



City of Kenmore - 18120 68th Avenue NE - Kenmore, WA 98028  
Phone: 425-398-8900 - E-mail: [cityhall@kenmorewa.gov](mailto:cityhall@kenmorewa.gov)

## City Council Special Meeting

**ON-SITE**

**MONDAY, MAY 1, 2023 - 6:00 PM**

**In addition, we try to provide access to the meeting virtually:**

**ZOOM LINK: <https://kenmorewa-gov.zoom.us/j/82992885635>**

Or One tap Mobile: US: +12532158782,,82992885635#

Or Telephone Dial US: +1 253 215 8782

Callers please dial \*9 to raise and lower hand

Webinar ID: 829 9288 5635

**If you are having difficulty accessing the meeting virtually, please contact [mkang@kenmorewa.gov](mailto:mkang@kenmorewa.gov).**

**Technical Difficulties** - If the virtual component of the meeting disconnects, and we cannot resolve technical difficulties to reconnect the virtual component, the in-person meeting will continue at City Hall if there is a quorum of the body to conduct business.

### **I. CALL SPECIAL MEETING TO ORDER - 6:00 PM**

### **II. PROCLAMATION**

#### **A. Building Safety Month**

**PROCLAIMED**

[Proclamation - Building Safety Month](#)

### **III. PRESENTATION**

#### **A. New Staff Introductions**

- Facility & Fleet Maintenance Supervisor Aleks Firsov, introduced by Public Works Operations Director Jennifer Gordon
- Interim Volunteer & Event Supervisor Maurita Colburn, introduced by Event Specialist Nicole Suarez
- Farmers Market Lead (Day of Manager) Rebecca Lucero, introduced by Event Specialist Nicole Suarez

**INTRODUCED**

### **IV. STUDY SESSION AGENDA**

#### **A. Fish Passable Culvert Replacement Prioritization for Future Surface Water Management Capital Improvement Program Projects, presented by Environmental Services Director Richard Sawyer and Osborn Consulting Principal Engineer Tarelle Osborn**

**DISCUSSED AND DIRECTION GIVEN**

[Agenda Bill - Culvert Replacement Prioritization](#)

[Attachment 1 - Draft Conceptual Design Sheets for 12 Proposed High Impact Culvert Replacement Projects](#)

[Presentation - Culvert Replacement Prioritization](#)

- B. Kenmore Municipal Code (KMC) Title 12 Updates, presented by  
Engineering Director John Vicente

**[DISCUSSED AND DIRECTION GIVEN](#)**

[Agenda Bill - KMC Title 12 Updates](#)

[Attachment A - Title 12 Red Lined Changes](#)

[Attachment B - Title 12 Changes, Clean Copy](#)

[Attachment C - Summary of Title 12 Changes](#)

[Presentation - KMC Title 12 Updates](#)

**V. STAFF REPORTS**

**VI. COUNCILMEMBER REPORTS & COMMENTS**

**VII. EXECUTIVE SESSION**

- A. Pursuant to RCW 42.30.110(1)(i), the City Council will now enter an executive session to discuss pending or potential litigation. This executive session is slated to last 30 minutes. No action is expected.

**[EXECUTIVE SESSION HELD. NO ACTION TAKEN.](#)**

**VIII. ADJOURNMENT**

**IX. UPCOMING MEETINGS**

- A. City Council Regular Meeting of May 8, 2023 at 7:00 PM  
City Council Regular Meeting of May 15, 2023 at 7:00 PM  
City Council Regular Meeting of May 22, 2023 at 7:00 PM  
City Council Regular Meeting of June 12, 2023 at 7:00 PM

**X. NOTICE OF POTENTIAL QUORUMS**

[Click here for information about Potential Quorums of the City Council.](#) Now found on the City website under City Council Meetings.



## City of Kenmore, Washington Proclamation

**WHEREAS**, Building Safety Month is an annual event to remind the public about the critical role of our communities' largely unknown protectors of public safety – our local code officials – who assure us of safe, sustainable, efficient, and livable buildings that are essential to America's prosperity; and

**WHEREAS**, Kenmore is committed to recognizing that our growth and strength as a city depend on the safety and economic value of the homes, buildings, and infrastructure that serve our residents, both in everyday life and in times of disaster; and

**WHEREAS**, our confidence in the resilience of the buildings that serve our community is achieved through the devotion of vigilant guardians – building safety and fire prevention officials, architects, engineers, builders, tradespeople, design professionals, laborers, plumbers, and others in the construction industry – who work year-round to ensure the safe construction and maintenance of buildings; and

**WHEREAS**, these guardians implement the highest-quality codes to protect us in the buildings where we live, learn, work, and play; and

**WHEREAS**, our nation benefits economically and technologically from using the International Codes – the most widely adopted building safety and fire prevention codes in the world – developed by a national, voluntary consensus organization, in part because our government is able to avoid the high cost and complexity of developing and maintaining these codes; and

**WHEREAS**, Building Safety Month encourages us to raise awareness about the importance of safe and resilient construction; fire prevention; disaster mitigation; energy conservation; water safety; training the next generation; and new technologies in the construction industry.

**NOW THEREFORE**, I, Nigel Herbig, Mayor of the City of Kenmore, on behalf of the City Council, do hereby proclaim the month of May 2023 to be Building Safety Month in the City of Kenmore. We urge all residents to commit to improving building safety, resilience, and economic investment at home and in the community, and to acknowledge the essential service provided to all of us by local and state building departments, fire prevention bureaus, and federal agencies in protecting lives and property.

**IN WITNESS WHEREOF**, signed this 1<sup>st</sup> day of May 2023.



Signed: \_\_\_\_\_ Nigel Herbig, Mayor

Attested: \_\_\_\_\_ Michelle Kang, Acting City Clerk



## City Council Business Agenda Item

### City of Kenmore, WA

**Subject/Topic:** Fish passable culvert replacement prioritization for future Surface Water Management Capital Improvement Program projects.

**For Council Meeting Agenda of:** May 1, 2023

**Department:** Environmental Services

**Prepared by:** Richard Sawyer, Environmental Services Director

**Initial & Date**

**Approved by Department Head:**

RS

**Approved by City Attorney:**

NA

**Approved by Finance Director:**

NA

**Approved by City Manager:**

RK

**Proposed Council Action/Motion:**

Direct staff to further develop project proposals for the replacement of 12 fish-passage barrier culverts and come back with a plan to fund them.

**Exhibits/Attachments:**

Draft Conceptual Design Sheets for 12 Proposed High Impact Culvert Replacement Projects

**SUMMARY**

There are many undersized culverts that hinder fish migration in Kenmore's streams and tributaries, which means we have an abundance of opportunities to open up large amounts of riparian habitat in the City.

This report identifies twelve fish-blocking culverts that, if removed and replaced, would have the most positive impact on wildlife habitat in Kenmore and open up the most amount of stream corridors for fish migration.

With City Council concurrence, City staff will further develop these twelve culvert replacement project proposals and come back with a proposed plan for funding them.

**INFORMATION/BACKGROUND:**

Culverts have been used to convey numerous local streams through roads, trails, driveways, parking lots and other structures to Lake Washington and Sammamish River since development started in the City. Many of these culverts were installed before there was an understanding of how they impacted watershed health and function. As Kenmore and the surrounding area developed, flooding, erosion, and fish passage became issues from undersized and poorly designed culverts. Replacing culverts using modern design practices that focus on fish passage and stream function has become an effective way to improve watershed health and provide stream habitat for fish (particularly salmonid fish).

Staff have been working with Osborn Consulting to develop a program that effectively manages the process of replacing stream bearing culverts and removing fish passage barriers. First, an inventory of known culverts was created (and will need to be updated as new culverts are found or constructed). Second, standardized assessment protocols were utilized to determine applicable characteristics of each culvert. Third, a prioritization process was developed and applied to ensure that funds and resources are going to culvert replacements that provide the most benefit.

### Stream Culvert Inventory

Staff combined existing city data with other available state data and developed stream culvert inventory layer in the city's GIS. 228 stream bearing culverts were identified throughout the city totaling 15,943 feet in length with 111 city owned (7,515 feet) and 117 privately owned (8,428 feet) resulting in slightly more than half of culverts being privately owned. These metrics are helpful as a starting point, but it should be noted that each location has unique circumstances and challenges beyond what can be represented by these numbers alone. In the simplest scenario, a stream might be conveyed through a single culvert from one side of the road directly to the other side. However, some culvert situations are more complicated and might include a series of multiple culverts comingled with stormwater systems and end up conveying streams much further downstream than where it first started. The following aerial view of the city shows all 228 identified culverts in the city.



Figure 1 – City of Kenmore Stream Culvert Locations





## Culvert Assessment

After completing the culvert inventory, staff worked with Osborn Consulting to review culverts for existing assessment data provided by Washington Department of Fish and Wildlife (WDFW). WDFW has established protocols in their Fish Passage Inventory, Assessment, and Prioritization Manual (most recently updated in 2019), which is available on their website. WDFW has periodically conducted assessments on many of the city's culverts since the late 90's and has coordinated more recently with the City to conduct or update several more culvert assessments over the last two years.

WDFW culvert assessment protocols include many parameters but the primary objective is to determine if the culvert has fish use potential (the potential for adult salmonid use of the culvert) and whether the culvert poses a barrier to passage of adult salmonids based primarily on flow velocity, depth and/or water surface drop. Barriers are described as percent passability in increments of thirds (represented as 0%, 33%, 67%, or 100% passable) during periods of fish passage flows. For instance, 67% passability indicates the culvert is a moderate partial barrier to some adult salmonids during a period within the range of fish passage flows whereas 0% passability indicates that the culvert is a total barrier.

Many culverts in the city have been assessed, however, access issues and available resources can severely limit the ability to assess all culverts, particularly those on private property. The following table summarizes the status of assessments for all known culverts in the city and you can see that 72% of city culverts have been assessed compared to 41% of private culverts. WDFW will be providing training to staff so that the city can continue conducting culvert assessments in-house and eventually complete a full citywide assessment.

**Table 1 – Summary of Stream Culvert Assessments for Fish Passability**

### **City Culverts**

<b>Assessed</b>	<b>Barrier Status Passability</b>	<b>Culvert Count</b>	<b>Culvert Length (Feet)</b>
No	NA	31	2,292
Yes	100%	15	733
	0%	28	1,900
	33%	10	438
	67%	5	264
	Unknown	22	1,886
Total		111	7,515

### **Private Culverts**

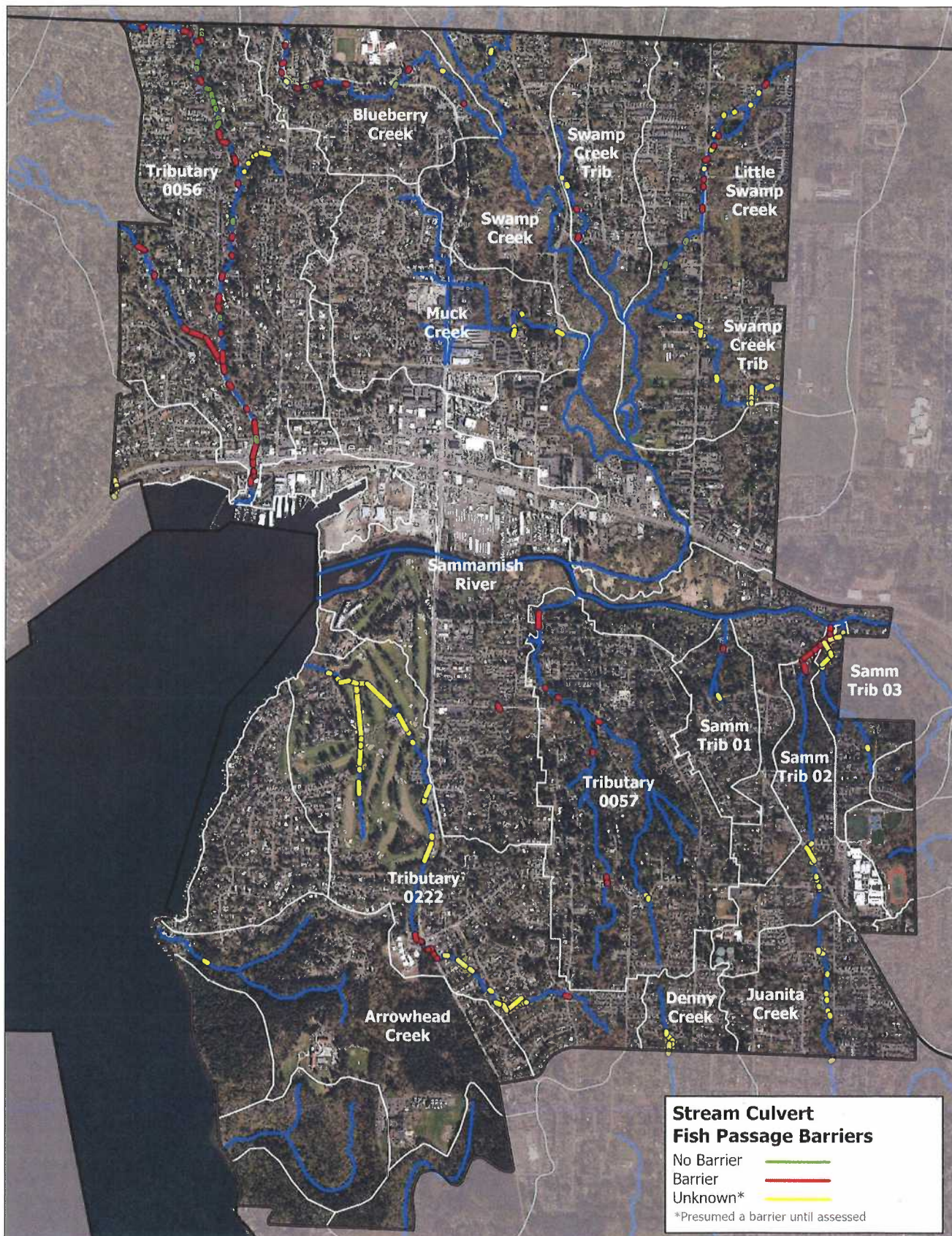
<b>Assessed</b>	<b>Barrier Status Passability</b>	<b>Culvert Count</b>	<b>Culvert Length (Feet)</b>
No	NA	69	5,389
Yes	100%	2	68
	0%	26	2,078
	33%	9	277
	67%	2	41
	Unknown	3	518
Total		117	8,428

The good news is that our two largest rivers, Swamp Creek (main channel) and the Sammamish River, have no fish migration barriers in the City of Kenmore. The bad news is that pretty much all of Kenmore's tributaries to Swamp Creek, the Sammamish River, and Lake Washington have fish-passage barriers.

The following aerial view of the city shows the assessment status of each culvert in the city. For planning purposes, unassessed culverts or culverts needing additional analysis are presumed to be a barrier until an assessment indicates otherwise.



Figure 2 – City of Kenmore Fish Passage Barrier Culvert Locations





### Culvert Prioritization

With the inventory and many of the key assessments completed, the next step in developing a culvert replacement program is to prioritize projects. Staff worked with Osborn Consulting to develop a tool that applies a standardized approach in scoring and ranking culvert replacements throughout the city. Before diving into the details of this tool it is worth pointing out that by looking at the assessment results in the aerial map above, we can already predict what we might expect in the results of this prioritization tool. Replacing culverts has many benefits, but if we focus on the primary goal of removing barriers to adult salmonids and reconnecting them with our local receiving waters (Sammamish River and Lake Washington) it becomes apparent that some locations open up much more habitat than others. For instance, Tributary 0057 has a low density of culverts lower in the watershed that would reconnect a large area of habitat to Sammamish River, therefore, we would expect that our prioritization tool would rank many of these culverts very high.

The culvert prioritization tool (CPT) developed by staff and Osborn Consulting utilizes a matrix of weighted values and multipliers that uses a point-based system to calculate a final prioritization score ranging from -13 to 44. The CPT is comprised of three categories (benefit types) including environment (25 points), community (10 points), and constructability (7 points). The environment category focuses on the potential to improve fish access and stream habitat. The community category focuses on collaboration potential, funding and other surface water benefits. The constructability category focuses on practical issues such as potential utility conflicts, ownership and fill depth. The CPT scoring system provides a preference for fish access and habitat benefits, which are now the driving factors on prioritizing future culvert replacements. The following table summarizes CPT parameters and their weighted values.

**Table 2 – CPT Parameters and Associated Weighted Scores**

Benefit Type	Benefit Parameters	Parameter Weight	Maximum Score
Environment	Calculated Priority Index Score	1	25
	WDFW Priority Index Score	2	
	Status of Upstream Barrier	4	
	Number of Downstream Full Barriers (Negative Multiplier)	-4	
	Number of Downstream Partial Barriers) (Negative Multiplier)	-3	
	Accessible Channel Created Upstream	15	
	Expected Improvements in Neighboring Jurisdiction	3	
Community	Potential Project Collaboration	6	10
	Funding Opportunities	3	
	Surface Water Benefit	3	
Constructability	Replacement Structure Type	2	7
	Sewer Utility Conflict (Negative Multiplier)	-3	
	Water Utility Conflict (Negative Multiplier)	-1	
	Wetland Critical Areas (Negative Multiplier)	-2	
	Ownership	1	
	FEMA SFHA	2	
	Fill Depth	2	



Here are the key parameters that impact overall score the most:

- Accessible channel created upstream (15 potential points) - This parameter quantifies the unobstructed channel length upstream of a fish passage barrier which would become available to fish if the barrier were eliminated.
- Downstream barriers, full or partial (-7 potential points) - This parameter identifies whether there are barriers downstream of the culvert in question. Kenmore streams connect to Lake Washington, Sammamish River or Swamp Creek (main channel). This parameter provides incentive to rank culverts closer to these receiving waters first over those further upstream.
- Potential project collaboration (6 potential points) – This parameter recognizes opportunities to construct fish passable culverts with other planned City capital projects or impact recently completed capital projects.
- Status of upstream barrier (4 potential points) – This parameter applies points depending on the status of the next upstream barrier. For instance, an upstream culvert with a 100% passable status will receive the full points whereas a culvert with identified barriers will receive fewer points.

The CPT is designed to be an ongoing tool for City staff to continue implementing beyond this initial project. As culverts are replaced, new culverts discovered, or new information is provided on existing culverts, there will be impacts on other culverts along the stream and throughout the City. The CPT will be able to re-prioritize culverts as time goes on and provide staff with up-to-date prioritization results.

#### CPT Results – Prioritized Culvert Replacement Projects

The following aerial view of the city shows the top 12 culvert replacement projects identified by the CPT which include culverts in Tributary 0056, Blueberry Creek, Tributary 0057, and unnamed tributaries to Swamp Creek and Sammamish River. Replacement of these 12 culverts results in approximately 23,612 feet of accessible stream channel gain for adult salmonids and other fish. In addition to CPT prioritized culverts, the following map shows barrier removal projects in progress, existing CIP projects already planned (including Little Swamp Creek stream culverts along 80<sup>TH</sup> AVE NE included in SW-17) and corrected barriers which have already been completed.

