

1 FILE NO. \_\_\_\_\_

PROPOSAL NO. 2002-59

2 Sponsored by: Councilmember Pat O'Malley

3 Requested by: County Executive

4  
5 **ORDINANCE NO. 2002-59**

6  
7 **AN ORDINANCE OF THE PIERCE COUNTY COUNCIL AMENDING CHAPTER 12.32 OF THE**  
8 **PIERCE COUNTY CODE, TO COMPLY WITH THE TELECOMMUNICATIONS**  
9 **ACT OF 1996, AS INTERPRETED BY THE NINTH CIRCUIT U. S.**  
10 **COURT OF APPEALS.**

11  
12 WHEREAS, Chapter 12.32 of the Pierce County Code establishes  
13 regulations for granting franchises for the use of Pierce County rights-  
14 of-way by utilities, including cable television and telecommunications  
15 providers; and

16 WHEREAS, The Pierce County Council intended that Chapter 12.32,  
17 insofar as it applied to telecommunications utilities, should fully  
18 comply with the Federal Telecommunications Act of 1996; and

19 WHEREAS, Several cities in the State of Washington including the  
20 City of Tacoma, which had telecommunications regulatory and franchise  
21 ordinances with provisions similar in many respects to Chapter 12.32 of  
22 the Pierce County Code, were parties to a legal action against Qwest  
23 Corporation; and

24 WHEREAS, In ruling on the various issues raised in the litigation,  
25 the U.S. Court of Appeals for the Ninth Circuit found that many of the  
provisions of these Ordinances were in violation of the

1 Telecommunications Act of 1996, the decision being reported in City of  
2 Auburn, et al v. Qwest Corporation, 260 F3d 1165; and

3 WHEREAS, The Council finds that the amendments to Chapter 12.32 of  
4 the Pierce County Code contained in Exhibit "A" herein are necessary  
5 because of the Auburn v. Qwest case, and that upon becoming effective  
6 they will bring the Chapter into compliance with the Telecommunications  
7 Act of 1996, as interpreted by the Ninth Circuit; and NOW THEREFORE,

8 BE IT ORDAINED by the Council of Pierce County:

9  
10 Section 1. Chapter 12.32 of the Pierce County Code is hereby  
11 amended as set forth in Exhibit "A" which is attached hereto and  
12 incorporated herein by this reference.

13  
14 PASSED this 10th day of December, 2002.

15 ATTEST: PIERCE COUNTY COUNCIL  
16 PIERCE COUNTY, Washington

17  
18 \_\_\_\_\_ Councilmember Harold Moss  
18 Gerri Johnson Clerk of the Council Council Chair

19  
20 Approved As To Form Only: PIERCE COUNTY EXECUTIVE  
21 John Ladenburg

22 Deputy Prosecuting Attorney Approved \_\_\_\_\_ Vetoed  
23 \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 2002.

24 Date of Publication of  
24 Notice of Public Hearing:

25 Effective Date of Ordinance:

2 *Chapter 12.32*

3 ***RIGHT-OF-WAY FRANCHISES FOR PUBLIC AND PRIVATE UTILITIES***

4 **Sections:**

- 5 **12.32.010 Purpose.**
- 6 **12.32.020 Franchises Required.**
- 7 **12.32.030 Nonexclusive Grant.**
- 8 **12.32.040 Term of Grant.**
- 9 **12.32.050 Eminent Domain.**
- 10 **12.32.060 Application.**
- 11 **12.32.070 Franchise Fees.**
- 12 **12.32.080 Review of Application - Hearing.**
- 13 **12.32.090 Criteria for Approval - Sewer Districts.**
- 14 **12.32.100 Criteria for Approval - All Other Franchise Applicants.**
- 15 **12.32.110 Utility Right-of-Way Permit Required.**
- 16 **12.32.120 Application.**
- 17 **12.32.130 Utility Right-of-Way Permit Fees.**
- 18 **12.32.140 Utility in Good Standing.**
- 19 **12.32.150 Criteria for Determination - Utility in Good Standing.**
- 20 **12.32.160 Exemption from Permit Fees.**
- 21 **12.32.170 Interference with the Right-of-Way.**
- 22 **12.32.180 Damage to Property.**
- 23 **12.32.190 Relocation or Removal of Facilities.**
- 24 **12.32.200 Removal of Unauthorized Facilities.**
- 25 **12.32.210 Failure to Relocate.**
- 12.32.220 Emergency Removal or Relocation of Facilities.**
- 12.32.230 Damage to Utility's Facilities.**
- 12.32.240 Restoration of Right-of-Way or Other Property.**
- 12.32.250 Duty to Provide Information.**
- 12.32.255 Grantee Insurance.**
- 12.32.256 General Indemnification.**
- 12.32.257 Performance and Restoration Surety.**
- 12.32.258 Restoration Bond.**
- 12.32.260 Penalties.**
- 12.32.270 Other Remedies.**
- 12.32.280 Severability.**

