pest, which may be located on any or near city property and rights-of-way. (Ord. 2703 § 3, 1995).

12.28.040 Urban forestry advisory board – Powers and duties.

There is hereby established an urban forestry advisory board (UFAB) for the city of Mount Vernon, consisting of a minimum of five members, appointed by the mayor, which may include any number of interested citizens, including representatives of the parks commission, planning commission, business community, school district, electric utilities, and neighborhoods. The board shall choose its own officers, make its own rules and regulations consistent with principals of due process and open government, and keep a record of its own proceedings. A majority of its members shall be a quorum for the transaction of business. The UFAB shall have the following responsibilities:

A. To develop a written plan and make recommendations for the care, preservation, planting, removal, and disposition of trees and shrubs in parks, public property, and rights-of-way;

B. To develop procedures to encourage the preservation of existing trees on public, as well as private, property;

C. To hear and determine appeals brought pursuant to MVMC 12.28.080; and

D. To perform such other tasks as may from time to time be directed by the mayor or city council. (Ord. 2703 § 4, 1995).

12.28.050 Tree planting on public property.

In addition to any requirements set forth in Chapter 17.93 MVMC, the following rules shall apply to any planting allowed to occur on public property:

A. Tree planting methods shall be in accordance with the standards and specifications as developed by the tree board and the department of parks and recreation.

B. Species for new tree planting for rights-of-way shall be selected from a list of recommended species. The list will be updated periodically and added to as approved by the director of the parks department. Only small trees as defined in this code shall be planted under or within 10 feet of any overhead utility wire.

C. New tree planting on city right-of-way shall be allowed by permit only to ensure proper selection and placement of the right tree. The purpose is to enhance aesthetic continuity and minimize right-of-way maintenance. There shall be no fee for such permit.

D. Planting Plan Required. A tree planting plan shall accompany each permit consisting of:

1. Site plan;
2. All proposed and existing tree species drawn on plan;
3. The size of each tree and the distance between each other and other features such as buildings, curbs, sidewalks, and power lines.

E. The owner of real property for which tree planting was required to satisfy the landscape ordinance (Chapter 17.93 MVMC) shall be responsible for maintenance of such trees and shall replace dead or diseased trees as soon as feasible, given considerations of the health of the replacement trees. Failure to maintain or replace such trees, as required by this section, shall be considered a violation and subject to the penalties described in MVMC 12.28.070. (Ord. 2703 § 5, 1995).

12.28.060 Tree maintenance on public and private property.

A. The parks department shall maintain all trees on the city maintenance responsibility list established pursuant to MVMC 12.28.090.

B. The abutting property owner shall maintain street trees and other vegetation located on planting strips adjacent to streets not listed in the city maintenance responsibility list. The abutting property owner is also responsible for the maintenance of vegetation other than street trees adjacent to streets which are on the city maintenance responsibility list. The abutting property owner shall maintain

trees and other vegetation on unimproved rights-of-way.

C. No person shall perform major pruning or remove trees in planting strips, improved rights-of-way, or other public places without written permission from the director of the parks department. The director shall determine if the requested action or treatment is necessary and that the proposed method and workmanship are satisfactory.

D. Tree topping shall be unlawful as a normal practice on city property and highly discouraged on private property. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical, may be exempted from this chapter as determined by the director.

E. The city shall have the right to cause the removal of any dead or diseased trees on private property within the city when such trees constitute a hazard to life and property or harbor significant infestations of insects or disease which constitute a potential threat to other trees within the city. (Ord. 2703 § 6, 1995).

12.28.070 Violation – Penalty.

Any person violating any provision of this chapter or any terms or conditions of any permit issued hereunder shall be guilty of a misdemeanor and subject to a fine or imprisonment as set forth in MVMC 1.20.010; provided, that such fine shall be at least twice the amount of restitution payable as established in this section, but not less than \$100.00, and in addition such person shall be required to pay restitution in an amount equal to the replacement value of the trees and/or vegetation damaged as determined by the latest revision of the “Valuation of Landscape Tree, Shrubs, and Other Plants”, as published by the International Society of Arboriculture. (Ord. 2703 § 7, 1995).

12.28.080 Appeal.

A. Any person aggrieved or affected by any decision relating to the application of these regulations may appeal to the UFAB for relief or reconsideration. The appeal must be made in writing and filed within 30 days of the date the appellant received notice of the decision, by delivery to the office of the finance director for the city. The UFAB shall make a tape recording of such appeal and shall retain the originals (or copies, in the discretion of the UFAB) of any exhibits or items of evidence admitted. The decision of the UFAB may be in writing or on the tape recording of the proceedings and shall set forth the basis of the decision.