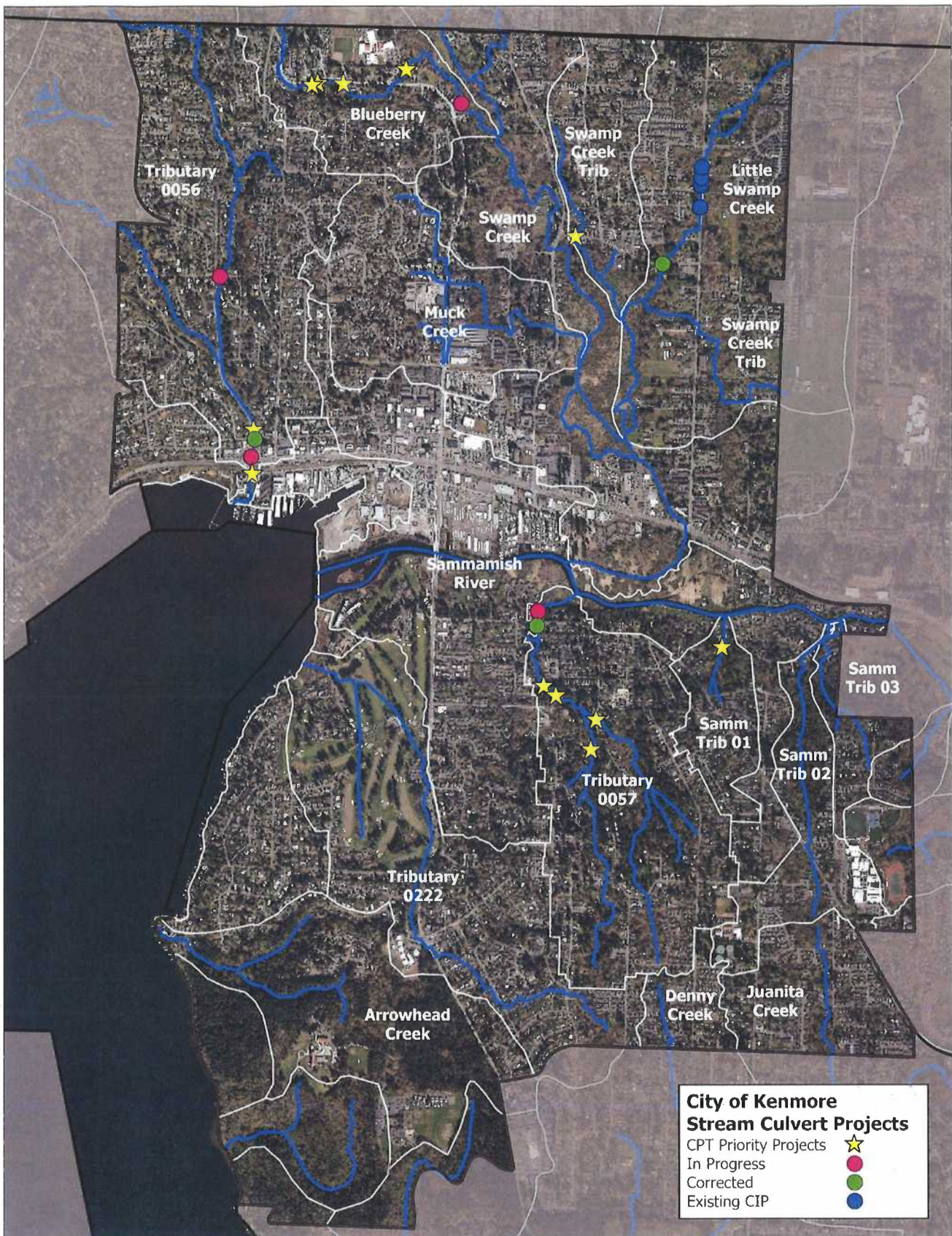
The following table summarizes the potential accessible stream channel gained once the projects identified in the following map are completed.

**Table 3 – Stream Channel Fish Access Gain Potential (Culvert Barriers Removed)**

<b>Stream</b>	<b>Number of Culvert Projects</b>	<b>Total Length</b>	<b>Blocked Length</b>	<b>Opened Length</b>	<b>Percent of Blocked Stream Opened</b>
Tributary 0056	2 (CPT) 1 (Corrected) 2 (In Progress)	13,754	13,194	1,307	9.9%
Blueberry Creek	4 (CPT) 1 (In Progress)	5,619	4,754	3,603	75.8%
Swamp Creek Tributary	1 (CPT)	3,525	1,941	535	27.6%
Little Swamp Creek	4 (Existing CIP) 1 (Corrected)	9,300	5,160	2,063	40.0%
Sammamish River Tributary	1 (CPT)	1,776	1,304	1,304	100.0%
Tributary 0057	4 (CPT) 1 (Corrected) 1 (In Progress)	16,250	15,072	14,800	98.2%
<b>Total</b>	<b>12 CPT Projects 4 Existing CIP</b>	<b>50,224</b>	<b>41,425</b>	<b>23,612</b>	<b>57%</b>



Figure 3 – Stream Culvert Project Locations



### Top Priority Culvert Replacement Project Conceptual Designs

Staff worked with Osborn Consulting to develop conceptual design sheets for the high priority culverts identified above, which are included as an attachment to this report. Conceptual design sheets are used in the City's CIP to describe upcoming projects prior to their full design and implementation. The concept sheets describe the project, provide a project location map, identify known key factors that will likely impact the project (such as major utility conflicts), provide any known assumptions and provides a preliminary budget estimate. An added benefit of having identified and prioritized fish barrier removal projects, even if only at a conceptual level, is that the city is better prepared for potential grant opportunities as they become available.

### Next Steps

Staff continue to work with Osborn Consulting to finalize conceptual designs and cost estimates for the twelve identified high priority culvert replacement projects to add to the City's Surface Water Management CIP and Capital Facilities Element of the Comprehensive Plan later this year and into 2024. As stated earlier, doing so will better position these projects for grants.

City staff are also working with Peninsula Financial Consulting to determine how these 12 additions to the SWM CIP will impact SWM fees and SWM general facilities charges. Staff and the consultant plan to return and present those findings to Council later this year.

With City Council concurrence, City staff will further develop these twelve culvert replacement project proposals and come back with a proposed plan for funding them.

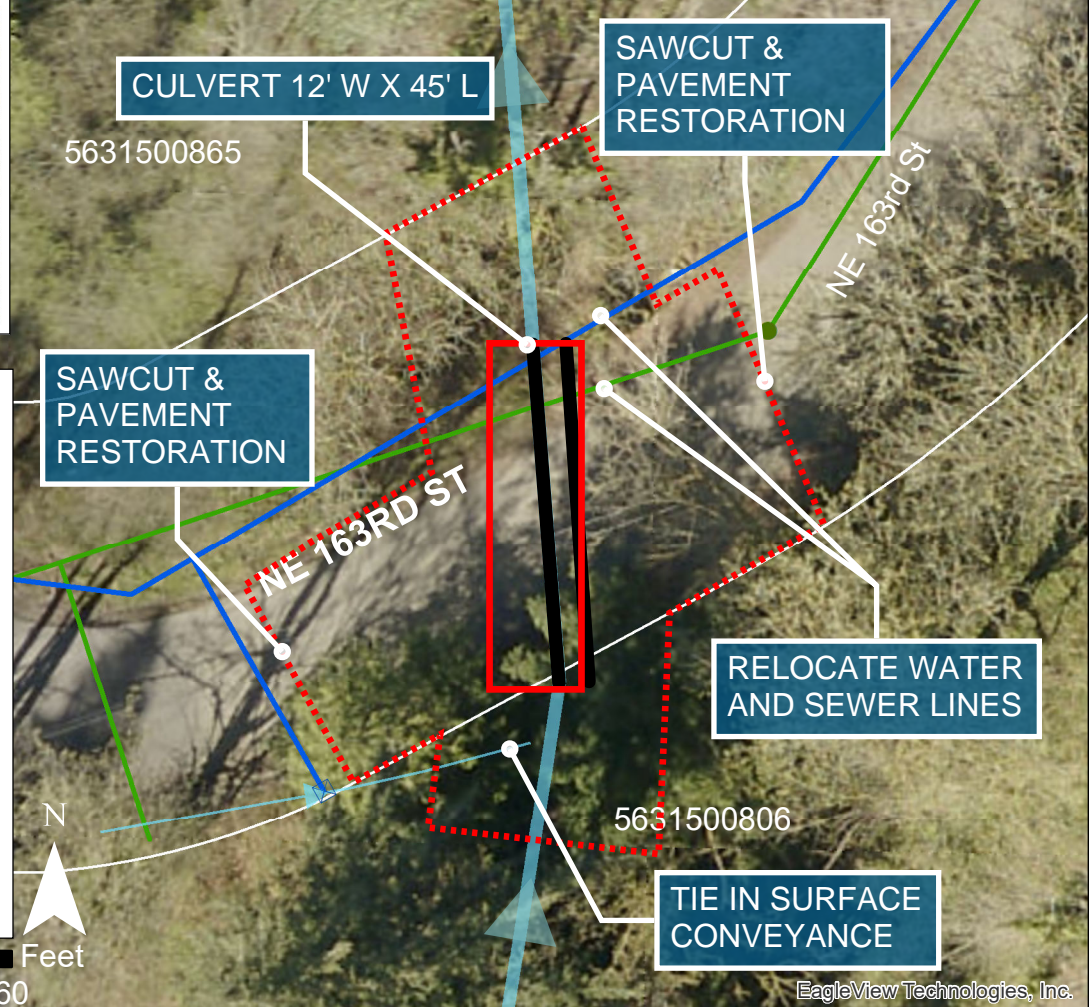
### **FISCAL CONSIDERATION:**

Budget impacts are being evaluated by staff and Peninsula Financial Consulting and will be presented to Council later in 2023. The average cost per culvert in 2023 dollars is estimated to be \$2,500,000. Therefore, the cost of replacing the 12 priority culverts identified in this study would be in the neighborhood of \$30 million in 2023 dollars. We could reasonably expect grant funding to pay for a third to half of this cost.

### **COUNCIL GOAL/BUDGET OBJECTIVE BEING ADDRESSED:**

Council's 2023-2024 Priority #1 "Implement the Adopted Climate Action Plan and Promote Environmental Stewardship, including Water, Air, Forest, and Habitat Restoration and Preservation."





## LEGEND:

- Existing Fish Barrier Culvert
- NUD Water Structure
- NUD Sewer Structure
- NUD Water Line
- NUD Sewer Line
- Stream
- Open Conveyance
- Project Extents
- Culvert Footprint

## Project Overview

The existing culvert crossing at the intersection of Tributary 0057 and NE 163rd St was identified by WDFW as a full barrier to fish passage July 22, 2021. The existing crossing consists of two 18-inch corrugated metal pipe culverts with approximately 7.5 feet of roadway fill at the downstream end. The City has identified this crossing as a high priority for replacement using the Culvert Prioritization Spreadsheet due to its significant environmental benefits. The project will result in a fish habitat gain of 20,800 square feet for many potential species including sockeye salmon, cutthroat trout, bull trout, resident trout, steelhead trout, and coho salmon.



Downstream End of Existing Culvert

## Concept Design

The concept design for the replacement culvert is based on stream simulation culvert design, as described in WDFW's Water Crossing Design Guidelines published in 2013. The concept design bankfull width for the site is 8.0 feet based on field measurements taken near the stream crossing. The bankfull width and the existing crossing length were used to determine concept design culvert dimensions of 12-feet wide by 45-feet long. The culvert depth is expected to be standard based on the stream profile relative to the roadway. For this concept level design it was assumed that the existing slope through the crossing would be adequate for flood conveyance and fish passage, which keeps the project area small. The existing crossing ends near the upstream ROW, so an easement will be required for construction. The sewer and water utility systems near this project are expected to require standard relocation or replacement.

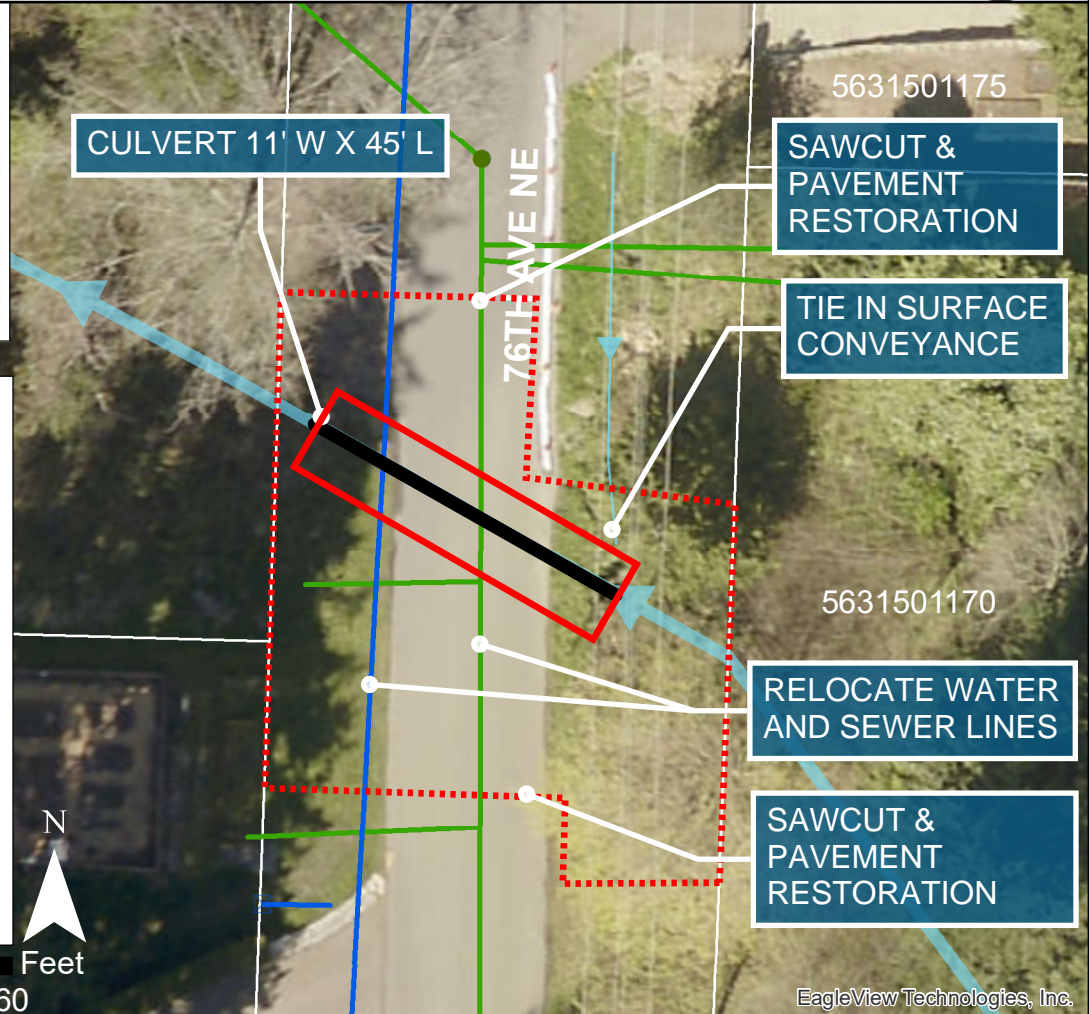
## Cost Estimate

The concept design cost estimate for this fish passage culvert is an analogous estimate based on recently completed culvert replacement projects in the City. It is a Class 4 cost estimate based on the AACEI Estimate Classification System. The cost estimate is intended for planning purposes only, and was developed in 2023 using the present-day dollar value.

Item	Cost
Soft Cost	\$475,000
Structure Replacement	\$800,000
ROW Improvement	\$205,000
Stream Restoration	\$100,000
Contingency	\$365,000
<b>Total</b>	<b>\$1,975,000</b>

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## Project Overview

The existing culvert crossing at the intersection of Tributary 0057 and 76th Ave NE was identified by WDFW as a partial barrier to fish passage July 1, 2021. The existing crossing consists of a 24-inch concrete culvert with approximately 3.5 feet of roadway fill. The City has identified this crossing as a high priority for replacement using the Culvert Prioritization Spreadsheet due to its significant environmental benefits. The project will result in a fish habitat gain of 13,480 square feet for many potential species including sockeye salmon, cutthroat trout, bull trout, resident trout, steelhead trout, and coho salmon.



Downstream End of Existing Culvert

## Concept Design

The concept design for the replacement culvert is based on stream simulation culvert design, as described in WDFW's Water Crossing Design Guidelines published in 2013. The concept design bankfull width for the site is 7.0 feet based on field measurements taken near the stream crossing. The bankfull width and the existing crossing length were used to determine concept design culvert dimensions of 11-feet wide by 45-feet long. The culvert depth is expected to be standard based on the stream profile relative to the roadway. For this concept level design it was assumed that the existing slope through the crossing would be adequate for flood conveyance and fish passage, which keeps the project area small and ROW acquisition limited. The sewer and water utility systems near this project are expected to require standard relocation or replacement.

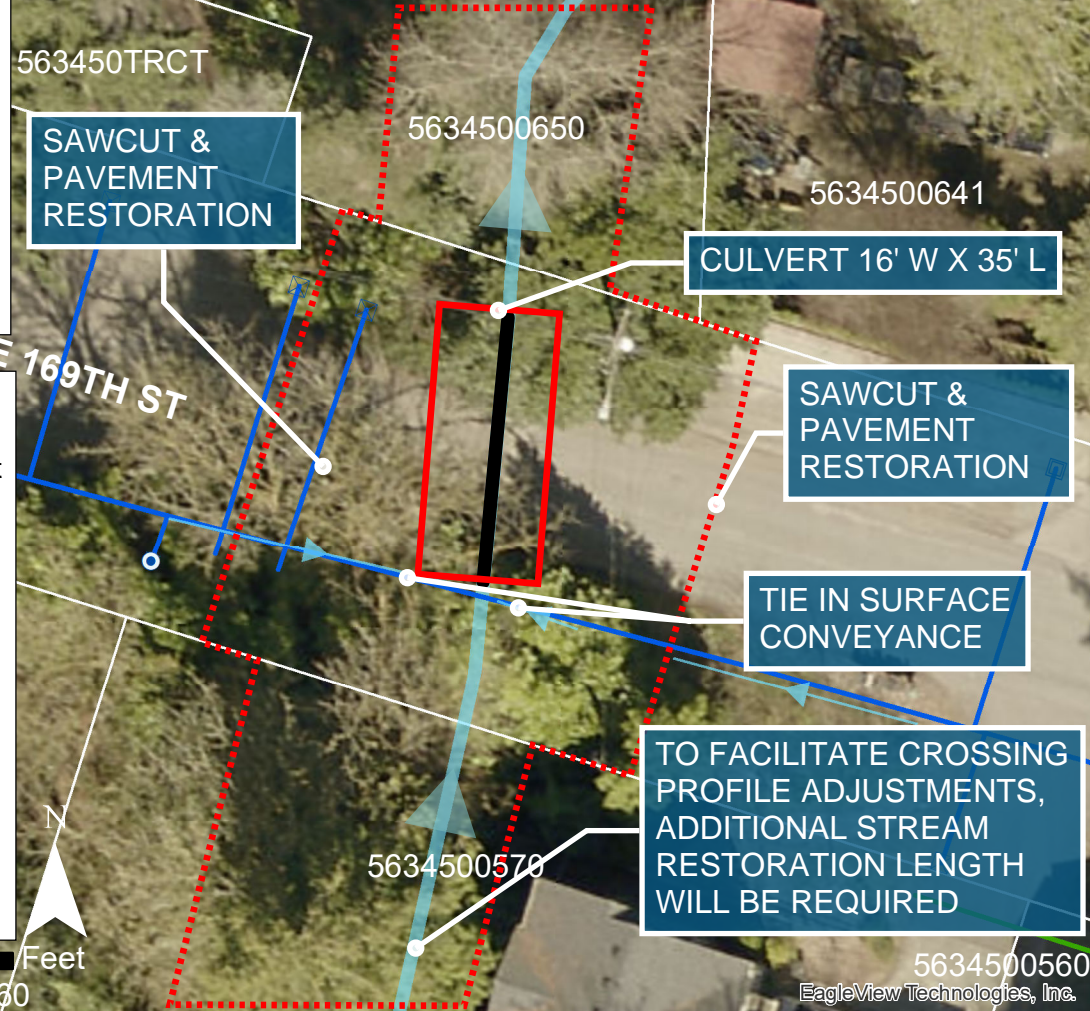
## Cost Estimate

The concept design cost estimate for this fish passage culvert is an analogous estimate based on recently completed culvert replacement projects in the City. It is a Class 4 cost estimate based on the AACEI Estimate Classification System. The cost estimate is intended for planning purposes only, and was developed in 2023 using the present-day dollar value.