**Cross-reference: Chapter 36.55 RCW**

21 **12.32.010 Purpose.**

22 The purpose of this Chapter is to regulate the granting of County right-of-way franchises for  
23 public and private utilities, and to insure consistency of such franchises with the applicable district  
24 comprehensive plan, the County Comprehensive Plan, sound engineering and design standards, health  
25 and sanitation regulations, and the public interest. (Prior Code § 81.08.010)

1 **12.32.020 Franchises Required.**

2 Persons and private or municipal corporations are required, in accordance with RCW 36.55.010,  
3 to obtain a right-of-way franchise approved by the Pierce County Council in order to use the right-of-  
4 way of County roads for the construction and maintenance of water-works, gas pipes, telephone,  
5 telegraph, and electric lines, sewers, cable TV, petroleum products, and any other such public and  
6 private utilities, except that the Pierce County Department of Public Works and Utilities and any entity  
7 under contract with Pierce County shall be exempted from this requirement.

8 (Ord. 96-128S § 2 (part), 1997; Ord. 89-146 § 1 (part), 1989; prior Code § 81.08.020)

9 **12.32.030 Nonexclusive Grant.**

10 No franchise granted hereunder shall confer any exclusive right, or authorization to occupy or  
11 use the right-of-way.

12 (Ord. 96-128S § 2 (part), 1997)

13 **12.32.040 Term of Grant.**

14 Unless otherwise specified in the franchise, or unless otherwise renewed, a franchise granted  
15 hereunder shall be in effect for a term of not more than five years.

16 (Ord. 96-128S § 2 (part), 1997)

17 **12.32.050 Eminent Domain.**

18 Nothing herein shall be deemed or construed to impair or affect, in any way or to any extent, the  
19 County's power of eminent domain.

20 (Ord. 96-128S § 2 (part), 1997)

21 **12.32.060 Application.**

22 Applications for right-of-way franchises shall be submitted in the form approved by the County  
23 Engineer to the Pierce County Department of Public Works and Utilities.

24 (Ord. 96-128S § 2 (part), 1997; Ord. 89-146 § 1 (part), 1989; prior Code § 81.08.030)

25 **12.32.070 Franchise Fees.**

There is established a \$500.00 fee for each franchise application, said fee to provide  
reimbursement to the Pierce County Department of Public Works and Utilities for the administrative  
costs and expenses of processing the application. The fee shall be payable in its entirety at the time each  
separate application for a new franchise or for a franchise renewal, amendment, supplement, or  
assignment is filed with the Department of Public Works and Utilities and shall be non-refundable. In  
addition, each applicant shall reimburse Pierce County for public notice advertising and publication  
costs incurred in respect to each application in addition to the \$500.00 fee. Further, all Grantees, **except**  
**Telecommunications Grantees**, shall, within 30 days after written demand thereof, reimburse Pierce  
County for all direct and indirect costs and expenses, over and above \$500.00, incurred by the County in  
connection with any grant, modification, amendment, renewal, or transfer of any franchise.