12.28.090

B. The determination of the UFAB may be further appealed to the city council. The appeal of the UFAB determination must be made in writing and filed within 10 days of the date the appellant received notice of the decision, by delivery to the office of the finance director for the city. Such appeal shall be made on the basis of the record made during the appeal to the UFAB and no new evidence shall be admitted.

C. Appeals shall only be granted for errors of interpretation, or where the unique natural features of the site are such that application of these regulations would create an undue hardship to the property owner, or in other instances where an undue hardship is created for the owner of the property, or in cases where application of the regulations may result in an unconstitutional taking of property without compensation. (Ord. 2703 § 8, 1995).

12.28.090 City maintenance responsibility list for street trees, park trees, historical trees.

A. There shall be maintained in the office of the parks director, and available for public inspection and copying, a city maintenance responsibility list for street trees, park trees and historical trees. This list shall be as set forth below, but may be amended at any time by the director of the parks department, with the concurrence of the mayor.

B. Mount Vernon Parks and Recreation Department.

1. All trees on designated park property (city-owned).

2. City council designated historical trees, i.e., City Hall parking lot, historical trees in city rights-of-way.

3. Any tree that the Mount Vernon parks and recreation department has planted in the interest of the city.

4. Any tree or vegetation which impedes vehicle or pedestrian traffic or obstructs the vision of vehicles or pedestrians in a right-of-way (safety concerns).

5. Trees along the following rights-of-way or in the following areas:

- a. College Way;
- b. Riverside Drive;
- c. South Second Street;
- d. I-5 Interchanges – Kincaid and College Way;
- e. City Hall Campus Areas;
- f. 1st Street (downtown area);
- g. City Shop Complex (perimeter);
- h. First and Division area;

- i. The property located at 1015 South Second;
- j. Triangle areas (Blackburn and Second);
- k. City Barn. (Ord. 2703 § 9, 1995).

Chapter 12.32

CITY PARKS

Sections:

- 12.32.010 Hours of closure.
- 12.32.020 Hours of closure – Exceptions.

12.32.010 Hours of closure.

Except as set forth in MVMC 12.32.020, all city parks shall be closed to the public from sunset to sunrise or 6:00 a.m., whichever shall occur later. In addition, any park may be closed at any time at the direction of the parks director or the director’s designee. Any park facilities, such as restrooms, may be closed at any time by the direction of the parks director or the director’s designee, whether or not the remainder of the park remains open. It shall be unlawful for any person to enter or remain in or upon any city park, or any park facility, during hours of closure, except with the express consent of the parks director or the director’s designee. (Ord. 2735 § 1, 1996).

12.32.020 Hours of closure – Exceptions.

The following exceptions to hours of park closure shall apply:

A. Hillcrest Park Lodge only may remain open until the hour of 2:00 a.m. when rented pursuant to rules established by the department of parks and recreation; provided, however, that music or other amplified sounds shall terminate at the hour of 12:00 midnight.

B. Hillcrest Park tennis courts and basketball courts only may remain open until the hour of 12:00 midnight, so long as lighting remains available.

C. Designated camping areas at Edgewater Park only may remain open for paid campers only; provided, that vehicular travel into and out of the park shall be unlawful between the hours of 10:00 p.m. and 6:00 a.m.

D. Edgewater Park and Bakerview Park may remain open on the Fourth of July for the purpose of enjoyment of legal, “safe and sane” fireworks until the hour of 11:00 p.m. (Ord. 2735 § 2, 1996).

Chapter 12.36

HIGHWAY ACCESS MANAGEMENT

Sections:

- 12.36.010 RCW provisions adopted.
- 12.36.020 WAC provisions adopted.

12.36.010 RCW provisions adopted.

Chapter 47.50 RCW is hereby adopted by reference to provide regulation and control of vehicular access and connection points of ingress to, and egress from, the State Highway System within the incorporated areas of the city of Mount Vernon. (Ord. 2915 § 1, 1998).

12.36.020 WAC provisions adopted.

Pursuant to the requirements and authority of Chapter 47.50 RCW, there is hereby adopted by reference the provisions of Chapters 468-51 and 468-52 WAC, together with all future amendments, in order to implement the requirements of Chapter 47.50 RCW. (Ord. 2915 § 2, 1998).