Item	Cost
Soft Cost	\$405,000
Structure Replacement	\$745,000
ROW Improvement	\$215,000
Stream Restoration	\$60,000
Contingency	\$360,000
<b>Total</b>	<b>\$1,785,000</b>

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## Project Overview

The existing culvert crossing at the intersection of Sammamish Tributary 1 and NE 169th St was identified by WDFW as a full barrier to fish passage July 26, 2021. The existing crossing is a 24-inch concrete culvert with approximately 5.0 feet of roadway fill at the downstream end. The City has identified this crossing as a high priority for replacement using the Culvert Prioritization Spreadsheet due to its significant environmental benefits. The project will result in a fish habitat gain of 7,140 square feet for many potential species including sockeye salmon, cutthroat trout, bull trout, resident trout, steelhead trout, and coho salmon.



Downstream End of Existing Culvert

## Concept Design

The concept design for the replacement culvert is based on stream simulation culvert design, as described in WDFW's Water Crossing Design Guidelines published in 2013. The concept design bankfull width for the site is 11.0 feet based on field measurements taken near the stream crossing. The bankfull width and the existing crossing length were used to determine concept design culvert dimensions of 16-feet wide by 35-feet long. The culvert depth is expected to be standard based on the stream profile relative to the roadway. The stream invert elevation drops significantly downstream of the crossing, so the restoration project will need to extend further up or down stream to fully remove the fish barrier. This will require the acquisition of an easement for construction. The water utility systems near this project is expected to require standard relocation or replacement.

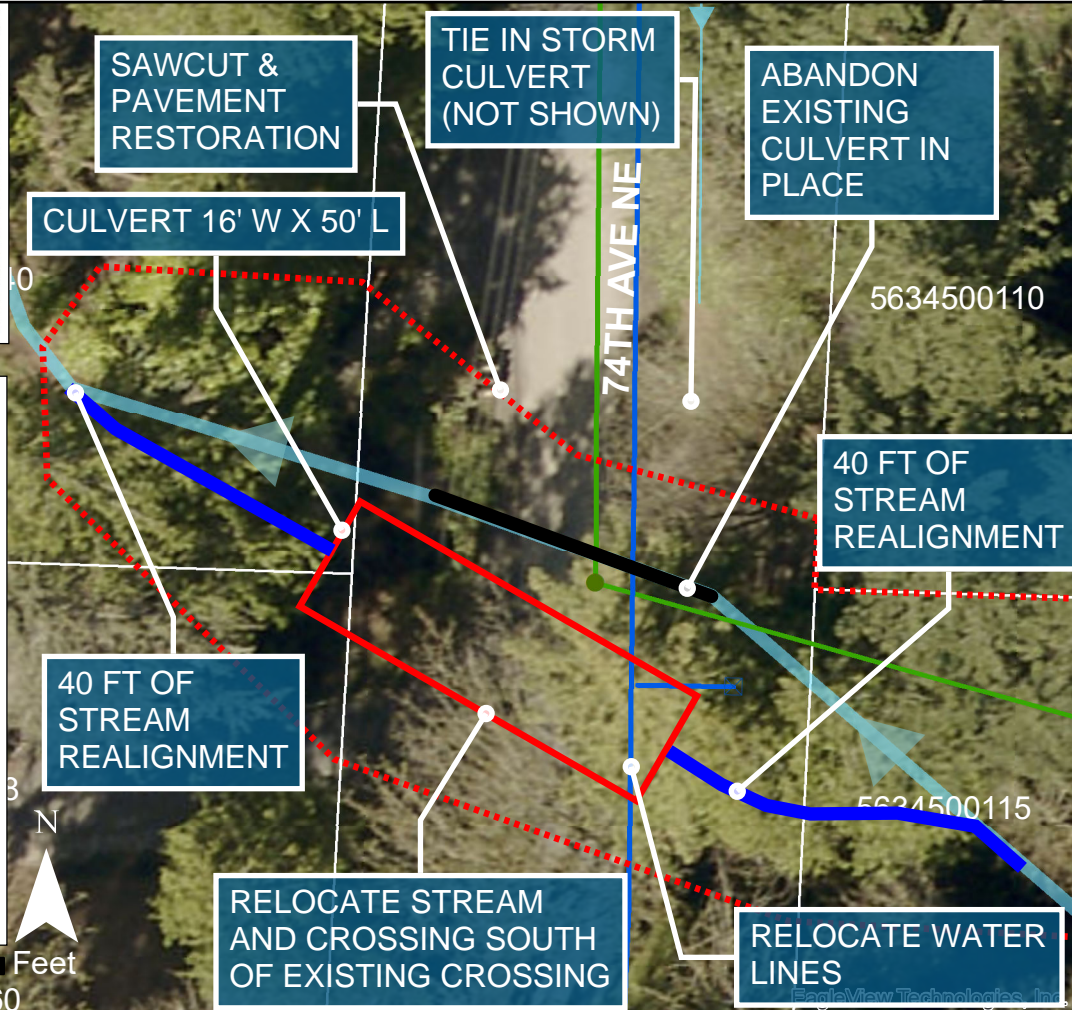
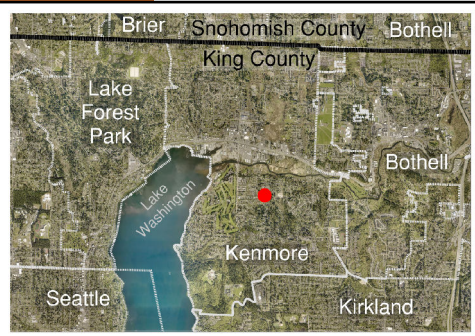
## Cost Estimate

The concept design cost estimate for this fish passage culvert is an analogous estimate based on recently completed culvert replacement projects in the City. It is a Class 4 cost estimate based on the AACEI Estimate Classification System. The cost estimate is intended for planning purposes only, and was developed in 2023 using the present-day dollar value.

Item	Cost
Soft Cost	\$520,000
Structure Replacement	\$785,000
ROW Improvement	\$130,000
Stream Restoration	\$215,000
Contingency	\$415,000
<b>Total</b>	<b>\$2,065,000</b>

**Draft Print**





## LEGEND:

- Existing Fish Barrier Culvert
- NUD Water Structure
- NUD Sewer Structure
- NUD Water Line
- NUD Sewer Line
- ▶ Stream
- ▶ Open Conveyance
- Project Extents
- Culvert Footprint

0 30 60 Feet

## Project Overview

The existing culvert crossing at the intersection of Tributary 0057 and 74th Ave NE was identified by WDFW as a partial barrier to fish passage August 19, 2021. The existing crossing is a 24-inch concrete culvert with approximately 4.0 feet of roadway fill at the downstream end. The City has identified this crossing as a high priority for replacement using the Culvert Prioritization Spreadsheet due to its significant environmental and community benefits. The project will result in a fish habitat gain of 29,500 square feet for many potential species including sockeye salmon, cutthroat trout, bull trout, resident trout, steelhead trout, and coho salmon.



Downstream End of Existing Culvert

## Concept Design

The concept design for the replacement culvert is based on stream simulation culvert design, as described in WDFW's Water Crossing Design Guidelines published in 2013. The concept design bankfull width for the site is 11.0 feet based on field measurements taken near the stream crossing. The bankfull width and the existing crossing length were used to determine the concept design culvert dimensions of 16-feet wide by 50-feet long. The culvert depth is expected to be standard based on the stream profile relative to the roadway. The existing crossing is near a sewer manhole. Installing the fish passable culvert at the existing culvert location may require extensive sewer realignment and installation of additional manholes. This concept design proposes relocating the crossing to the south of the sewer line to avoid this conflict.

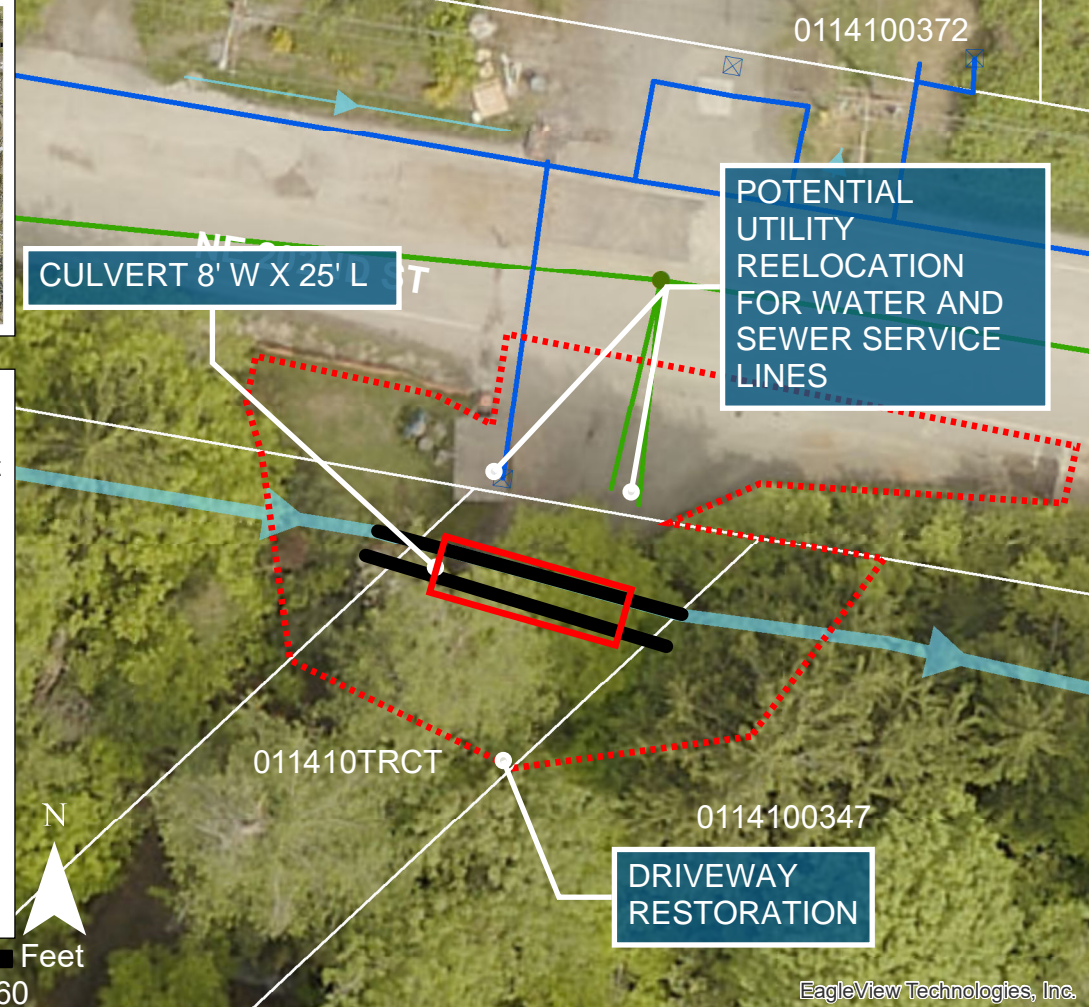
## Cost Estimate

The concept design cost estimate for this fish passage culvert is an analogous estimate based on recently completed culvert replacement projects in the City. It is a Class 4 cost estimate based on the AACEI Estimate Classification System. The cost estimate is intended for planning purposes only, and was developed in 2023 using the present-day dollar value.

Item	Cost
Soft Cost	\$505,000
Structure Replacement	\$1,010,000
ROW Improvement	\$100,000
Stream Restoration	\$200,000
Contingency	\$455,000
<b>Total</b>	<b>\$2,270,000</b>

**Draft Print**





## LEGEND:

- Existing Fish Barrier Culvert
- NUD Water Structure
- NUD Sewer Structure
- NUD Water Line
- NUD Sewer Line
- Stream
- Open Conveyance
- Project Extents
- Culvert Footprint

## Project Overview

The existing culvert crossing at the intersection of Blueberry Creek and a private driveway off of NE 202nd St was identified by WDFW as a partial barrier to fish passage on December 28, 2000. The existing crossing consists of two 12-inch concrete culverts with approximately 3.0 feet of roadway fill. The City has identified this crossing as a high priority for replacement using the Culvert Prioritization Spreadsheet due to its significant environmental benefits. The project will result in a fish habitat gain of 8,720 square feet for many potential species including cutthroat trout, resident trout, steelhead trout, and coho salmon.



Downstream End of Existing Culvert

## Concept Design

The concept design for the replacement culvert is based on stream simulation culvert design, as described in WDFW's Water Crossing Design Guidelines published in 2013. The concept design bankfull width for the site is 5.0 feet based on field measurements taken near the stream crossing. The bankfull width and the existing crossing length were used to determine concept design culvert dimensions of 8-feet wide by 25-feet long. The culvert depth is expected to be standard based on the stream profile relative to the roadway. For this concept level design it was assumed that the existing slope through the crossing would be adequate for flood conveyance and fish passage, which keeps the project area small. The stream and crossing are located on private property, so an easement will be required. The sewer and water utility lines near this project are expected to require standard relocation or replacement.

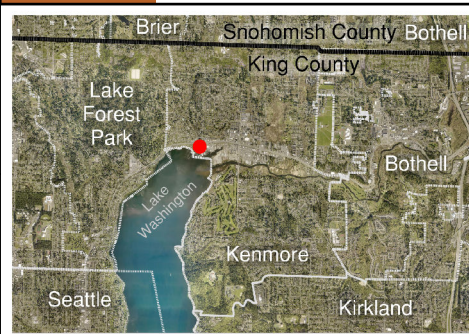
## Cost Estimate










The concept design cost estimate for this fish passage culvert is an analogous estimate based on recently completed culvert replacement projects in the City. It is a Class 4 cost estimate based on the AACEI Estimate Classification System. The cost estimate is intended for planning purposes only, and was developed in 2023 using the present-day dollar value.

Item	Cost
Soft Cost	\$445,000
Structure Replacement	\$485,000
ROW Improvement	\$110,000
Stream Restoration	\$110,000
Contingency	\$290,000
<b>Total</b>	<b>\$1,440,000</b>

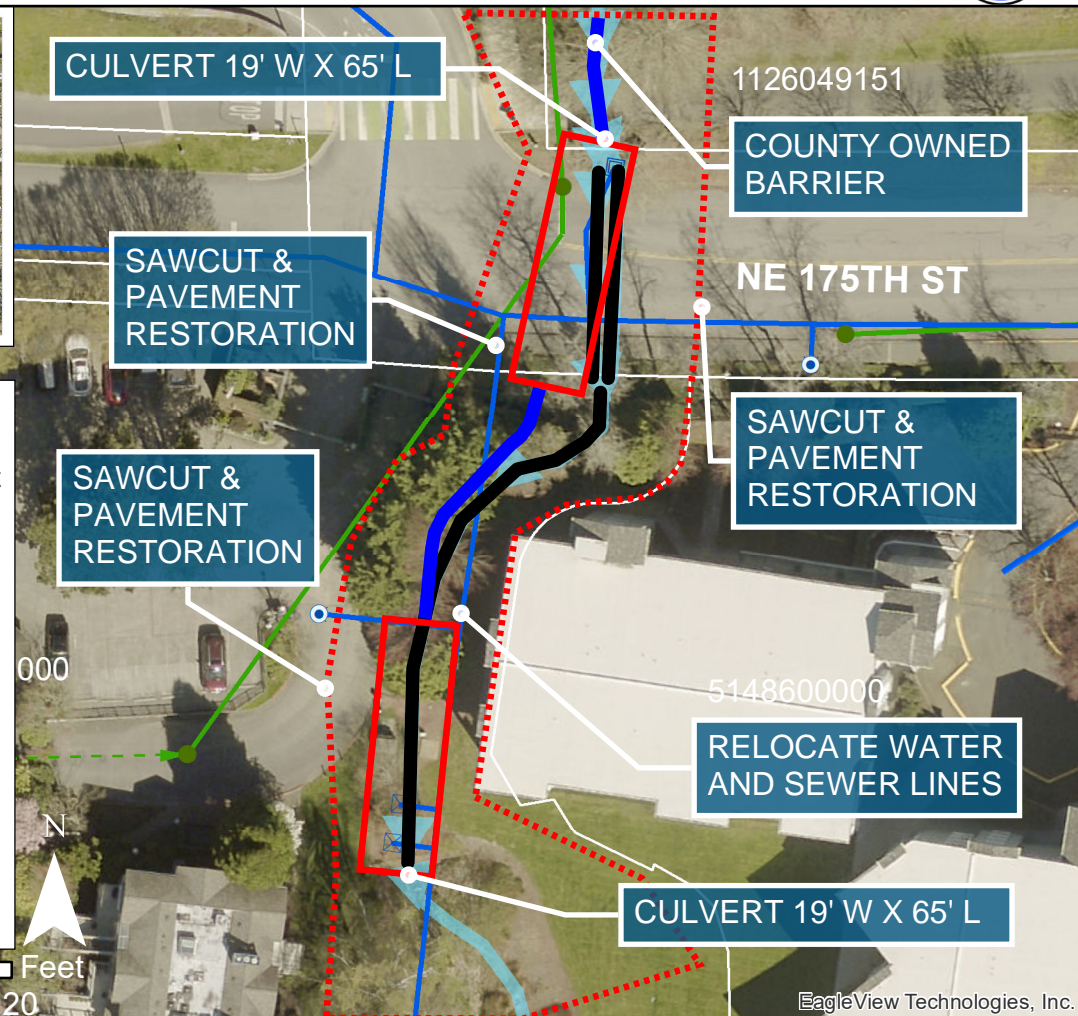
**Draft Print**



**LEGEND:**

-  Existing Fish Barrier Culvert
-  NUD Water Structure
-  NUD Sewer Structure
-  NUD Water Line
-  NUD Sewer Line
-  Stream
-  Open Conveyance
-  Project Extents
-  Culvert Footprint

0 30 60 120 Feet



EagleView Technologies, Inc.

## Project Overview

The existing culvert crossing at the intersection of Tributary 0056 and NE 175th St is connected to a privately owned culvert downstream. Both crossings were evaluated by WDFW on March 29, 2006, but a barrier status was not determined. The city owned portion of the crossing consists of two 42-inch culverts. The City has identified this crossing as a high priority for replacement using the Culvert Prioritization Spreadsheet due to its significant environmental benefits. The project will result in a fish habitat gain of 75,760 square feet for many potential species including resident trout, steelhead trout, and coho salmon.



Upstream End of Existing Culvert

## Concept Design

The concept design for the replacement culvert is based on stream simulation culvert design, as described in WDFW's Water Crossing Design Guidelines published in 2013. The concept design bankfull width for the site is 14.0 feet based on field measurements taken near the stream crossing. The design includes two culverts. The bankfull width and the existing crossing length were used to determine concept design culvert dimensions of 19-feet wide by 65-feet long for each culvert. The culvert depth is expected to be standard based on the stream profile relative to the roadway. For this concept level design there was not coordination with the condo association (downstream landowner) or WSDOT (owner of barrier 150 feet upstream). The project scope may change with further coordination. One of the culverts is located on private property, so an easement will be required. The water utility systems near this project are expected to require standard relocation or replacement.