(Ord. 2000-57s § 1 (part), 2001; Ord. 96-128S § 2 (part), 1997; Ord. 89-146 § 1 (part), 1989; Res. 21898  
§§ 1, 2, 1979; prior Code § 81.08.040)

**12.32.080 Review of Applications - Hearing.**

A. The Pierce County Department of Public Works and Utilities shall be responsible for the

1 administration and enforcement of franchises and Right-of-Way Permits.

2 B. In accordance with RCW 36.55.040, the Pierce County Council shall set a time and place for  
3 a public hearing on each franchise application. The Council shall post notice of such hearing  
4 in three public places 15 days before the hearing and publish notice twice in the official  
5 County newspaper at least 5 days prior to the hearing date pursuant to the provisions of RCW  
6 36.55.040.

7 (Ord. 2000-57s § 1 (part), 2001; Ord. 96-128S § 2 (part), 1997; Ord. 89-146 § 1 (part), 1989; prior Code  
8 § 81.08.050)

9 **12.32.090 Criteria For Approval - Sewer Districts.**

10 The following criteria shall be considered in determining whether to grant a County franchise  
11 to a sewer district:

- 12 A. A previously County/State approved comprehensive plan for the sewer district;  
13 B. The Comprehensive Land Use, Sewer General Plan, and any applicable basin-wide plan  
14 for Pierce County, as amended;  
15 C. The Pierce County "Manual on Accommodating Utilities in Pierce County Right-of-Way,"  
16 regarding accommodation of utilities on County road right-of-way as published by the County  
17 Engineer in accordance with requirements outlined in the Washington Administrative Code,  
18 Chapter 136-40, which has been adopted by Pierce County as policy for the accommodation  
19 of utilities on all County roads;  
20 D. Health and sanitation regulations of the Tacoma-Pierce County Health Department and the  
21 State Department of Social and Health Services.

22 (Ord. 96-128S § 2 (part), 1997; Ord. 89-146 § 1 (part), 1989; prior Code § 81.08.060)

23 **12.32.100 Criteria for Approval - All Other Franchise Applicants.**

24 Prior to granting any County franchise, the criteria stated in PCC 12.32.090, ~~12.34.310~~ and  
25 12.34.410, where applicable, shall be considered. In addition, the following criteria shall also be  
considered:

- 1 A. The financial capability of the franchise applicant, **except a telecommunications applicant**, to  
adequately install and maintain the proposed facility;  
2 B. The adequacy of the franchise applicant's expertise to install and maintain the proposed  
facility; and  
3 C. Any potential hazards and risks which would be created by the installation of the proposed  
facility.

4 (Ord. 2000-57s § 1 (part), 2001; Ord. 96-128S § 2 (part), 1997; Ord. 89-146 § 1 (part), 1989; prior Code  
5 § 81.08.080)

6 **12.32.110 Utility Right-of-Way Permit Required.**

7 Persons and private or municipal corporations are required to obtain a Utility Right-of-Way  
8 Permit approved by the Pierce County Engineer in order to work in the right-of-way of County  
9 roads for the construction and maintenance of utility facilities as outlined in PCC 12.32.020,  
10 except as noted in PCC 12.32.130 and 12.32.160.

11 (Ord. 2000-57s § 1 (part), 2001; Ord. 96-128S § 2 (part), 1997)

12 **12.32.120 Application.**

13 Applications for Utility Right-of-Way Permits shall be submitted in the form approved by the

1 County Engineer to the Pierce County Department of Public Works and Utilities.  
2 (Ord. 96-128S § 2 (part), 1997)

3 **12.32.130 Utility Right-of-Way Permit Fees.**

4 There is established the following fee structure for Utility Right-of-Way Permits:

5 A. **Class A Work.** Class A work has little or no effect on the right-of-way such as trenching the  
6 right-of-way for 25 lineal feet or less outside of the paved area, making an initial pavement  
7 cut of 4 square feet or less, or installing 5 or fewer new utility poles. Some examples of Class  
8 A work include stringing cables on utility poles; accessing existing manholes, hand holes and  
9 vaults; installing short side services and hydrants while breaking 4 square feet or less of  
10 pavement; raising valves; trimming trees; providing cathodic protection; replacing above-  
11 ground meters, transformers, closures and pedestals; installing 2.5 by 2.5 feet or smaller  
12 splice boxes; and installing water sampling stations. No breaking of any PCC curb, gutter or  
13 sidewalk is allowed. No permit or permit fee is required for this type of work.