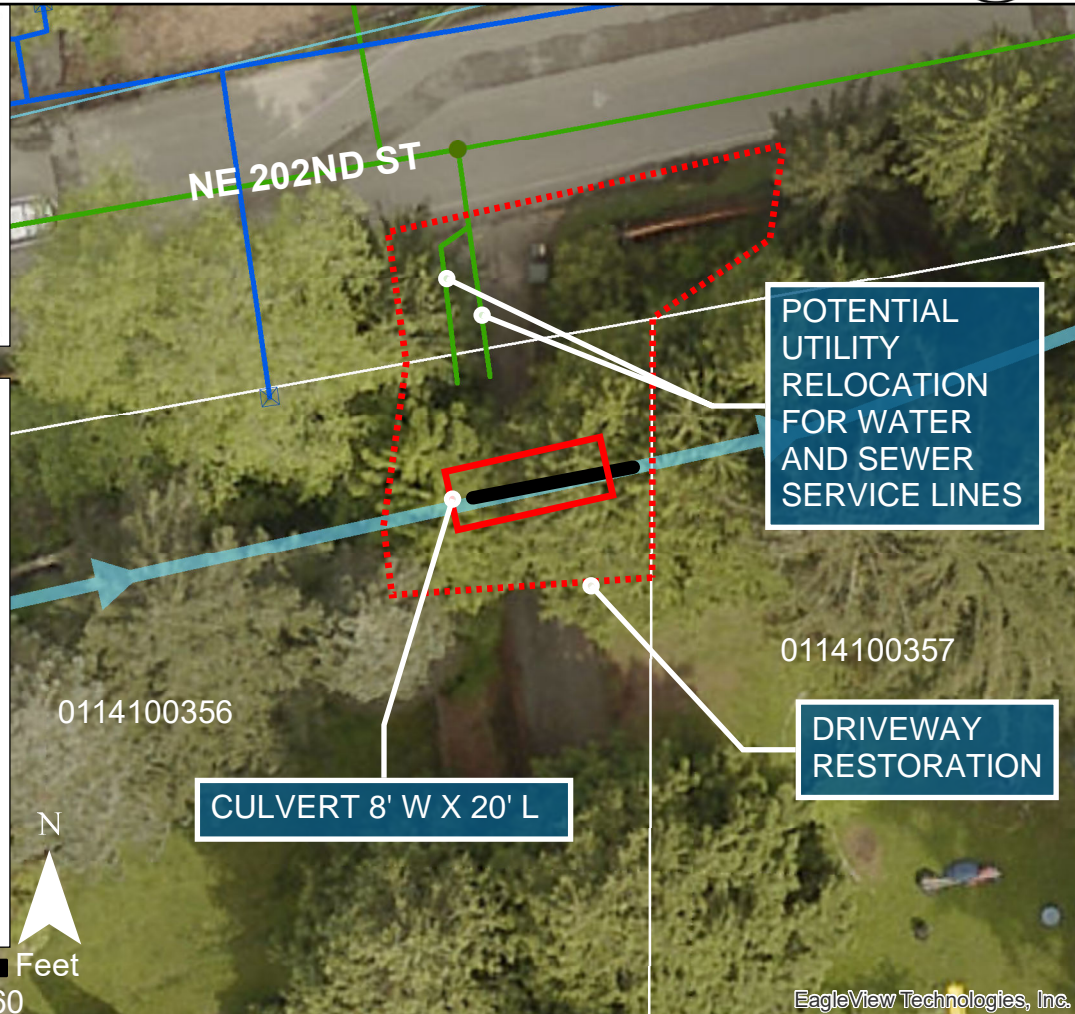
## Cost Estimate

The concept design cost estimate for this fish passage culvert is an analogous estimate based on recently completed culvert replacement projects in the City. It is a Class 4 cost estimate based on the AACEI Estimate Classification System. The cost estimate is intended for planning purposes only, and was developed in 2023 using present-day dollar value.

Item	Cost
Soft Cost	\$725,000
Structure Replacement	\$3,850,000
ROW Improvement	\$160,000
Stream Restoration	\$320,000
Contingency	\$1,265,000
<b>Total</b>	<b>\$6,320,000</b>

**Draft Print**



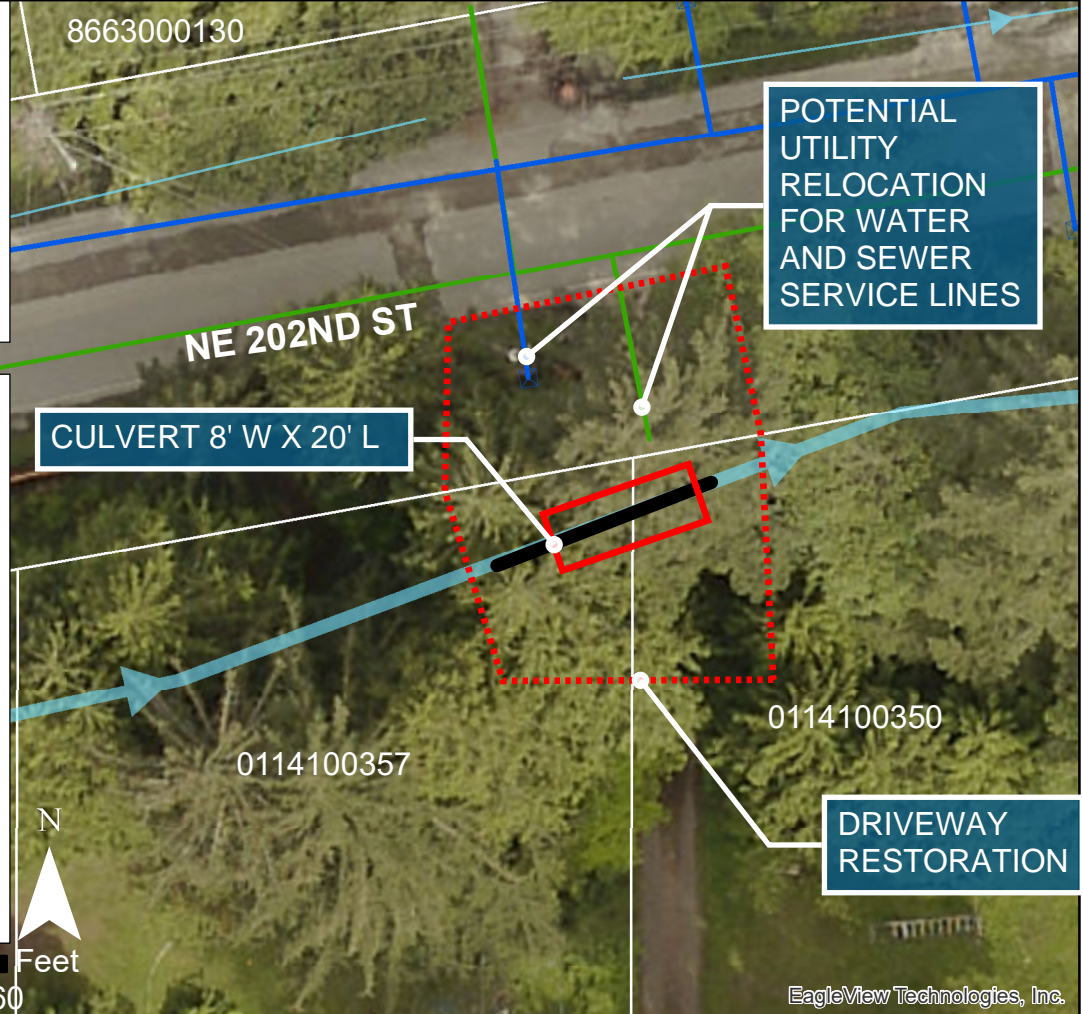


Downstream End of Existing Culvert

The concept design for the replacement culvert is based on stream simulation culvert design, as described in WDFW's Water Crossing Design Guidelines published in 2013. The concept design bankfull width for the site is 5.0 feet based on field measurements taken near the stream crossing. The bankfull width and the existing crossing length were used to determine concept design culvert dimensions of 8-feet wide by 20-feet long. The culvert depth is expected to be standard based on the stream profile relative to the roadway. For this concept level design it was assumed that the existing slope through the crossing would be adequate for flood conveyance and fish passage, which keeps the project area small. The stream and crossing are located on private property, so an easement will be required. The sewer utility lines near this project are expected to require standard relocation or replacement.

Item	Cost
Soft Cost	\$445,000
Structure Replacement	\$465,000
ROW Improvement	\$120,000
Stream Restoration	\$55,000
Contingency	\$275,000
<b>Total</b>	<b>\$1,360,000</b>





## LEGEND:

- Existing Fish Barrier Culvert
- NUD Water Structure
- NUD Sewer Structure
- NUD Water Line
- NUD Sewer Line
- Stream
- Open Conveyance
- Project Extents
- Culvert Footprint

## Project Overview

The existing culvert crossing at the intersection of Blueberry Creek and a private driveway off of NE 202nd St was identified by WDFW as a partial barrier to fish passage on January 3, 2001. The existing crossing is an 18-inch diameter concrete culvert with approximately 2.5 feet of roadway fill. The City has identified this crossing as a high priority for replacement using the Culvert Prioritization Spreadsheet due to its significant environmental benefits. The project will result in a fish habitat gain of 7,890 square feet for many potential species including cutthroat trout, resident trout, steelhead trout, and coho salmon.



Downstream End of Existing Culvert

## Concept Design

The concept design for the replacement culvert is based on stream simulation culvert design, as described in WDFW's Water Crossing Design Guidelines published in 2013. The concept design bankfull width for the site is 5.0 feet based on field measurements taken near the stream crossing. The bankfull width and the existing crossing length were used to determine concept design culvert dimensions of 8-feet wide by 20-feet long. The culvert depth is expected to be standard based on the stream profile relative to the roadway. For this concept level design it was assumed that the existing slope through the crossing would be adequate for flood conveyance and fish passage, which keeps the project area small. The stream and crossing are located on private property, so an easement will be required. The sewer utility lines near this project are expected to require standard relocation or replacement.

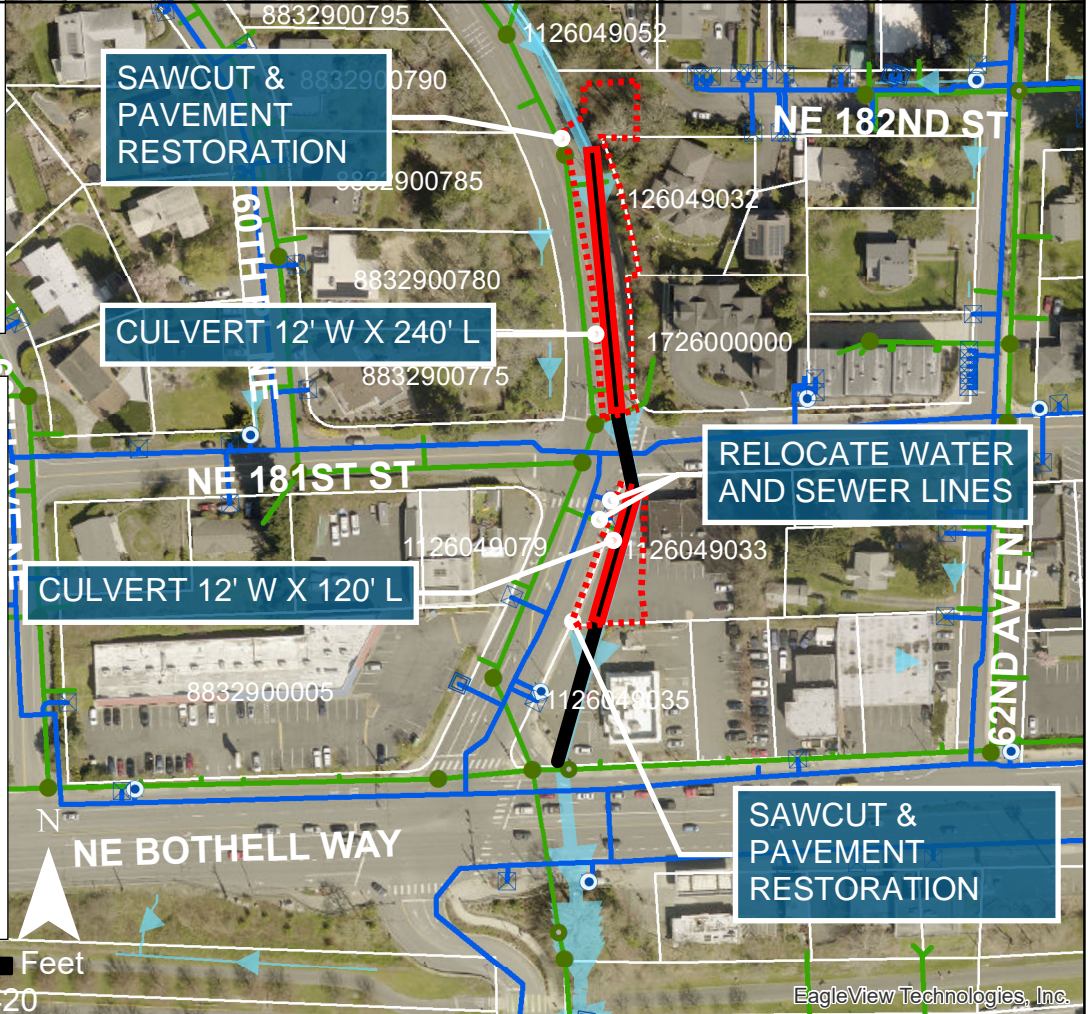
## Cost Estimate

The concept design cost estimate for this fish passage culvert is an analogous estimate based on recently completed culvert replacement projects in the City. It is a Class 4 cost estimate based on the AACEI Estimate Classification System. The cost estimate is intended for planning purposes only, and was developed in 2023 using present-day dollar value.

Item	Cost
Soft Cost	\$445,000
Structure Replacement	\$465,000
ROW Improvement	\$120,000
Stream Restoration	\$55,000
Contingency	\$275,000
<b>Total</b>	<b>\$1,360,000</b>

**Draft Print**





## LEGEND:

- Existing Fish Barrier Culvert
- NUD Water Structure
- NUD Sewer Structure
- NUD Water Line
- NUD Sewer Line
- Stream
- Open Conveyance
- Project Extents
- Culvert Footprint

## Project Overview

The existing culvert crossing at the intersection of Tributary 0056 and NE 181st st was identified by WDFW as a full barrier to fish passage on January 20, 2005. The downstream end of the crossing is connected to a WSDOT culvert, which is also a barrier to fish passage. The existing culvert is a 60-inch CMP culvert with approximately 2.0 feet of roadway fill. The City has identified this crossing as a high priority for replacement using the Culvert Prioritization Spreadsheet due to its significant environmental benefits. The project will result in a fish habitat gain of 70,370 square feet for many potential species including cutthroat trout, resident trout, steelhead trout, and coho salmon.



Upstream End of Existing Culvert

## Concept Design

The concept design for the replacement culvert is based on stream simulation culvert design, as described in WDFW's Water Crossing Design Guidelines published in 2013. The concept design bankfull width for the site is 8.0 feet based on field measurements taken near the stream crossing. The bankfull width and the existing crossing length were used to determine concept design culvert dimensions of 12-feet wide by 440 feet long. The culvert depth is expected to be standard based on the stream profile relative to the roadway. For this concept level design it was assumed that the existing slope through the crossing would be adequate for flood conveyance and fish passage, which keeps the project area relatively small the sewer and water utility lines near this project are expected to require standard relocation or replacement.

## Cost Estimate










The concept design cost estimate for this fish passage culvert is an analogous estimate based on recently completed culvert replacement projects in the City. It is a Class 4 cost estimate based on the AACEI Estimate Classification System. The cost estimate is intended for planning purposes only, and was developed in 2023 using present-day dollar value.

Item	Cost
Soft Cost	\$885,000
Structure Replacement	\$4,090,000
ROW Improvement	\$970,000
Stream Restoration	\$50,000
Contingency	\$1,500,000
<b>Total</b>	<b>\$7,495,000</b>

**Draft Print**



**LEGEND:**

-  Existing Fish Barrier Culvert
-  NUD Water Structure
-  NUD Sewer Structure
-  NUD Water Line
-  NUD Sewer Line
-  Stream
-  Open Conveyance
-  Project Extents
-  Culvert Footprint

Feet  
0 30 60ACCESS  
FROM 66TH  
AVE NE

CULVERT 8' W X 45' L

SAWCUT  
PAVEMENT AND  
DRIVEWAY  
RESTORATION

0114100306

EagleView Technologies, Inc.

## Project Overview

The existing culvert crossing at the intersection of Blueberry Creek and a private driveway off of 66th Ave NE was identified by WDFW as a partial barrier to fish passage on July 28, 2022. The existing crossing consists a 24-inch concrete culvert with approximately 2 feet of roadway fill. The City has identified this crossing as a high priority for replacement using the Culvert Prioritization Spreadsheet due to its significant environmental benefits. The project will result in a fish habitat gain of 14,030 square feet for many potential species including cutthroat trout, resident trout, steelhead trout, and coho salmon.



## Concept Design

The concept design for the replacement culvert is based on stream simulation culvert design, as described in WDFW's Water Crossing Design Guidelines published in 2013. The concept design bankfull width for the site is 5.0 feet based on field measurements taken near the stream crossing. The bankfull width and the existing crossing length were used to determine concept design culvert dimensions of 8-feet wide by 45-feet long. The culvert depth is expected to be standard based on the stream profile relative to the roadway. For this concept level design it was assumed that the existing slope through the crossing would be adequate for flood conveyance and fish passage, which keeps the project area small. The stream and crossing are located on private property, so an easement will be required.

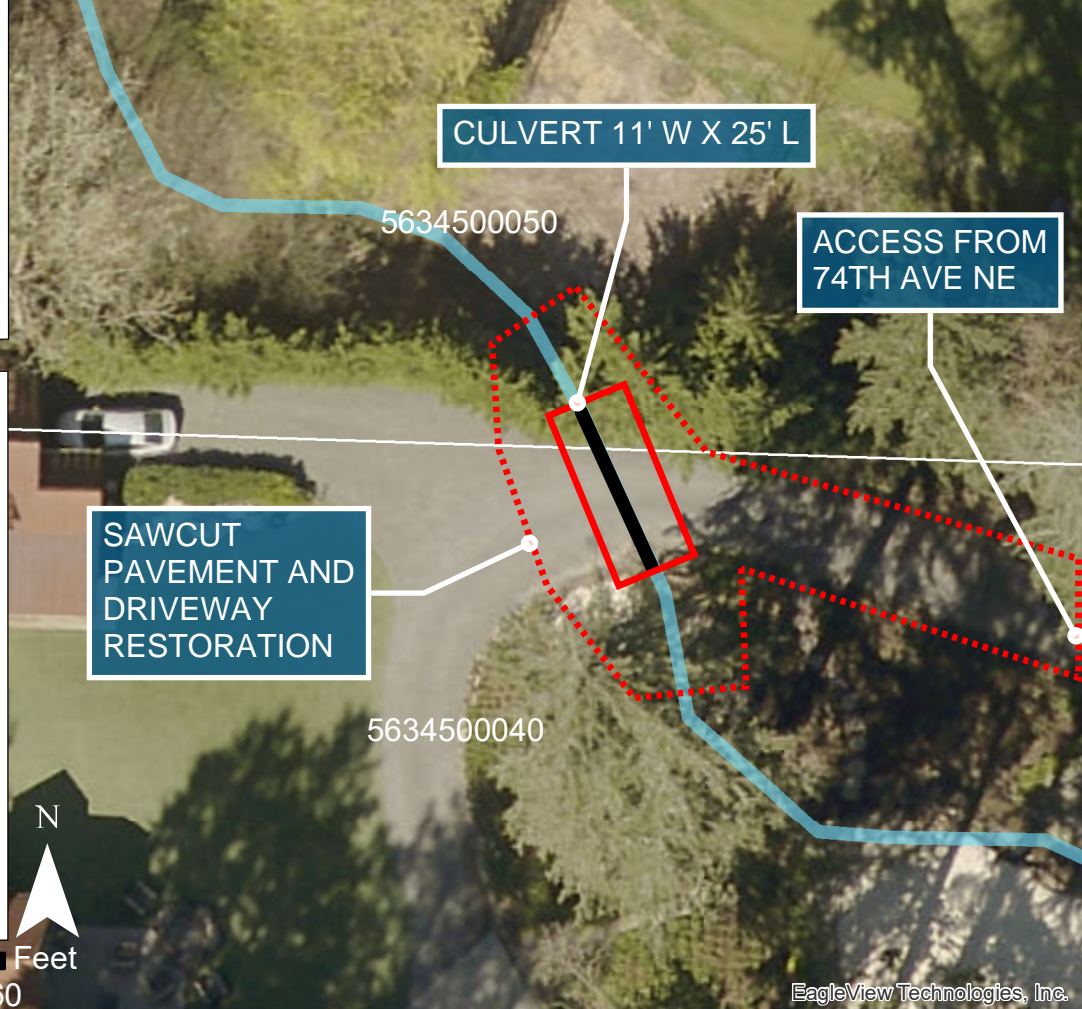
## Cost Estimate

The concept design cost estimate for this fish passage culvert is an analogous estimate based on recently completed culvert replacement projects in the City. It is a Class 4 cost estimate based on the AACEI Estimate Classification System. The cost estimate is intended for planning purposes only, and was developed in 2023 using present-day dollar value.