14 B. **Class B Work.** Class B work has a moderate effect on the right-of-way such as trenching  
15 between 25 and 100 linear feet of right-of-way, making an initial pavement cut of between 4  
16 and 15 square feet, removing 2 or fewer panels of PCC sidewalk and associated curb and  
17 gutter, installing more than 5 new utility poles, or replacing any utility poles. Some examples  
18 of Class B work includes installing short side utility services while disturbing between 4 and  
19 15 square feet of pavement, pushing under a road, installing underground vaults, and  
20 constructing splice pits. The fee for each permit application for Class "B" work is set at  
21 \$200.00, said fee to provide reimbursement to the Pierce County Department of Public Works  
22 and Utilities for the administrative and engineering costs and expenses of processing the  
23 Utility Right-of-Way Permit and inspecting the permitted work.

24 C. **Class C Work.** Class C work has a major impact on the right-of-way such as constructing any  
25 CRP related work, trenching 100 lineal feet or more in the right-of-way, making an initial  
pavement cut of 15 square feet or more, removing more than 2 panels of PCC sidewalk and  
associated curb and gutter, or attaching to any bridge structure. Some examples of Class "C"  
work include constructing a main line or any open cut road crossing. Except as noted in PCC  
12.32.130, the fee for each permit application for Class "C" work is set at \$600.00, said fee to  
provide reimbursement to the Pierce County Department of Public Works and Utilities for the  
administrative and engineering costs and expenses of processing the Utility Right-of-Way  
Permit and inspecting of the permitted work.

D. **Pavement Cutting.** Pierce County promotes a coordinated planning effort between the  
Department of Public Works and the franchised utility to minimize the need for cutting of  
pavement which is less than 36 months old. Except as exempted in PCC 12.32.160, the fee for  
permission to cut pavement which is less than 36 months old is established at \$10.00 per  
linear foot of disturbed pavement. Any Utility Right-of-Way Permit fee shall be payable to  
the Department of Public Works and Utilities - Road Fund in accordance with administrative  
procedures developed by the Department.

(Ord. 2000-57s § 1 (part), 2001; Ord. 96-128S § 2 (part), 1997)

**12.32.140 Utility in Good Standing.**

In order to facilitate installation of utilities within road right-of-way and in order to ensure that  
the County's program for capital improvements, operation, and maintenance is enhanced, Pierce  
County establishes the designation of "Utility in Good Standing." All utilities that have less than three

1 violations of the provisions of this Chapter or the Pierce County "Manual on Accommodating Utilities  
2 in Pierce County Right-of-Way," as adopted by PCC 17B.10.060 B. during any preceding 12-month  
3 period, upon written request to the County Engineer, will be eligible to receive a designation of "Utility  
in Good Standing" if certified by the County Engineer.  
(Ord. 2000-57s § 1 (part), 2001; Ord. 96-128S § 2 (part), 1997)

4 **12.32.150 Criteria for Determination - Utility in Good Standing.**

5 The County Engineer shall keep and review records of performance for each utility to monitor  
6 compliance to Pierce County Code. Noncompliance with the "Utility in Good Standing" certification  
7 provisions can include, but is not limited to the following. Failure to:

- 8 A. Comply with the provisions of the franchise agreement;
- 9 B. Comply with the Manual on Accommodating Utilities in Pierce County Right-of-Way;
- 10 C. Comply with the latest edition of the MUTCD;
- 11 D. Comply with Washington State Labor and Industry rules;
- 12 E. Comply with the provisions and conditions on an approved right-of-way permit;
- 13 F. Actively coordinate with County road construction projects, including attending any required  
14 design and pre-construction meetings;
- 15 G. Actively coordinate with other utilities on utility-initiated projects;
- 16 H. Respond to reasonable requests for relocation information when requested by the County;
- 17 I. Relocate utility facilities, in a timely manner, consistent with approved construction schedules;
- 18 J. Construct utility facilities with an approved deviation when compliance with County standards  
can not be achieved;
- 19 K. Obtain a permit, as required, before working in the right-of-way;
- 20 L. Notify the Engineer before starting work;
- 21 M. Notify the appropriate fire department of a road closure;
- 22 N. Notify the Engineer of canceled or completed work in a timely manner;
- 23 O. Complete all work within approved working days from the start of work;
- 24 P. Permanently repair a pavement patch within 30 working days after placing temporary  
25 patching;
- Q. Restore the roadway and pavement in accordance with approved provisions and conditions;
- R. Leave the project site in a manner which is safe and protected;
- S. Minimize the need for cutting of pavement less than 36 months old;
- T. Maintain temporary pavement restorations;
- U. Remove abandoned above ground facilities in the required time frames;
- V. Pay permit fees in a timely manner.

(Ord. 96-128S § 2 (part), 1997)

19 **12.32.160 Exemption from Permit Fees.**

20 Any utility having a valid designation of "Utility in Good Standing" as certified by the County  
21 Engineer shall be exempt from obtaining a permit, and from the permit application fee for Class "B"  
22 work, and any pavement cutting fee. Additionally, a "Utility in Good Standing" shall pay one-sixth the  
23 fee set for Class "C" work. Any utility performing work as a result of a County construction or  
24 maintenance project shall be exempt from any applicable permit fee. Any utility performing emergency  
25 work shall be exempt from any applicable permit application fee.

(Ord. 96-128S § 2 (part), 1997)

1 **12.32.170 Interference with the Right-of-Way.**

2 No utility may locate or maintain its facilities so as to unreasonably interfere with the use of the  
3 right-of-way by the County, by the general public or other persons authorized to use or be present in or  
4 upon the right-of-way. All such facilities shall be moved by and at the expense of the utility, temporarily  
5 or permanently, as determined by the County.

6 (Ord. 96-128S § 2 (part), 1997)

7 **12.32.180 Damage to Property.**

8 No utility or any person acting on a utility's behalf shall take any action or permit any action to  
9 be done which may impair or damage any right-of-way, including specifically County Property, real or  
10 personal, or other property located in, on or adjacent thereto.

11 (Ord. 96-128S § 2 (part), 1997)

12 **12.32.190 Relocation or Removal of Facilities.**

13 Within 30 days, or such longer period as may be specified by the County Engineer, following  
14 written notice from the County Engineer, a utility shall, at its own expense, temporarily or permanently  
15 remove, relocate, change or alter the position of any facilities within the right-of-way whenever the  
16 County Engineer shall have determined that such removal, relocation, change or alteration is reasonably  
17 necessary for:

18 A. The construction, repair, maintenance or installation of any County or other public  
19 improvement in or upon the right-of-way.

20 B. The operations of the County or other governmental entity in or upon the right-of-way.

21 (Ord. 2000-57s § 1 (part), 2001; Ord. 96-128S § 2 (part), 1997)

22 **12.32.200 Removal of Unauthorized Facilities.**

23 Within 30 days following written notice from the County Engineer, any utility, or other person  
24 that owns, controls or maintains any unauthorized facility or related appurtenances within the rights-of-  
25 way shall, at its own expense, remove such facilities or appurtenances from the right-of-way. If such  
utility fails to remove such facilities or appurtenances, the County may cause the removal and charge the  
utility for the costs incurred. A facility is unauthorized and subject to removal in the following  
circumstances:

A. Upon expiration or termination of the Grantee's franchise.

B. Upon abandonment of a facility within the right-of-way.

C. If the system or facility was constructed or installed without the prior grant of a franchise.

D. If the system or facility was constructed or installed without the prior issuance of a required  
Utility Right-of-Way Permit.