Item	Cost
Soft Cost	\$445,000
Structure Replacement	\$645,000
ROW Improvement	\$45,000
Stream Restoration	\$60,000
Contingency	\$300,000
<b>Total</b>	<b>\$1,495,000</b>

Draft Print





## LEGEND:

- Existing Fish Barrier Culvert
- NUD Water Structure
- NUD Sewer Structure
- NUD Water Line
- NUD Sewer Line
- Stream
- Open Conveyance
- Project Extents
- Culvert Footprint

## Project Overview

The existing culvert crossing at the intersection of Tributary 0057 and a private driveway off of 74th Ave NE was identified by WDFW as a partial barrier to fish passage on August 19, 2021. The existing crossing consists a 48-inch concrete culvert with approximately 2 feet of roadway fill. The City has identified this crossing as a high priority for replacement using the Culvert Prioritization Spreadsheet due to its significant environmental benefits. The project will result in a fish habitat gain of 31,248 square feet for many potential species including sockeye salmon, cutthroat trout, resident trout, steelhead trout, and coho salmon and bull trout.



Upstream End of Existing Culvert

## Concept Design

The concept design for the replacement culvert is based on stream simulation culvert design, as described in WDFW's Water Crossing Design Guidelines published in 2013. The concept design bankfull width for the site is 7.0 feet based on field measurements taken near the stream crossing. The bankfull width and the existing crossing length were used to determine concept design culvert dimensions of 11-feet wide by 25-feet long. The culvert depth is expected to be standard based on the stream profile relative to the roadway. For this concept level design it was assumed that the existing slope through the crossing would be adequate for flood conveyance and fish passage, which keeps the project area small. The stream and crossing are located on private property, so an easement will be required.

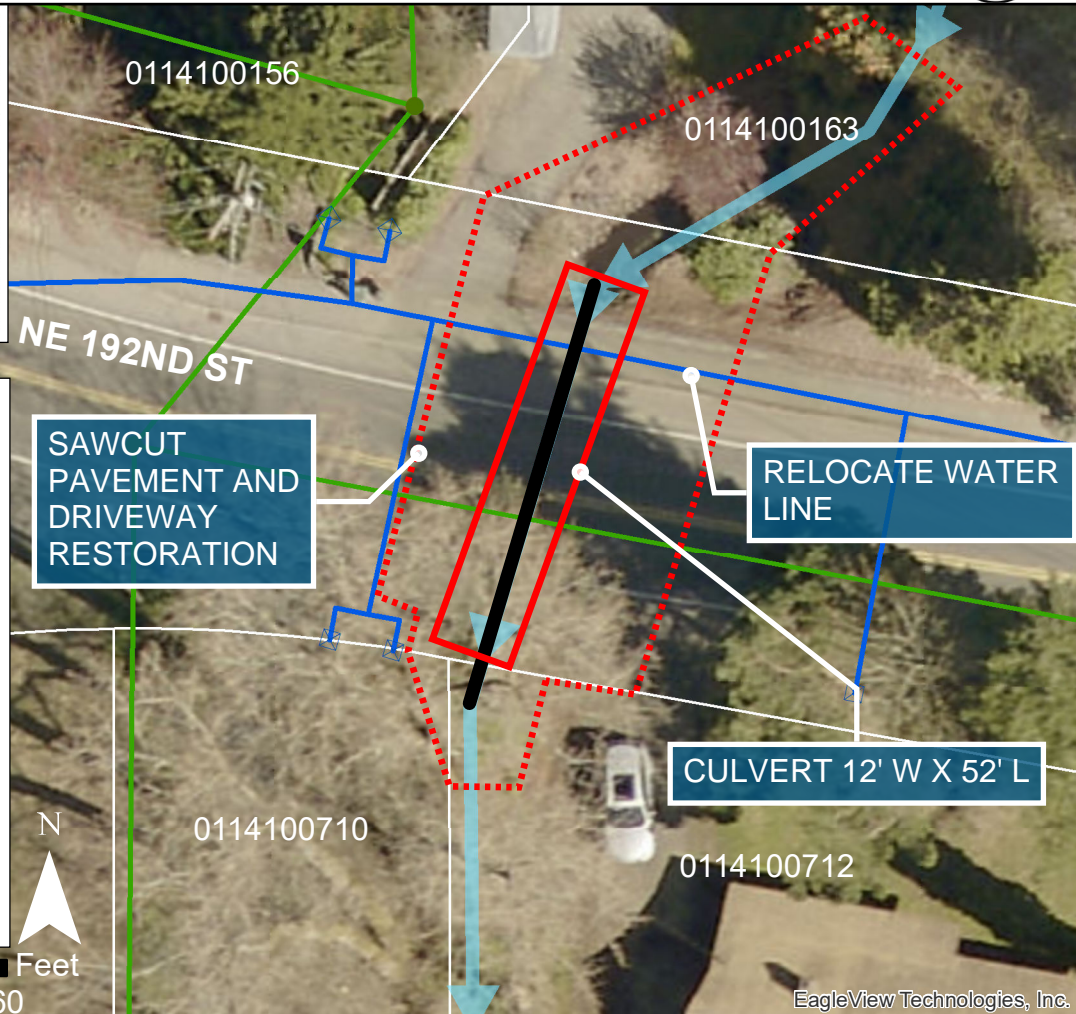
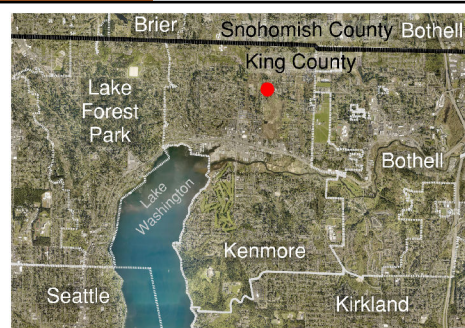
## Cost Estimate

The concept design cost estimate for this fish passage culvert is an analogous estimate based on recently completed culvert replacement projects in the City. It is a Class 4 cost estimate based on the AACEI Estimate Classification System. The cost estimate is intended for planning purposes only, and was developed in 2023 using present-day dollar value.

Item	Cost
Soft Cost	\$445,000
Structure Replacement	\$560,000
ROW Improvement	\$50,000
Stream Restoration	\$70,000
Contingency	\$285,000
<b>Total</b>	<b>\$1,410,000</b>

**Draft Print**





## Project Overview

The existing culvert crossing at the intersection of Swamp Creek Tributary Two and NE 192nd St was identified by WDFW as a partial barrier to fish passage on July 13, 2021. The existing crossing consists a 24-inch concrete culvert with approximately 2 feet of roadway fill. The City has identified this crossing as a high priority for replacement using the Culvert Prioritization Spreadsheet due to its significant environmental benefits. Preliminary design, including hydrologic and hydraulic modeling has been completed for the site. The project will result in a fish habitat gain of 7,309 square feet for many potential species including sockeye salmon, cutthroat trout, resident trout, steelhead trout, and coho salmon and chinook salmon.



Upstream End of Existing Culvert

## Concept Design

The concept design for the replacement culvert is based on stream simulation culvert design, as described in WDFW's Water Crossing Design Guidelines published in 2013, and the preliminary design described in the NE 192nd Street Unnamed Tributary to Swamp Creek Preliminary Design Report. The concept design bankfull width for the site is 7.9 feet based on field measurements taken near the stream crossing. The bankfull width and the existing crossing length were used to determine concept design culvert dimensions of 12-feet wide by 52-feet long and 4-feet deep. Preliminary hydraulic analysis indicates that a 1.42% slope will provide adequate conveyance for floodwater and fish passage. The water utility system will require relocation, but the sewer system will not be impacted by the proposed design. A temporary easement will be required for construction.

## Cost Estimate

The concept design cost estimate for this fish passage culvert is an analogous estimate based on recently completed culvert replacement projects in the City, material quotes, and unit prices from the City of Seattle. It is a Class 3 cost estimate based on the AACEI Estimate Classification System. The cost estimate is intended for planning purposes only, and was developed in 2022 using present-day dollar value.

Item	Cost
Soft Cost	\$375,000
Structure Replacement	\$910,000
ROW Improvement	\$50,000
Stream Restoration	\$50,000
Contingency	\$350,000
<b>Total</b>	<b>\$1,735,000</b>

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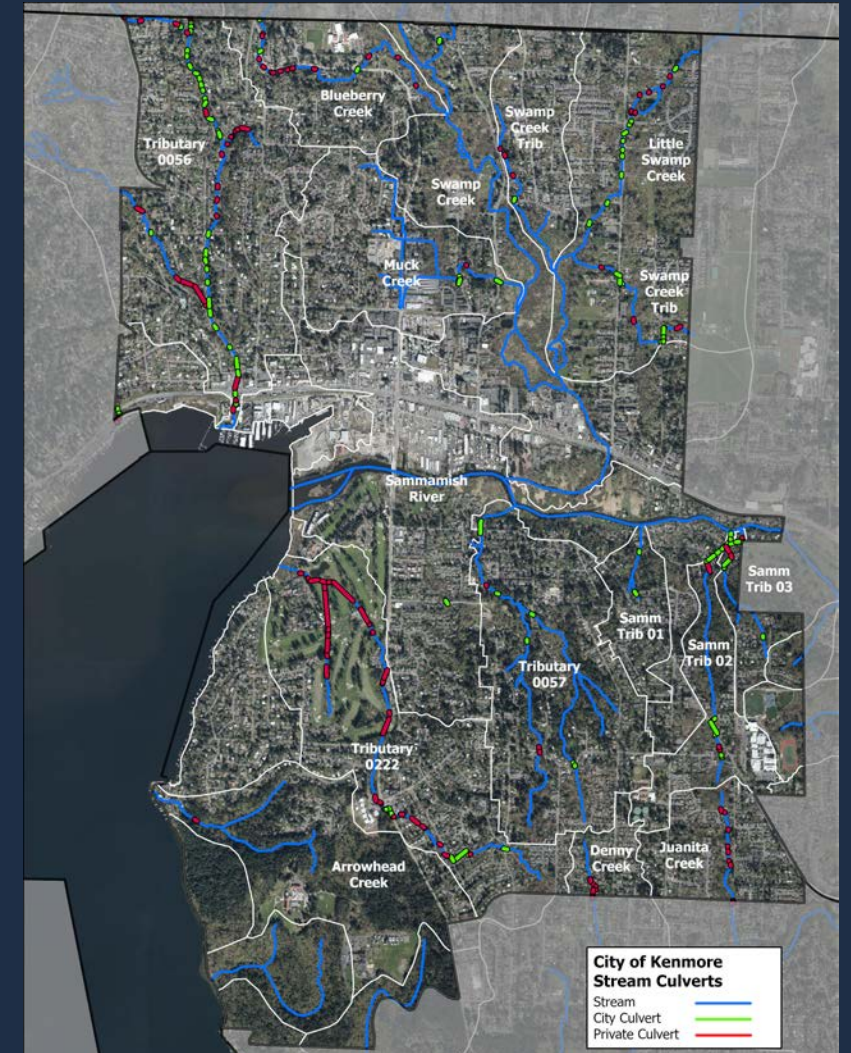


# Culvert Replacement Prioritization

Improving Fish Passage & Habitat

# Fish Bearing Culverts in Kenmore

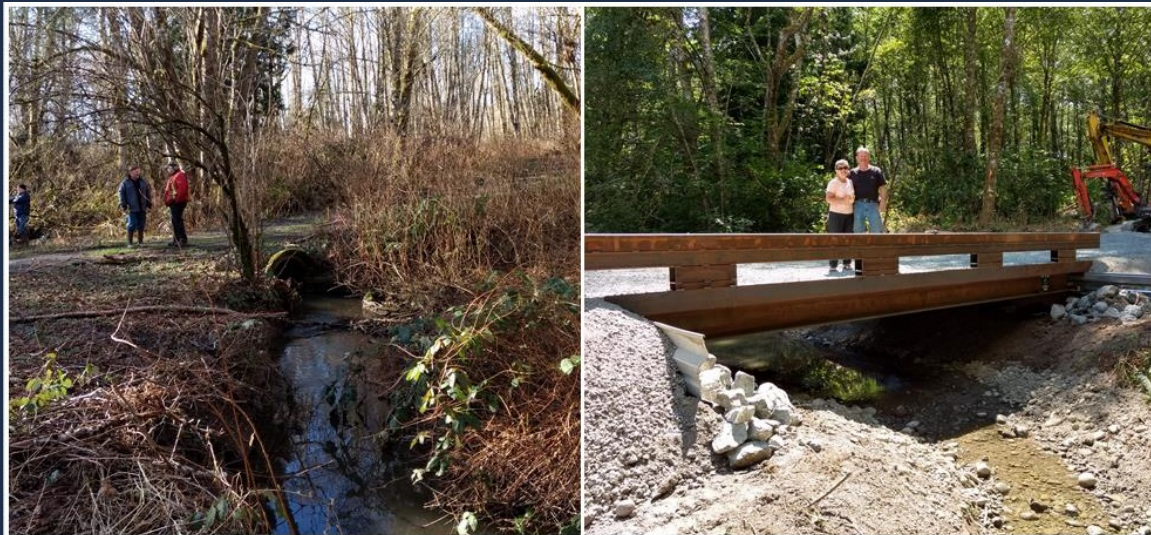
- 228 stream bearing culvert segments in the city's GIS database.
- 15,943 feet in length
- 111 city owned (7,515 feet)
- 117 privately owned (8,428)



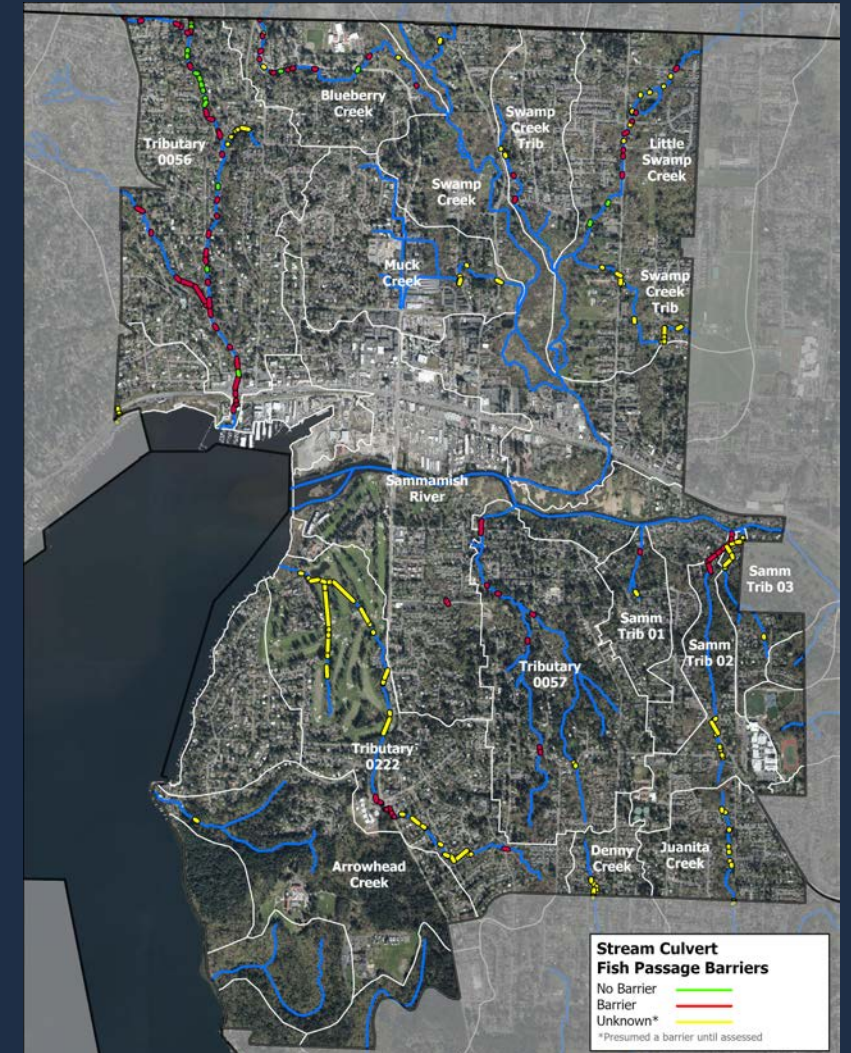


# Fish Passage Barriers in Kenmore

- 94 Culverts identified fish passage barriers
- 117 Culverts unknown (presumed a majority are fish passage barriers)
- 17 Culverts identified 100% fish passable



Ex. Before/After Fish Passage Barrier Removal  
Photo from Skagit Fisheries Enhancement Group



# Where to Start Culvert Prioritization Tool (CPT)

- Prioritization approach
- Weighted factors
- Dynamic tool



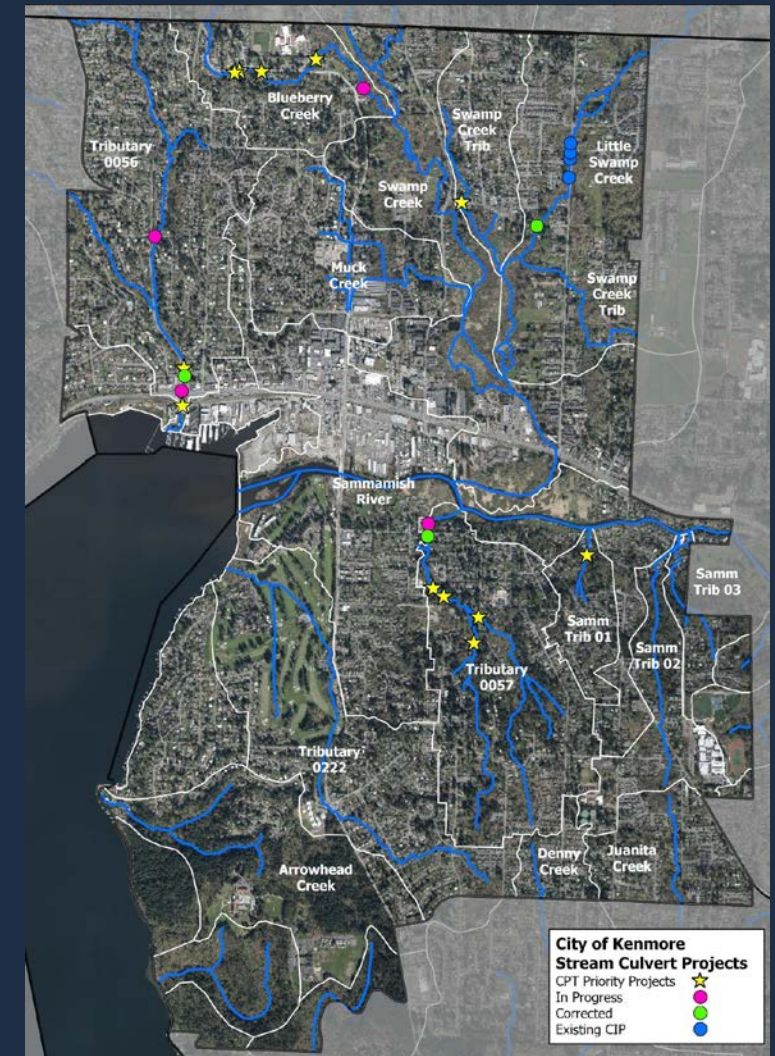
Benefit Type	Benefit Parameters	Parameter Weight (User Input)	Maximum Score
Environment	Calculated PI Score	1	25
	WDFW PI Score	2	
	Status of US Barrier	4	
	Number of DS Full Barriers (This is a negative multiplier)	4	
	Number of DS Partial Barriers (This is a negative multiplier)	3	
	Accessible Channel Created US	15	
	Expected Improvements in Neighboring Jurisdiction	3	
Community	Potential Project Collaboration	6	12
	Funding Opportunities	3	
	Surface Water Benefit	3	
Constructability	Replacement Structure Type	2	7
	Sewer Utility Conflict (This is a negative multiplier)	3	
	Water Utility Conflict (This is a negative multiplier)	1	
	Wetland Critical Areas (This is a negative multiplier)	2	
	Barrier Ownership	1	
	FEMA SFHA	2	
	Fill Depth	2	