E. If the system or facility was constructed or installed at a location not permitted by the utility's  
franchise.

F. Any such other reasonable circumstances deemed necessary by the County Engineer.

(Ord. 2001-57s § 1 (part), 2001; Ord. 96-128S § 2 (part), 1997)

**12.32.210 Failure to Relocate.**

If a utility is required to relocate, change or alter the facilities constructed, operated and/or  
maintained hereunder and fails to do so, the County may cause such to occur and charge the utility for  
the costs incurred.

(Ord. 96-128S § 2 (part), 1997)

1 **12.32.220 Emergency Removal or Relocation of Facilities.**

2 The County retains the right and privilege to cut or move any facilities located within the right-  
3 of-way as the County may determine to be necessary, appropriate or useful in response to any public  
4 health or safety emergency.

(Ord. 96-128S § 2 (part), 1997)

4 **12.32.230 Damage to Utility's Facilities.**

5 Unless directly and proximately caused by the willful, intentional or malicious acts of the  
6 County, the County shall not be liable for any damage to or loss of any facility within right-of-way as a  
7 result of or in connection with any public works, public improvements, construction, excavation,  
8 grading, filling, or work of any kind in the right-of-way by or on behalf of the County.

(Ord. 96-128S § 2 (part), 1997)

8 **12.32.240 Restoration of Right-of-Way or Other Private Property.**

9 A. When a utility, or any person acting on its behalf, does any work in or affecting any right-of-  
10 way, or any other property, it shall, at its own expense, promptly remove any obstructions  
11 therefrom and restore such ways or property to the same condition which existed before the  
12 work was undertaken.

13 B. If weather or other conditions do not permit the complete restoration required hereunder, the  
14 utility shall temporarily restore the affected right-of-way or other property. Such temporary  
15 restoration shall be at the utility's sole expense and the utility shall promptly undertake and  
16 complete the required permanent restoration when the weather or other conditions no longer  
17 prevent such permanent restoration.

18 C. A utility or other person acting on its behalf shall use suitable barricades, flags, flaggers,  
19 lights, flares and other measures as required for the safety of all members of the general  
20 public and to prevent injury or damage to any person, vehicle or property by reason of such  
21 work in or affecting right-of-way or any other property.

(Ord. 2000-57s § 1 (part), 2001; Ord. 96-128S § 2 (part), 1997)

16 **12.32.250 Duty to Provide Information.**

17 Within ten days of a written request from the County Engineer, each utility shall furnish the  
18 County Engineer with information sufficient to demonstrate:

19 A. That utility has complied with all requirements of this Chapter.

20 B. That all fees due the County in connection with the facilities provided by the utility have been  
21 properly collected and paid by the utility.

22 C. That all books, records, maps and other documents maintained by the utility with respect to its  
23 facilities within right-of-way shall be made available for inspection by the County Engineer at  
24 reasonable times and intervals.

25 D. That "as-built" drawings have been completed of the work and are on file with the Grantee.

(Ord. 2000-57s § 1 (part), 2001; Ord. 96-128S § 2 (part), 1997)

22 **12.32.255 Grantee Insurance.**

23 Unless otherwise provided, each Grantee shall, as a condition of the grant, secure and maintain  
24 the following liability insurance policies insuring both the Grantee and the County, and its elected and  
25 appointed officers, officials, agents, representatives, and employees as additional insureds:

- 1 A. Comprehensive general liability insurance with limits not less than:  
2 1. \$2,000,000 for bodily injury or death to each person;  
3 2. \$2,000,000 for property damage resulting from any one accident; and  
4 3. \$2,000,000 for all other types of liability.
- 5 B. Automobile liability for owned, non-owned, and hired vehicles with a limit of \$1,000,000 for  
6 each person and \$3,000,000 for each accident.
- 7 C. Worker's compensation within statutory limits and employer's liability insurance with limits  
8 of not less than \$1,000,000.
- 9 D. Comprehensive form premises-operations, explosions and collapse hazard, underground  
10 hazard and products completed operation hazard policies with limits of not less than  
11 \$2,000,000.
- 12 E. The liability insurance policies required by this Section shall be maintained at all times by  
13 the Grantee. Each such insurance policy shall contain the following endorsement: "It is hereby  
14 understood and agreed that this policy may not be canceled nor the intention not to renew be  
15 stated until 90 days after receipt by the County, by registered mail, of a written notice  
16 addressed to the County Risk Manager of such intent to cancel or not to renew."
- 17 F. Within 60 days after receipt by the County of said notice, and in no event later than 30 days  
18 prior to said cancellation, the Grantee shall obtain and furnish to the County replacement  
19 insurance policies meeting the requirements of this Chapter.
- 20 G. If Grantee can show to the County Risk Manager's satisfaction that an entity is financially  
21 able to self insure the exposures, a substitution for insurance will be considered.
- (Ord. 2000-57s § 1 (part), 2001)