# Top Priority Culverts & Potential Habitat Gains

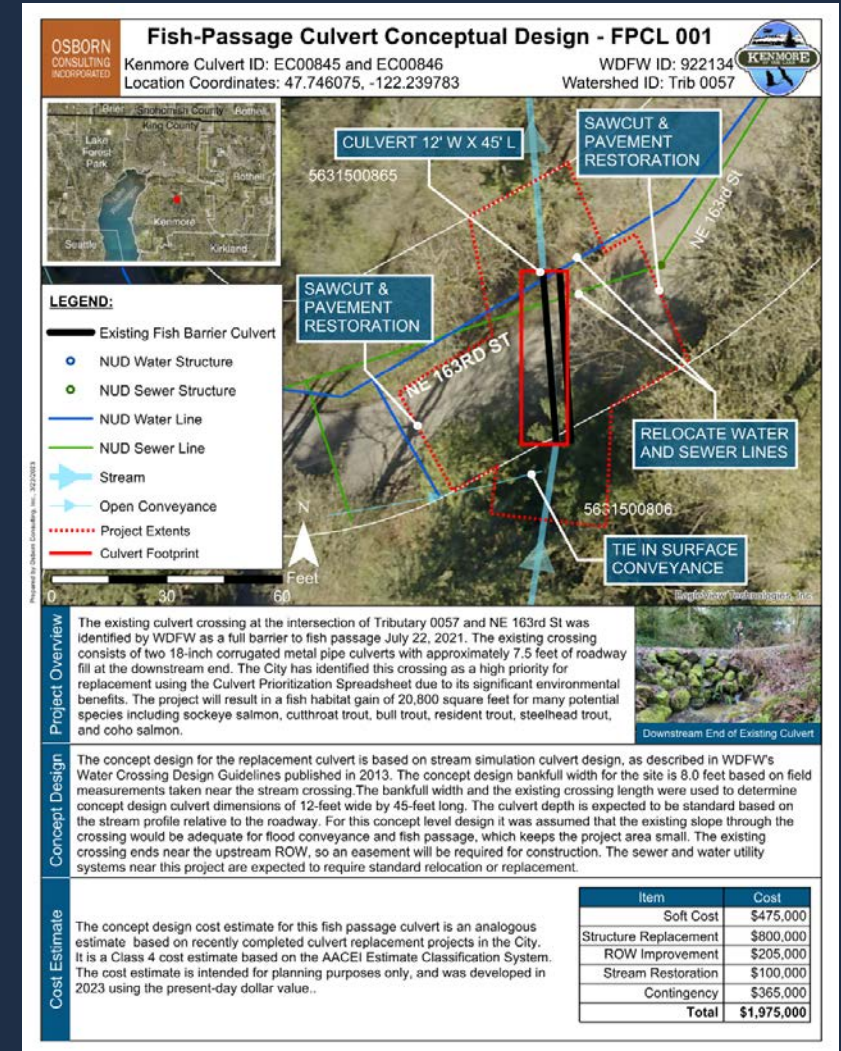
Stream	Number of Culvert Projects	Total Length	Blocked Length	Opened Length	Percent of Blocked Stream Opened
Tributary 0056	2 (CPT)* 1 (Corrected) 2 (In Progress)	13,754	13,194	1,307	9.9%
Blueberry Creek	4 (CPT)* 1 (In Progress)	5,619	4,754	3,603	75.8%
Swamp Creek Tributary	1 (CPT)	3,525	1,941	535	27.6%
Little Swamp Creek	4 (Existing CIP) 1 (Corrected)	9,300	5,160	2,063	40.0%
Sammamish River Tributary	1 (CPT)	1,776	1,304	1,304	100.0%
Tributary 0057	4 (CPT)* 1 (Corrected) 1 (In Progress)	16,250	15,072	14,800	98.2%
<b>Total</b>	<b>12 CPT Projects</b> <b>4 Existing CIP</b>	<b>50,224</b>	<b>41,425</b>	<b>23,612</b>	<b>57%</b>

\* Includes private culverts



# Next Steps

- Finalize conceptual design sheets for high priority culverts (example shown on right) and develop CIP
- Continue collecting data on unassessed culverts and maintain CPT
- Evaluate budget impacts (average cost of \$2,560,000 / crossing) and present findings and options to Council later this year
- Grant opportunities



# Thank you

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## City Council Business Agenda Item City of Kenmore, WA

<p><b>Subject/Topic:</b> Kenmore Municipal Code Title 12 Update Discussion</p> <p><b>Proposed Council Action/Motion:</b> No action needed</p>	<p><b>For Council Meeting Agenda of:</b> May 1, 2023</p> <p><b>Departments:</b> Public Works Engineering</p> <p><b>Prepared by:</b> John Vicente, Engineering Director</p> <table border="0" style="width: 100%;"> <tr> <td style="width: 70%;"><b>Approved by Department Head:</b></td><td style="text-align: right;"><u><b>Initial &amp; Date</b></u></td></tr> <tr> <td><b>Approved by City Attorney:</b></td><td style="text-align: right;"><u><b>JV 4/18/23</b></u></td></tr> <tr> <td><b>Approved by Finance Director:</b></td><td style="text-align: right;"><u><b>DR 3/16/23</b></u></td></tr> <tr> <td><b>Approved by City Manager:</b></td><td style="text-align: right;"><u><b>NA</b></u></td></tr> <tr> <td></td><td style="text-align: right;"><u><b>SL 4/18/23</b></u></td></tr> </table> <p><b>Exhibits/Attachments:</b> Attachment A: Title 12 Red Lined Changes Attachment B: Title 12 Changes, Clean Copy Attachment C: Summary of Changes Made</p>	<b>Approved by Department Head:</b>	<u><b>Initial &amp; Date</b></u>	<b>Approved by City Attorney:</b>	<u><b>JV 4/18/23</b></u>	<b>Approved by Finance Director:</b>	<u><b>DR 3/16/23</b></u>	<b>Approved by City Manager:</b>	<u><b>NA</b></u>		<u><b>SL 4/18/23</b></u>
<b>Approved by Department Head:</b>	<u><b>Initial &amp; Date</b></u>										
<b>Approved by City Attorney:</b>	<u><b>JV 4/18/23</b></u>										
<b>Approved by Finance Director:</b>	<u><b>DR 3/16/23</b></u>										
<b>Approved by City Manager:</b>	<u><b>NA</b></u>										
	<u><b>SL 4/18/23</b></u>										
<p><b>Recommendation:</b></p> <p>No recommendation at this time, seeking discussion and council feedback</p>											
<p><b>Information/Background:</b></p> <p>On April 3, 2023, council was provided an overview of changes proposed to Chapters 12.05 through 12.55 of Kenmore Municipal Code (KMC) Title 12. On April 17, 2023, a second discussion was provided to discuss proposed changes to Chapters 12.58 through 12-70 of KMC Title 12. After further review, some additional modifications were made to previously presented chapters (see <span style="background-color: #e0ffff;">blue</span> highlighted areas of Attachment A or B). The following changes were made since the last discussion on Title 12:</p> <ul style="list-style-type: none"> <li>• Chapter 12.55 – Utilities on City Rights-of-Way: Section 12.55.150 (Utility Locates) was modified to note that utility locates are to be done at the expense of the utility.</li> <li>• Chapter 12.55 – Utilities on City Rights-of-Way: Section 12.55.170 (Abandonment) was modified as follows:             <ul style="list-style-type: none"> <li>○ Added a time limit of 30-days to remove abandoned facilities,</li> <li>○ Rearranged text for clarity</li> <li>○ Added new text for clarity</li> </ul> </li> </ul> <p>As discussed during both previous council meetings, KMC Title 12 focuses on activity and other actions within the city's right-of-way. Title 12 currently consists of 19 sections. Of those 19 sections, 3</p>											



have been repealed and are no longer in use. Some of the general changes made with the title were global in nature and meant to improve consistency and organization of the title. In general, those changes consisted of:

- Grammatical corrections/edits
- Consolidation of definitions
- Text moved to more logical locations for better flow
- Defined terms were italicized for consistency with the rest of the KMC
- Renaming of terms to be consistent with other documents

Additional changes were made to meet with current state law, to close gaps in the code, and to revise out-of-date information. Attachment C contains a summary of the changes made to each section of Title 12. Items for this evening's discussion are highlighted. Attachment A shows all changes (including the revisions noted above) proposed within Title 12 in red-lined/strike-through format. Attachment B contains the changes to Title 12 in clean format.

The discussion on the changes to Title 12 is being presented at 3 different council meetings. The following is the proposed schedule for discussion:

April 3<sup>rd</sup> :

- Overview of the Title and the purpose for the changes
- Discussion of Chapters 12.05 - 12.55

April 17<sup>th</sup>:

- Discussion of Chapters 12.58 - 12.70

May 1<sup>st</sup>:

- Discussion of Chapters 12.80 - 12.95
- Conclusion and final discussion on Title 12

May 22<sup>nd</sup>:

- Approval of ordinance
- Approve parking prohibition ordinance

#### **Fiscal Considerations:**

None. Staff and legal review time were spent to work on this update

#### **Council Goal/Budget Being Addressed:**

**Council Goal 3:** Enhance Multimodal Transportation Implementation including Pedestrian and Bicycle Safety.

**Council Goal 4:** Develop and Implement a Diversity, Equity, and Inclusion Policy and Program

**Council Goal 6:** Enhance Public Safety

Title 12

STREETS, SIDEWALKS AND PUBLIC SPACES ~~AND BRIDGES~~

Chapters:

- 12.05 General Provisions
- 12.10 Official Street System
- 12.15 Street Closures and Load Restrictions on Streets
- 12.20 Load Limits on Bridges
- 12.25 *Repealed*
- 12.30 *Repealed*
- 12.35 Rights-of-Way
- 12.40 Permit System for Use of City Real Property
- 12.45 Complete Streets Policy
- 12.50 ~~Street-Road~~ Standards
- 12.55 Utilities on City Rights-of-Way
- 12.58 Wireless Communication Facilities within City Rights-of-Way
- 12.60 Public and Private Utilities on Real Property
- 12.65 Snow Emergency Routes
- 12.70 Sidewalks, Planting Strips and Street Trees
- 12.75 *Repealed*
- 12.80 Integrated Transportation Program
- 12.85 State Route 522 Access Management Program
- 12.90 Transportation Benefit District
- 12.95 Right-of-Way Vacations

## Chapter 12.05

### GENERAL PROVISIONS

#### Sections:

- 12.05.010 *Repealed.*  
12.05.015 ~~Construction—Intent.~~  
12.05.020 Financial guarantees authorized.  
12.05.030 Definitions.  
12.05.040 Removal of facilities/~~equipment and personal property~~ in City rights-of-way.  
12.05.050 Violation – Enforcement – Penalty.

#### **12.05.010 Relationship to comprehensive plan and Growth Management Act.**

*Repealed by Ord. 11-0330.* [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.02.010).]

#### **12.05.015 ~~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. It is also the purpose of this code to regulate activities within the *rights-of-way* in the interest of public health, safety and welfare; and to provide for the fees, charges, enforcement, and procedures required to administer such regulations.

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 persons, organizations, ~~franchisees~~ utility, or permittees adjacent to or seeking to use the rights-of-way, and no provision is intended to impose any duty upon the City of Kenmore, 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 Kenmore, or its officers, employees or agents, for any injury or damage resulting from the failure of the persons, organizations, ~~franchisees~~ utility, or permittees 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 Kenmore, its officers, employees or agents.

D. All work performed or contracted by the City within the right-of-way is exempt from the permitting requirements outlined in this Title. [Ord. 18-0458 § 1 (Att. A).]

#### **12.05.020 Financial guarantees authorized.**

The ~~department~~ city manager is authorized to require all *applicants* issued permits or approvals under the provisions of this title to post financial guarantees consistent with the provisions of KMC Title 21. [Ord. 18-0458 § 1 (Att. A); Ord. 11-0330 § 1 (Exh. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.02.020).]

#### **12.05.030 Definitions.**

This section contains definitions of terms used throughout this title.

A. “Abutting property” means real property having a frontage upon or common boundary with the sides or margins of any road or right-of-way.

B.A “Applicant” means a property owner(s), person(s), company, or a public agency, or public or private utility, or authorized agent of the applicant who files an application for a permit under this title requesting approval to access/use publicly owned land or right of way, which owns a right of way or other easement or has been adjudicated the right to such an easement pursuant to RCW 8.12.090, or any person or entity designated or named in writing by the property or easement owner to be the applicant, in an application for a development proposal, permit or approval.



C. “Application” means an application form supplied by the City and completed by the *applicant*, payment for the required application fee(s), and related property site, driveway, roadway, traffic information, and any other documentation as determined necessary by the City in the evaluation of the application.

D. “City” means the City of Kenmore.

E.~~B~~ “City manager” means the City of Kenmore city manager or his or her designee(s).

F. “City engineer” means the city engineer herein authorized with the same powers specified in RCW 36.75.050 and 36.80, or his/her authorized representatives. Whereas “County” shall be replaced with “City” throughout.

G. “City project” means any work performed by the City (either with city personnel or by way of contract) including but not limited to capital projects, *maintenance*, or repair/restoration activities.

H.~~C~~ “City property” means all City real property, including but not limited to recreational trails, *critical areas*, roads, parks and dedicated open space, *that is owned by the City*.

I. “Contractor” means any person, firm, corporation, or other entity who or which, in the pursuit of an independent business undertakes to, or offers to undertake, or submits a bid to, construct, alter, repair, add to, subtract from, improve, develop, move, wreck, demolish, or excavate for any structure, road, sidewalk or other infrastructure below ground, at ground or above ground.

J. “Curb” means a cement, concrete or asphalt raised structure designed to delineate the edge of the travel way or pavement, to separate the vehicular portion from that provided for pedestrians or bicyclists, and for surface water drainage control.

K.~~D~~ “Department” means the City department or outside agency assigned by the city manager to administer a portion of the *City-Municipal* code.

L.~~E~~ “Development” means any activity that requires a permit or approval, including, but not limited to, a *building* permit, grading permit, shoreline substantial development permit, conditional use permit, special use permit, zoning variance or reclassification, subdivision, short subdivision, urban planned development, binding site plan, site development permit or right-of-way use permit (limited, access, and encroachment), *special use permits* *special use permit*, utility permit, right of use agreement, connection permit, or right-of-way vacation.

M.~~F~~ “Encroachment” means any structure, *object*, or *obstructions or objects* *permanent in nature*, including, but not limited to, building extension, marquee, fence, stairway, railing, retaining wall, artwork, *private landscaping*, *barriers*, or any other building or structure constructed, erected or maintained in, over or under any public place, right-of-way, easement, roadway, parking strip and/or sidewalk, including the airspace above them.

N. “Engineering permit” means a *permit* authorizing the use or improvement of privately owned property. Permitted activities include clearing, grading, roads, drainage facilities, utilities.

O “Facility” or “Facilities” means any pole, pipe, line, pipeline, cable, vault, antenna, appurtenances, fixtures, conduit, guys, anchors, vaults, attachments, fencing, or other equipment or structure owned and/or operated by a utility company or public/private agency necessary for a fully functional system.

P. “Franchise” means an agreement granting the non-exclusive right, privilege, and authority to occupy the right-of-way.

Q. “Highway” means the same as “Road.”

R. “Maintenance” means the routine upkeep of the right-of-way or property, equipment, materials, etc. to retain its original function and/or to allow for access or safety.

S. “Permit” means any activity requiring written approval issued by the *City*, subject to conditions stated therein, authorizing the use, construction, alteration, reconstruction, relocation, *maintenance*, or development within the

right-of-way or publicly owned real property. This includes, but not limited to, reclassification of a road, street vacation, and traffic control devices.

T. "Permittee" same as "Applicant."

U. "Professional engineer" means a civil engineer with an active status license in the State of Washington registered in accordance with Chapter 18.43 RCW.

V. "Property owner" means a person(s) or entity with ownership of real (fee title and/or mortgages) or personal property.

W. "Restoration" means activities necessary to replace, repair or otherwise restore the *right-of-way* and adjacent private property and all features contained within to the same or better condition as existed prior to any construction and in compliance with the Road Standards.

X. "Right-of-way" means land and the space above and below, property or property interest, such as a right-of-way use easement, as well as bridges, trestles, or other structures, dedicated to, or otherwise acquired by the City of Kenmore for public motor vehicle, pedestrian, bicycle, or other non-motorized transportation purposes, including, but not limited to, roads and trails, whether or not opened, improved or maintained for public transportation purposes.

Y. "Right-of-way use agreement" is an agreement with the City through which is granted a site-specific and revocable privilege to use city right-of-way at a location identified in the agreement for *facilities* and *wireless communication facilities*, and through which are set forth the terms and conditions for exercising the granted privilege to use the City right-of-way. The *city manager* shall have the discretion to use right-of-way use agreements for other purposes as needed.

~~Z.G~~ "Right-of-way use permit, limited" means a *permit* authorizing a person to enter, ~~the use~~ and/or improvement of the City right-of-way ~~for a designated purpose, typically for a period of time limited to one year or less.~~

~~AA.H~~ "Right-of-way use permit, access" means a *permit* authorizing to enter and ~~the use of~~ unopened City right-of-way for a subdivision or property access, ~~typically for a period of time exceeding one year in duration.~~

~~BB.I~~ "Right-of-way use permit, encroachment" means a *permit* authorizing the use of the City right-of-way for an *encroachment*, ~~typically for a period of time exceeding one year in duration.~~

CC. "Right-of-way utility permit" means a document issued under the authority of the city manager which provides specific authorization, requirements, and conditions for specific utility work at specific locations.

DD. "Road" means the improvements contained within the full width of the right-of-way boundary lines including permanent right-of-way easements obtained for use of the public for purposes of vehicle, pedestrian, and bicycle travel and storm drainage (same as Highway as defined by RCW 46.04.197 and City Street as defined in RCW46.04.120).

EE. "Road Standards" means the City of Kenmore Road Standards adopted under Chapter 12.50 KMC.

FF. "Sidewalk" means that space between the *curb* line or the edge of paved travel lane and the *abutting property*, set aside and intended for the use of pedestrians, improved by paving with cement concrete or asphaltic concrete.

~~GG.J~~ "Special use permit" means a *permit* for the use of *City property* issued pursuant to this title.

HH. "Street" means the same as "Road."

II. "Unimproved *right-of-way*" means any *right-of-way* or portion thereof that has not been improved by the *City* for the use of public transportation. Unimproved right-of-way may contain *facilities*.

JJ.K. “~~Utilities~~Utility” means private and public providers/owners of utility infrastructure, including water, wastewater, electric, telephone, telegraph, telecommunications, fiber optic, ~~personal~~-wireless services, cable television, natural gas lines, and solid waste.

KK. “Wireless” means transmissions through the airwaves including, but not limited to, infrared line of sight, cellular, microwave, or satellite.

LL. “Wireless communication facility” generally means an unmanned facility for the transmission and/or reception of radio frequency (RF) signals or other wireless communications, typically consisting of one or more antennas, a transmission or alternative transmission support structure, cables and other transmission equipment, and an equipment enclosure or cabinets. Wireless communication facility shall not include equipment intended solely for internal household or business use such as wireless modems, cellular signal boosters, or personal cellular cellspots.

MM. “Wireless communication provider” means every person that owns, controls, operates or manages a wireless communication facility within the right-of-way for the purpose of offering wireless communications services (i.e. transmission for hire of information in electronic or optical form, including, but limited to, voice, video, or data.

NN. “Work” means any construction or alteration of existing infrastructure, maintenance, or other improvements or actions whether identified under an approved permit or not.

OO. “WSDOT” means the Washington State Department of Transportation. –[Ord. 18-0458 § 1 (Att. A); Ord. 11-0330 § 1 (Exh. A).]