22 **12.32.256 General Indemnification.**

23 In addition to and distinct from the insurance requirements of this Chapter, each Grantee shall  
24 agree in writing to defend, indemnify, and hold the County and its officers, officials, employees, agents,  
25 and representatives harmless from and against any and all damages, losses and expenses, including  
reasonable attorneys' fees and costs of suit or defense, arising out of, resulting from, or alleged to arise  
out of or result from the acts, omissions, failure to act, or misconduct of the Grantee or its affiliates,  
officers, employees, agents, contractors, or subcontractors in the construction, operation, maintenance,  
repair, or removal of it facilities and in providing or offering services over the facilities or network,  
whether such acts or omissions are authorized, allowed, or prohibited by this Chapter or by a grant  
agreement made or entered into pursuant to this Chapter.

(Ord. 2000-57s § 1 (part), 2001)

18 **12.32.257 Performance and Restoration Surety.**

19 Before a franchise granted pursuant to this Chapter is effective, and as necessary thereafter, the  
20 Grantee shall provide and deposit such monies, bonds, letters of credit, or other instruments in form and  
21 substance acceptable to the County as may be required by this Chapter, or by an applicable franchise or  
other applicable code, ordinance, or rules and regulations of the County.

(Ord. 2000-57s § 1 (part), 2001)

22 **12.32.258 Restoration Bond.**

23 Unless otherwise provided in a franchise, a restoration bond, written by a surety acceptable to  
24 the County equal to at least 100 percent of the estimated cost of restoration as required as a result of  
25 constructing the Grantee's facilities within rights-of-way shall be deposited before construction is

1 commenced. An applicant's status as a "Utility in Good Standing" pursuant to PCC 12.32.140 may be  
2 considered in setting, or reducing below 100 percent of the estimated cost of restoration, the appropriate  
restoration bond amount.

3 A. The restoration bond shall remain in force until 60 days after substantial completion of the  
work, as determined by the County Engineer or designee, including restoration of all rights-  
4 of-way and other property affected by the construction.

5 B. The restoration bond shall guarantee, to the satisfaction of the County:

- 6 1. timely completion of restoration;
- 7 2. restoration in compliance with applicable plans, permits, technical codes, and  
standards;
- 8 3. proper restoration of the facilities as specified by the County; and
- 9 4. restoration of the rights-of-way and any other property affected by the construction.

10 (Ord. 2000-57s § 1 (part), 2001)

11 **12.32.260 Penalties.**

12 Any person found violating, disobeying, omitting, neglecting, or refusing to comply with any of  
13 the provisions of this Chapter is subject to class one civil infraction pursuant to Chapter 1.16 for each  
act. Each day constitutes a separate act.

14 (Ord. 2000-57s § 1 (part), 2001; Ord. 96-128S § 2 (part), 1997)

15 **12.32.270 Other Remedies.**

16 Nothing in this Ordinance shall be construed as limiting any judicial remedies that the County  
may have, at law or in equity, for enforcement of this Chapter.

17 (Ord. 96-128S § 2 (part), 1997)

18 **12.32.280 Severability.**

19 If any Section, subsection, sentence, clause, phrase, or other portion of this Chapter, or its  
application to any person is, for any reason, declared invalid, in whole or in part by any court or agency  
of competent jurisdiction, said decision shall not affect the validity of the remaining portions hereof.

20 (Ord. 96-128S § 2 (part), 1997)