#### **12.05.040 Removal of facilities/~~equipment~~ and personal property in City rights-of-way.**

Except as may be required by Chapter 35.99 RCW, any utility, company or person (hereby referred to as owner) that locates any facilities/~~equipment~~ or personal property in the rights-of-way shall relocate, remove or reroute said facilities/~~equipment~~ or personal property, as ordered and in the time frame required by the City to accommodate a city project per this Title, at no expense or liability to the City. If an utility-owner fails to timely perform such work/relocation, removal, or reroute, then the city manager may, but is not required to, order and complete all work/actions necessary to remove the facilities/~~equipment~~ or personal property –from the rights-of-way-to-accommodate a city project. The city manager may require the utilityowner –shall to reimburse the City for the reasonable actual costs of the work of removal, including City overhead (provided that in no event shall such overhead exceed 10 percent of the total costs, fees and expenses of third parties), within 30 days of the City’s invoice for such work. In addition, the utility-owner shall indemnify, protect and hold harmless the City from any third-party claims for service interruptions or other losses in connection with any such change or removal of the facilities/~~equipment~~ or personal property, other than the City’s negligence or willful misconduct. [Ord. 18-0458 § 1 (Att. A).]

#### **12.05.050 Violation – Enforcement – Penalty.**

A. The violation of or failure to comply with any provision of this title is declared to be unlawful. The city manager shall have the authority to enforce this title and to adopt procedures for the purpose of implementing or carrying out other responsibilities required by this title.

B. Any violation or failure to comply with any provision of this title is a civil violation as provided for in Chapter 1.20 KMC, for which a monetary penalty may be assessed and abatement may be required as provided herein. Unless otherwise noted elsewhere within this Title, the city manager may, but is not required to, seek voluntary correction pursuant to KMC 1.20.070, prior to the assessment of monetary penalties for violation of this title. [Ord. 18-0458 § 1 (Att. A).]



## Chapter 12.10

### OFFICIAL STREET SYSTEM

#### Sections:

- 12.10.010 Official street system.
- 12.10.020 ~~Maps are exhibits.~~Repealed.
- 12.10.030 Streets included.
- 12.10.040 ~~Revision of street exhibits.~~Repealed.
- 12.10.050 Additions and deletions ~~made by ordinance.~~
- 12.10.060 ~~Repealed.~~
- 12.10.070 Inclusion of streets which have reverted to City from the County.
- 12.10.080 Inaccuracies corrected.

#### 12.10.010 Official street system.

To provide for the administration, *maintenance*, and dedication of *right-of-way* and improvement of the *City's streets/roads*, the *City* needs to identify the official *City* street system. This system will be shown on maps ~~and/or exhibits~~ which will also show the ~~streets/roads~~ for which the *City* has *maintenance* responsibility. [Ord. 11-0330 § 1 (Exh. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.04.010).]

#### 12.10.020 Maps are exhibits.

~~Repealed~~ The aforementioned maps will also be known as exhibits to be indicated by the sheet designation. ~~Computer sheets contained in a loose leaf binder shall be used as reference exhibits in conjunction with the map exhibits. These computer sheets must be revised periodically to correspond with revisions made on the map exhibits.~~ [Ord. 11-0330 § 1 (Exh. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.04.030).]

#### 12.10.030 Streets included.

Only those ~~streets/roads~~ within the boundaries of the *City* shall be considered part of the *City* street system. [Ord. 11-0330 § 1 (Exh. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.04.040).]

#### 12.10.040 Revision of street exhibits.

~~Repealed~~ It shall be the responsibility of the city manager to maintain and revise the *City* street exhibits upon ~~direction by the city council. Revisions shall be made as soon as practicable after any change occurs.~~ [Ord. 11-0330 § 1 (Exh. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.04.050).]

#### 12.10.050 Additions and deletions ~~made by ordinance.~~

~~The city manager shall have the Aa~~ authority ~~to make for~~ additions to, deletions from, or characteristic changes ~~in to~~ the ~~streets/roads~~ on the exhibit sheet ~~City maps shall be by ordinance~~, consistent with RCW 35.78.010. [Ord. 11-0330 § 1 (Exh. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.04.060).]

#### 12.10.060 Streets constructed by Highway Department included.

~~Repealed by Ord. 11-0330.~~ [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.04.070).]

#### 12.10.070 Inclusion of streets which have reverted to City from the County.

The *City* street system shall include all ~~streets/roads/right-of-way~~ which reverted to King County prior to incorporation by virtue of prescriptive rights as set forth in RCW 36.75.070 and 36.75.080. [Ord. 11-0330 § 1 (Exh. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.04.080).]

#### 12.10.080 Inaccuracies corrected.

If any inaccuracies appear on the ~~exhibits/maps that are~~ in conflict with ~~other~~ records on file, the inaccuracies shall be corrected on the ~~exhibits/maps, if applicable,~~ and in no case shall affect the provisions of this chapter or the status of the ~~exhibits/maps~~ as official designators of the official *City* street system. [Ord. 11-0330 § 1 (Exh. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.04.100).]

## Chapter 12.15

### STREET CLOSURES AND LOAD RESTRICTIONS ON STREETS

#### Sections:

- 12.15.010 Street closure policy.  
12.15.020 Winter and emergency load restrictions.

#### **12.15.010 Street closure policy.**

~~The following policy is approved and adopted, and henceforth all~~ All *street* closure and load limit restrictions will be disseminated in accordance with this ~~policy~~Chapter insofar as it is possible to do so.

~~A. Emergency services shall be allowed access through any *street* closure unless otherwise determined by the *city engineer* that such access would result in an unsafe condition to the public or the emergency service provider. If access cannot be provided to emergency services, detours shall be submitted to the *City* and all emergency service providers for approval. A list of streets which will remain open and available for school bus use during thawing conditions will be supplied to each and every school district operating on *City* streets within the *City*.~~

~~B. In the event street closures are required,~~ The school district will be notified prior to 1:00 p.m. on the first business day of the day preceding the any *street* closures on a school bus routes, to be effective the following day. If the morning pickup of children is accomplished, the school district will be permitted to use these routes for the returning of the children to their normal bus stops.

~~C. If sufficient space is available,~~ School buses will be permitted to turn around at the intersection of a school bus route which is closed, and the open route with the minimum maneuvering possible on the closed *street* in the intersection area.

~~D. The *City* will establish the necessary communications with the school district~~ and emergency service providers to provide the proper notifications.

~~E. Street closure as a result of snow inclement weather shall be consistent with the provisions of Chapter 12.65 KMC, all other inclement weather closures shall be consistent with this Chapter and notifications shall be performed in accordance with KMC 12.65.030.~~

~~F. In the event of an emergency, notification of road closures shall be done as soon as possible.~~

~~G. It shall be at the city manager's discretion to close any *street* and shall have the authority to will initiate *street* closures per this policy, and, unless specified otherwise, closures shall be *City* wide.~~ [Ord. 11-0330 § 1 (Exh. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.12.010).]

#### **12.15.020 Winter and emergency load restrictions.**

The following emergency restrictions shall be in effect on *City streets* during such periods of freezing and thawing conditions as determined by the *city manager*:

#### REGULAR WINTER LOAD RESTRICTIONS

Conventional		Tubeless or Special with 0.5 Marking	
Tire Size	Gross Load Each Tire	Tire Size	Gross Load Each Tire
7.00	1,800 lbs.	8-22.5	2,250 lbs.
7.50	2,250 lbs.	9-22.5	2,800 lbs.

**REGULAR WINTER LOAD RESTRICTIONS**

8.25		2,800 lbs.	10-22.5		3,400 lbs.
9.00		3,400 lbs.	11-22.5		4,000 lbs.
10.00		4,000 lbs.	11-24.5		4,000 lbs.
11.00		4,500 lbs.	12-22.5		4,500 lbs.
12.00	or over	4,500 lbs.	12-24.5	or over	4,500 lbs.

**EMERGENCY LOAD RESTRICTIONS**

Conventional Tires			Tubeless or Special with 0.5 Marking		
Tire Size		Gross Load Each Tire	Tire Size		Gross Load Each Tire
7.00		1,800 lbs.	8-22.5		1,800 lbs.
7.50		1,800 lbs.	9-22.5		1,900 lbs.
8.25		1,900 lbs.	10-22.5		2,250 lbs.
9.00		2,250 lbs.	11-22.5		2,750 lbs.
10.00		2,750 lbs.	11-24.5		2,750 lbs.
11.00	or over	3,000 lbs.	12-22.5	or over	3,000 lbs.

A further load restriction of five tons gross on any vehicle may be placed on streets under severe conditions. [Ord. 11-0330 § 1 (Exh. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.12.020).]



## Chapter 12.20

### LOAD LIMITS ON BRIDGES

#### Sections:

- 12.20.010 Gross weight allowed and notification.
- 12.20.020 ~~Limited special-p~~Permits.
- 12.20.030 Maximum gross vehicle weight.
- 12.20.040 Enforcement and penalty.
- 12.20.050 ~~Repealed~~~~West Sammamish River Bridge (1071AW).~~

#### **12.20.010 Gross weight allowed and notification.**

A. It is unlawful for any person to operate a vehicle over any *City* bridge when such vehicle has a gross weight that is greater than the posted maximum weight for that bridge, unless the driver is in possession of a ~~limited special-permit~~ Right-of-way use permit, limited – Type B per KMC 12.035.040 issued by the *city manager*.

B. Notice of closing of individual bridges to certain classes or weights of vehicles shall be:

1. Published in a local newspaper of general circulation; and
2. Posted on signs at each end of subject bridge, on or prior to the date of publication. All signs shall be erected and maintained in accordance with RCW 46.61.450 and 47.36.030.

C. Maximum gross weights for vehicles operating over *City* bridges shall be established by ordinance in accordance with RCW 46.44.080.

D. The *city* ~~manager-engineer~~ shall have the authority by administrative determination to immediately impose temporary gross weight limits on bridges based on the results of an engineering ~~and traffic~~ investigation. The *city* ~~manager-engineer~~ shall have the authority to immediately erect and maintain official traffic control devices for temporary gross weight limits on bridges in accordance with Chapter 46.90 RCW, WAC 308-330-265 and Chapter 10.05 KMC. The temporary gross weight limits on bridges shall be in effect for not longer than one year from the date of posting or until the weight limits are established by ordinance. [Ord. 11-0330 § 1 (Exh. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.16.010).]

#### **12.20.020 ~~Limited special-p~~Permits.**

The *city manager* is authorized to issue ~~limited special~~ permits for the safe use of load limited bridges by emergency vehicles and other vehicles exceeding the posted maximum weight. [Ord. 11-0330 § 1 (Exh. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.16.015).]

#### **12.20.030 Maximum gross vehicle weight.**

Those *City* bridges that are posted are done so pursuant to definitions and standards for maximum gross vehicle weight contained in Chapter 46.44 RCW, particularly the vehicle weight table of RCW 46.44.041. [Ord. 11-0330 § 1 (Exh. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.16.020).]

#### **12.20.040 Enforcement and penalty.**

Any violation of this chapter is a traffic infraction and subject to a penalty of \$250.00. [Ord. 11-0330 § 1 (Exh. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.16.170).]

#### **12.20.050 West Sammamish River Bridge (1071AW).**

~~The use of Bridge 1071AW shall be prohibited to weight/loads in excess of sixteen (16) tons for three axle vehicles (Type 3), twenty five (25) tons for five axle vehicles (Type 3S2), and twenty seven (27) tons for six axle vehicles (Type 3-3) until further notice. Violators of weight restrictions shall be subject to the fines, penalties and forfeitures as established by KMC 12.20.040. By general rule as allowed by RCW 46.44.080, emergency vehicles are allowed on the bridge, regardless of weight.~~ [Ord. 14-0374 § 1.]

**Chapter 12.25**

**STANDARD SPECIFICATIONS FOR STREET AND BRIDGE CONSTRUCTION**

**(Repealed by Ord. 05-0231)**

**Chapter 12.30**

**STREET CONSTRUCTION RULES ADOPTED**

**(Repealed by Ord. 05-0231)**



## Chapter 12.35

### RIGHTS-OF-WAY

#### Sections:

- 12.35.010 *Repealed.*
- 12.35.015 *Repealed.*
- 12.35.020 Permit required for improvement or use – Application processing.
- 12.35.025 Time limitation of application.
- 12.35.030 Permit – Additional requirements.
- 12.35.035 Application – Fees.
- 12.35.037 Permit – Fees.
- 12.35.040 Permit – Limited.
- 12.35.050 Permit – Access.
- 12.35.055 Permit – Encroachment.
- 12.35.060 Permit – Application.
- 12.35.065 Obligation – Revocation.
- 12.35.070 Conformance.
- 12.35.075 Covenant.
- 12.35.077 Permit – Interpretation.
- 12.35.080 Enforcement.
- 12.35.090 Retroactivity.
- 12.35.100 *Repealed.*
- 12.35.110 Insurance and Indemnification.
- 12.35.120 Performance Guarantee Required.

#### **12.35.010 Definitions.**

*Repealed by Ord. 11-0330. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.28.010).]*

#### **12.35.015 Fee exemptions – Beautification permit.**

*Repealed by Ord. 11-0330. [Ord. 04-0206 § 1.]*

#### **12.35.020 Permit required for improvement or use – Application processing.**

##### A. Permits Required.

1. ~~City street~~ The right-of-way shall not be ~~privately improved or used for access or other purposes~~ and no development approval shall be issued ~~which requires use of privately maintained City right-of-way~~ unless a permit has been issued pursuant to this chapter.

2. The unimproved right-of-way shall not be used for access or other purposes unless a permit has been issued pursuant to this Chapter.

3. ~~Exceptions: except for a~~ Utility construction work, ~~City projects, – and special events shall be exempt from this chapter. Utility construction work shall be~~ authorized pursuant to Chapter 12.55 KMC ~~and/or~~ special events–~~permits~~ approved and permitted in accordance with Chapter 8.40 KMC.

##### B. General Procedures.

1. Upon receipt of an *application* for *right-of-way use permit, limited, access, or encroachment*, the *city manager* shall determine whether the proposed activity is within *City-owned right-of-way*.

2. The *City* shall be the lead agency for ~~the~~ compliance with the State Environmental Policy Act. In addition, the *city manager* shall review *applications* for compliance with applicable *City* plans, policies, regulations and standards. Prior to issuing a *right-of-way use permit*, the *city manager* may ~~determine and secure~~ require an

appropriate financial guarantee consistent with the provisions of KMC Title 21 be secured by the applicant and submitted to the City.

3. The city manager ~~shall~~may, when feasible, ~~consolidate~~utilize an engineering permit in-lieu of right-of-way use permits with other development approvals to prevent duplication and increase efficiency. All requirements of this Chapter shall apply to any engineering permit used in lieu of a right-of-way use permit. The fees ~~for a consolidated approval~~ shall be reduced to the extent separate fees would be duplicative. [Ord. 12-0335 § 4; Ord. 11-0330 § 1 (Exh. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.28.020).]

#### **12.35.025 Time limitation of application.**

A. Applications for which no permit is issued within 18 months following the date of application submittal shall expire by limitation and plans and other data submitted for review may thereafter be returned to the applicant or destroyed in accordance with State law.

B. Applications may be canceled for inactivity, if an applicant fails to respond to the department's written request for revisions, corrections, actions or additional information within 90 days of the date of request. The city manager may extend the response period beyond 90 days if within the original 90-day time period the applicant provides and subsequently adheres to an approved schedule with specific target dates for submitting the full revisions, corrections or other information needed by the department.

C. The city manager may extend the life of an application if any of the following conditions exist:

1. Compliance with the State Environmental Policy Act is in progress; or

2. Any other City review is in progress; provided, that the applicant has submitted a complete response to City requests, or the city manager determines that unique or unusual circumstances exist that warrant additional time for such response, and the city manager determines that the review is proceeding in a timely manner toward final City decision; or

3. Litigation against the City or applicant is in progress, the outcome of which may affect the ~~validity~~validity, or the provisions of any permit issued pursuant to such application.

4. At the sole discretion of the city manager when there have been newly adopted codes, fees, ordinances, standards, or laws which affect the application. [Ord. 11-0330 § 1 (Exh. A).]

#### **12.35.030 Permit – Additional requirements.**

A. Plans. Detailed engineering and restoration plans and/or drainage plans may be required when ~~considered~~determined necessary by the city manager. Costs for the ~~development preparation~~ of such plans and ~~conduct of any~~ required studies shall be borne by the applicant ~~and, if the plan is returned, it shall be returned to the applicant.~~

B. Survey. When ~~considered~~determined necessary by the city manager to adequately define the limits of right-of-way and the existing improvements therein, the applicant shall cause the right-of-way to be surveyed by a Washington State licensed land surveyor. Such survey shall be recorded in accordance with the Survey Recording Act. The cost for the preparation of such survey shall be borne by the applicant.

C. Dedication. An applicant may be required to deed additional right-of-way across the property owner's property ~~under his or her ownership~~ when necessary to fulfill the minimum ~~street-road and~~ right-of-way widths prescribed in RCW 36.86.010 Chapter 12.50 KMC.

D. Illegal Subdivision. A permit shall not be issued to provide access to a lot or parcel created in violation of State and or City subdivision regulations.

E. Every permit granted under this chapter shall also condition approval consistent with the requirements of Chapter 12.05 KMC, General Provisions. [Ord. 18-0458 § 1 (Att. A); Ord. 11-0330 § 1 (Exh. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.28.030).]



#### 12.35.035 Application – Fees.

A. Each *application* requires a fee, imposed by city council by resolution, payable to the *City* for the administrative costs and expenses of processing the *application*.

B. The purpose of this subsection B is to foster the public benefit by encouraging citizens to beautify publicly owned *right-of-way*, without compromising the public's safety. For purposes of maintaining a record of all beautification projects, a ~~beautification permit~~ shall be required prior to commencement of a beautification activity. A ~~beautification permit~~ shall may be issued without charge for projects that satisfy the following criteria:

1. The project involves the planting of flowers or other vegetation that does not hinder the safe use of the *right-of-way* by drivers or others within 10 feet of the fog line or the edge of the pavement, if there is no fog line;
2. The project involves planting adjacent to the *applicant's* ~~residence property~~; ~~and~~
3. No shrubs, ~~or trees~~, or structures (such as but not limited to landscape blocks, lawn or yard decorations), are installed within ~~three two~~ feet of a *curb* line or, where no *curb* exists, within 10 feet of the ~~fog line or~~ edge of pavement. Certain restrictions shall apply to the installation of trees or shrubs. In any case, trees and shrubs shall not be installed that will interfere with sight distance.
4. Improvements that are a hazard to the public or impact *City* maintenance and operation of the *right-of-way* as determined by the *city manager* are prohibited. [Ord. 11-0330 § 1 (Exh. A).]

#### 12.35.037 Permit – Fees.

~~A. The permittee shall pay a fee at a rate imposed by the city council by resolution per hour for inspection.~~

~~B. A.~~ The permittee shall ~~also~~ pay ~~a fee~~s for use of the *right-of-way* ~~based on a policy approved at the rates imposed~~ by the city council by resolution.

~~C. B.~~ The fees shall be collected in accordance with administrative procedures developed by the *department*. [Ord. 11-0330 § 1 (Exh. A).]

#### 12.35.040 Permit – Limited.

A. Upon filing of a complete *application*, payment of the fee(s), and posting of the financial guarantee for construction, maintenance, and *restoration* of the *right-of-way* consistent with the provisions of KMC Title 21 (as needed), the *city manager* may issue a *permit* authorizing the limited use of ~~City street~~ *right-of-way*, for use by designated private parties for a specific use.

B. The *permit* may require construction and *restoration* of the *right-of-way* to adopted *City* standards based on the nature and duration of the specific use, and subject to inspection. In addition, conditions may be set to assure ~~the~~ compliance with *City* plans, policies, standards and regulations. Such conditions may require performance in excess of adopted ~~street~~ *Road Standards*.

C. The *applicant* shall assume sole responsibility for the safe and adequate operation and maintenance of any improvements or to work performed by the applicant or the applicant's representative in the *City* right-of-way during the period of time the permit is in effect.

D. The *applicant* may apply for an extension to the *permit* – upon written *application* for an extension, payment of the applicable fee(s), and being found to be in compliance with the conditions and requirements of the original *permit*. Permits shall be limited to one 6-month extension, unless otherwise approved by the city manager. Permit extensions must be applied for no later than 30 days from the permit expiration date. Permit extension is at the sole discretion of the city manager.

E. Types of *Right-of-way* *Use* Permits, Limited.

1. Type A. Activity which will alter the surface or subsurface of the *right-of-way*. Examples are:
  - a. Paving operations;

- b. Driveway installation/~~removals~~;
- c. *Sidewalk* installation/~~removals~~;
- d. Open-cut trenching;
- e. ~~Above ground pedestal or utility box installations~~ Tree removal/installation;
- f. ~~Culvert~~ Storm drainage installation/~~removal~~;
- g. Shoulder improvements;
- ~~h. Mailbox installation/removal; and~~
- ~~hi.~~ Beautification.

2. Type B. Temporary use of the *right-of-way* ~~(24 hours or less)~~ which does not change the *right-of-way* surface or subsurface. Examples are:

- a. Temporary storage ~~of a dumpster/storage container~~ of material/equipment outside of the pedestrian or vehicle traveled way;
- b. ~~Block party~~ Temporary parking; ~~and~~
- c. ~~Temporary parking~~ Lane/shoulder/pedestrian travel way closures;
- d. Commercial activities in the right-of-way;
- e. Investigative activities;

3. Type C. Temporary use of the *right-of-way* ~~(more than 24 hours)~~ which does not change the *right-of-way* surface or subsurface. ~~Also activities that will require traffic plan and traffic plan review~~ AND requires a road closure. Examples are:

- a. ~~Street closures~~ (Fair or carnival);
- b. ~~Commercial activities in the right of way~~; ~~and Farmer's market~~;
- c. ~~Extended storage in the right of way~~ Parade;
- d. Block party;

F. Permit expiration: Permits shall expire as noted below. If the permit is approved in conjunction with another City issued permit, the permit may be allowed to expire with the other City permit.

1. Type A and B: Type A and B permits shall expire 12 months from the date of issuance. Permits may be extended an additional 6 months from the date of expiration at the discretion of the city manager as long as no changes have been made to the originally approved plans and no new development standards have been adopted.

2. Type C: Type C permits shall expire 3 months from the date of issuance or upon completion of the permitted activity, whichever is shorter. The permit may be extended at the city manager's discretion.

3. Permits that have expired beyond the dates noted above, including any extensions, may be extended up to 12 months at the discretion of the city manager if any of the following conditions exist:

- a. Compliance with the State Environmental Policy Act is in progress; or

b. Any other City review is in progress; provided, that the applicant has submitted a complete response to City requests, or the city manager determines that unique or unusual circumstances exist that warrant additional time for such response, and the city manager determines that the review is proceeding in a timely manner toward final City decision; or

c. Litigation against the City or applicant is in progress, the outcome of which may affect the validity or the provisions of any permit issued pursuant to such application; or

d. At the sole discretion of the city manager when there have been newly adopted codes, fees, ordinances, rules, standards or laws which directly affect the application; or

e. At the sole discretion of the city manager that an extension would be in the interest of the public's welfare.

G. Exemptions: The following activities are exempt from permitting:

1. United States Postal Service mailbox installations are exempt from permitting if replacing in-kind with only de minimis alterations in location or to hard surfaces and no impacts to vehicle or bicycle travel lanes.

2. Maintenance activities such as sweeping, shoveling, landscaping, tree trimming, etc. that have no impacts to vehicle or bicycle travel lanes or close pedestrian access.

3. Other temporary activities as determined by the city manager. [Ord. 11-0330 § 1 (Exh. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 00-0088 (Exh. B); Ord. 98-0024 §§ 1, 2 (KCC 14.28.050).]

**12.35.050 Permit – Access.**

A. Upon filing of a complete application and payment of the fee, the city manager may issue a right-of-way use permit, access authorizing the use of ~~unimproved/unopened City~~ right-of-way for property access ~~for a period exceeding one year in duration.~~

B. The applicant may be required to construct ~~street/road~~ improvements to the adopted ~~City street~~ Road Standards; and may be required to post financial guarantees consistent with the provisions of KMC Title 21 for construction, restoration and maintenance. Construction work and all restoration work required by the permit shall be completed within one year of the permit's issuance. In addition, the city manager may set conditions to assure compliance of the permit with other adopted plans, City policies, and regulations.

C. The city manager ~~shall~~ may place and maintain permanent sign(s) denoting the end of the City-maintained ~~street/road~~.

D. The applicant shall have sole responsibility for the safe construction, operation and maintenance of any work in improvements to the ~~City~~ right-of-way pursuant to the permit; until such time as the ~~improvements are~~ work is officially accepted for maintenance by the City.

E. Unless earlier revoked by the city manager, any permit shall be valid for a term of one year and shall be automatically renewable for successive one-year terms unless otherwise terminated by either party. [Ord. 11-0330 § 1 (Exh. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 00-0085 §§ 1, 3; Ord. 98-0024 §§ 1, 2 (KCC 14.28.060).]

**12.35.055 Permit – Encroachment.**

A. Upon filing of a complete application and payment of the fee, the city manager may issue a permit/right-of-way use permit, encroachment authorizing the use of the ~~City~~ right-of-way for an encroachment ~~for a period exceeding one year in duration.~~

B. An encroachment permit may be issued to authorize private construction in unimproved public right-of-way when it is unlikely in the judgment of the city manager that such ~~public~~ right-of-way will be substantially improved by the City or other public agency within the foreseeable future.



In exercising such judgment, the *city manager* may consider existing traffic data in and around the site of the *permit application*, the *City's* adopted transportation improvement plan, and any other plans, studies, data, or other information ~~that he deemed~~ relevant to his ~~the~~ determination.

C. The *applicant* shall have sole responsibility for the safe construction, operation and *maintenance* of any ~~improvements work~~ within the ~~City~~ *right-of-way* pursuant to the *permit*.

D. Unless earlier revoked by the *city manager*, any such *permit* issued shall be valid for a term of one year and shall be automatically renewable for successive one-year terms until such time as the permit is revoked. [Ord. 11-0330 § 1 (Exh. A).]

#### **12.35.060 Permit – Application.**

An *applicant* for a *right-of-way use permit* issued pursuant to this chapter shall complete an *application* in a form prescribed by the *city manager*. The *city manager* may reject incomplete *application* forms. Such *application* forms shall require an *applicant* to identify the *right-of-way* to be used, the nature of the related *development* on the adjacent private property, and such other information as the *city manager* reasonably determines to be necessary, in relation to the specific project proposed. Such other information may include geotechnical studies, proof of liability insurance, performance bonding, and other measures designed to protect the public health, safety, and welfare. [Ord. 11-0330 § 1 (Exh. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.28.070).]

#### **12.35.065 Obligation – Revocation.**

This chapter authorizes the *city manager* to engage in discretionary acts and does not create any obligation on the part of the *City* to issue any such *right-of-way use permit*, nor does it create any right on the part of an *applicant* to initially obtain or subsequently retain any such *right-of-way permit*. Any such *permit* actually issued shall be revocable at any time after 90 days' written notice from the *city manager* to the *permit* holder. The *city manager's* revocation notice shall include a date by which the private use of the *right-of-way* must be discontinued and removed, all at the sole expense of the *permit* holder. Any private use of the *right-of-way* remaining after such date shall constitute a public nuisance and shall be abated as such. The cost of abatement, including the *City's* attorney fees, shall be borne by the *permit* holder. There shall be no administrative appeal from any such decision by the *city manager* to revoke any such *permit*. [Ord. 11-0330 § 1 (Exh. A).]

#### **12.35.070 Conformance.**

Any requirement imposed by this chapter shall be in addition to any other requirement imposed by any other ordinance or other law regulating or controlling the use and development of private or public property. Such additional requirements include but are not limited to any necessary setback variances. A *permit* issued pursuant to this chapter may not authorize any use or development otherwise not allowed or permitted under any other ordinance. [Ord. 11-0330 § 1 (Exh. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.28.080).]

#### **12.35.075 Covenant.**

The *applicant* for a *right-of-way use permit, limited*, *access* or *encroachment*, may be required to record a covenant running with the land and for the benefit of the *City*, which contains:

A. A legal description of the lot or parcel benefiting from the *right-of-way use permit*;

B. If the *permit* is for access, a statement indicating the following:

1. Access to such parcel is across an unmaintained ~~City~~ *right-of-way*; the *City* is not responsible for *maintenance* of the unimproved *right-of-way*; and responsibility for *maintenance* of the permitted work ~~street~~ rests jointly and equitably upon all *permit* holders;
2. The *owner(s)* of the parcel will not oppose participation in a *City* street improvement district, if formation of such a district is deemed necessary by the *City*; ~~and~~
3. Subdivision of such parcel is prohibited without obtaining either plat or short plat approval; and

4. Acknowledgement that any improvement made within the access area must be removed by the property owner within 90 days at the request of the city manager;

C. If the permit is for an *encroachment*, a statement indicating the following:

1. Maintenance of the *encroachment* is the responsibility of the *property owner*; and
2. Acknowledgement that the *encroachment* must be removed by the *property owner* within 90 days at the request of the *city manager*;

D. A statement that any *right-of-way use permit* covenant is binding on the successors and assigns of the *owner(s)*;

E. The notarized ~~acknowledged~~ signature(s) of acknowledgement of the *owner(s)* of such parcel; and

F. The *right-of-way use permit* may be revocable with 90 days' written notice and that removal of any encroachments and/or access improvements shall be at the property owner's expense. [Ord. 11-0330 § 1 (Exh. A).]

#### **12.35.077 Permit – Interpretation.**

Permits issued pursuant to this chapter shall not be construed to convey any vested right or ownership interest in any ~~City~~ *right-of-way*. Every *right-of-way use permit* shall state on its face that any ~~City~~ *right-of-way* opened pursuant to this chapter shall be open to use by the general public except in those cases where specific conditions in a *right-of-way use permit* restrict the use of the *right-of-way* for safety reasons. [Ord. 11-0330 § 1 (Exh. A).]

#### **12.35.080 Enforcement.**

The *city manager* is authorized to enforce the provisions of this chapter, and any rules and regulations promulgated thereunder, pursuant to Chapter 1.20 KMC. [Ord. 11-0330 § 1 (Exh. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.28.090).]

#### **12.35.090 Retroactivity.**

All *right-of-way use permits* issued by the *City* prior to the effective date of this chapter shall not be affected by the provisions of this chapter. [Ord. 11-0330 § 1 (Exh. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.28.100).]

#### **12.35.100 Effective date.**

*Repealed by Ord. 11-0330.* [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.28.110).]

**12.35.110 Insurance and Indemnification.** Insurance and indemnity provisions as set forth below shall be included in all permits. Insurance and indemnity requirements for all permits may be revised at the city manager's discretion on a case-by-case basis:

A. Insurance Required: The permittee shall procure and maintain insurance for permits. Insurance shall provide coverage against claims for injuries to persons or damage to property which may arise from or in connection with operations or activities performed by or on the permittee's behalf with the issuance of any permit.

B. The permittee's maintenance of insurance as required by the permit shall not be construed to limit the liability of the permittee to the coverage provided by such insurance, or otherwise limit the City's recourse to any remedy available at law or in equity.

C. The permittee shall obtain insurance of the types and coverage described below:

1. Commercial General Liability insurance shall be at least as broad as Insurance Services Office (ISO) occurrence form CG 00 01 and shall cover liability arising from operations, products-completed operations, and stop-gap liability. There shall be no exclusion for liability arising from explosion, collapse or underground property damage. The City shall be named as an additional insured under the permittee's Commercial General Liability insurance policy using ISO Additional Insured-State or Political Subdivisions-Permits CG 20 12 or a substitute endorsement providing at least as broad coverage.

2. Automobile Liability insurance covering all owned, non-owned, hired and leased vehicles. Coverage shall be at least as broad as Insurance Services Office (ISO) form CA 00 01.

D. Minimum Amounts of Insurance: The *permittee* shall maintain the following insurance limits:

1. Commercial General Liability insurance shall be written with limits no less than \$2,000,000 each occurrence, \$2,000,000 general aggregate and \$2,000,000 products completed operations aggregate limit.

2. Automobile Liability insurance with a minimum combined single limit for bodily injury and property damage of \$1,000,000 per accident.

E. Other Insurance Provision: The *permittee*'s Commercial General Liability insurance policy or policies are to contain or be endorsed to contain that they shall be primary insurance as respect to the *City*. Any insurance, self-insurance, or self-insured pool coverage maintained by the *City* shall be excess of the *permittee*'s insurance and shall not contribute with it.

F. Acceptability of Insurers: Insurance is to be placed with insurers with a current A.M. Best rating of not less than A:VII.

G. Verification of Coverage: The *permittee* shall furnish the *City* with original certificates and a copy of the amendatory endorsements, including the additional insured endorsement, evidencing the insurance requirements of the *permittee* before issuance of the *permit*.

H. Notice of Cancellation: The *permittee* shall provide the *City* with written notice of any policy cancellation, within two business days of their receipt of such notice.

I. Failure to Maintain Insurance: Failure on the part of the *permittee* to maintain the insurance as required shall constitute a material breach of the *permit*, upon which the *City* may, after giving five business days' notice to the *permittee* to correct the breach, immediately terminate the *permit* or, at its discretion, procure or renew such insurance and pay any and all premiums in connection therewith, with any sums so expended to be repaid to the *City* on demand.

J. City Full Availability of Permittee Limits: If the *permittee* maintains higher insurance limits than the minimums shown above, the *City* shall be insured for the full available limits of Commercial General and Excess or Umbrella liability maintained by the *permittee*, irrespective of whether such limits maintained by the *permittee* are greater than those required by this permit or whether any certificate of insurance furnished to the *City* evidences limits of liability lower than those maintained by the *permittee*.

K. Indemnification: The *permittee* shall defend, indemnify, and hold the *City*, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses, or suits including attorney fees, arising out of or in connection with activities or operation performed by the *permittee* in the *right-of-way* and/or the performance of any *permit*, except for injuries and damages caused by the sole negligence of the *City*.

However, should a court of competent jurisdiction determine that RCW 4.24.115 applies, then the *permittee* agrees to defend, indemnify and hold the *City*, its officers, officials, employees and volunteers harmless to the maximum extent permitted thereunder. It is further specifically and expressly understood that the indemnification provided herein constitutes the *permittee*'s waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties. The provisions of this section shall survive the expiration or termination of the *permit*.

#### **12.35.120 Performance guarantee required.**

Performance guarantees such as performance bonds or other security devices shall be required for all *right-of-way use permits*. Prior to final approval of all *right-of-way use permits*, the *department* shall determine the amount of the performance guarantee necessary to assure compliance with the approved construction plans, applicable State and local health and sanitation regulations, and *City* standards and to assure proper *restoration* of the *street* and the



health and safety of the users of the *street*. Financial guarantees shall be consistent with the provisions of KMC Title 21. The *city manager* may waive the performance guarantee for some activities on a case-by-case basis.

## Chapter 12.40

### PERMIT SYSTEM FOR USE OF CITY REAL PROPERTY

#### Sections:

- 12.40.010 *Repealed.*
- 12.40.020 Permit requirement.
- 12.40.040 Permit issuance.
- 12.40.050 Liability.
- 12.40.060 Additional requirements.
- 12.40.080 Interpretation.
- 12.40.090 Enforcement.
- 12.40.100 *Repealed.*
- 12.40.110 Permit — Fees.

#### **12.40.010 Definitions.**

*Repealed by Ord. 11-0330.* [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.30.010).]

#### **12.40.020 Permit requirement.**

A. *Special use permits* shall be required for any use of *City owned real* property, except uses regulated pursuant to Chapter 12.55 KMC ~~relating to utility permits~~, Chapter 12.35 KMC relating to ~~City street system right-of-way use permits~~, or special event permits approved and permitted in accordance with Chapter 8.40 KMC. Examples of special uses include, but are not limited to, storage of materials not associated with a special event, utility services, temporary construction or repair/maintenance activities associated with adjacent properties, or temporary access.

B. Upon receipt of an *application* for a “special use” permit ~~upon City property~~, the *city manager* ~~City~~ shall determine whether the proposed use is upon *City-owned real* property.

~~C. The city manager shall forward the application to the department(s) for review.~~

~~D. The department(s) shall review the application and forward to the city manager its recommendation whether the permit shall be issued.~~

C. The ~~department(s)~~ shall evaluate the feasibility of the proposed use, its impact on other uses of the ~~City property~~ *City property* and its impact on public health and safety. Based on this evaluation, the ~~department(s)~~ shall recommend whether the permit should be issued.

D. In all cases, the ~~department(s)~~ *City* shall be responsible for assuring that any *application* meets the requirements of the critical areas code set out in Chapter 18.55 KMC and the administrative rules promulgated thereunder before the permit is issued. [Ord. 12-0335 § 5; Ord. 11-0330 § 1 (Exh. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.30.020).]

#### **12.40.040 Permit issuance.**

A. Upon filing of a complete *application*, ~~necessary~~ approval of the *application*, payment of the administrative fee and posting of any required bond, the *city manager* may issue a permit authorizing the designated use of *City real* property by the *permittee*.

B. The *permit* may require *site restoration* ~~of the City property~~ to certain standards in view of the nature and duration of the special use. In addition, conditions may be set to assure compliance ~~of the permit~~ with *City* policies, ordinances and other applicable laws and regulations.

C. The permit *applicant* may be required to post a performance bond in an amount which will:

1. Guarantee the use will ~~be in compliance~~ comply with standards and conditions prescribed by the *City*; and

2. Guarantee *restoration* of the *City property* to a condition consistent with the *special use permit* and the *City's* own use of its property. [Ord. 11-0330 § 1 (Exh. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.30.030).]

D. *Special use permits* are temporary in nature and shall expire 6 months from date of issuance.

E. The *applicant* may apply for an extension to the *special use permit*. Permit extensions shall be submitted within 21 calendar days of *permit* expiration. Upon written *application* for an extension, payment of any fees, and being found to comply with the conditions and requirements of the original *permit*, the *permit* may be extended. *Permits* shall be limited to one 6-month extension only. Additional *permit* extensions are permitted for special circumstances pursuant to Section 12.35.040.F3.

#### **12.40.050 Liability.**

The permit *applicant* shall be solely responsible for the adequate operation and *maintenance* of any ~~improvements-work~~ constructed by the *permittee* ~~to on the City property~~ and shall assume liability for all injuries to persons or property ~~as the result of~~ resulting from activities pursuant to ~~a the~~ *special use permit*. [Ord. 11-0330 § 1 (Exh. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.30.040).]

#### **12.40.060 Additional requirements.**

A. Survey. When considered necessary by the *city manager* to adequately determine the limits of the *City property*, improvements on City property, and/or area of use, the permit *applicant* shall cause the *City property* to be surveyed by a Washington State licensed land surveyor. Such survey shall be recorded in accordance with the Survey Recording Act. The cost of such survey shall be paid by the permit *applicant*. [Ord. 11-0330 § 1 (Exh. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.30.050).]

#### **12.40.080 Interpretation.**

Permits issued pursuant to this chapter shall not be construed to convey any vested right of ownership interest in any *City property*. [Ord. 11-0330 § 1 (Exh. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.30.070).]

#### **12.40.090 Enforcement.**

The *city manager* is authorized to enforce the provisions of this chapter, pursuant to Chapter 1.20 KMC. [Ord. 11-0330 § 1 (Exh. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.30.080).]

#### **12.40.100 Severability.**

*Repealed by Ord. 11-0330.* [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.30.090).]

#### **12.40.110 Permit – Fees.**

A. The *permittee* shall pay the fees at the rates imposed by the city council by resolution.

B. The fees shall be collected in accordance with administrative procedures developed by the *department*.



## Chapter 12.45

### COMPLETE STREETS POLICY

#### Sections:

- 12.45.010 Vision.
- 12.45.020 Policy.
- 12.45.030 Design guidance.
- 12.45.040 Exceptions.
- 12.45.050 Implementation.
- 12.45.060 Performance measures.

#### 12.45.010 Vision.

The ~~City of Kenmore~~*City*'s vision is to provide a safe, balanced, and efficient multi-modal transportation system that serves local and regional circulation needs and ~~safely~~ accommodates all users. To meet this vision, the *City* shall provide a ~~future~~ transportation system that allows users of all ages, abilities and financial resources to safely, ~~effectively~~, and efficiently use the public *right-of-way* to drive, access public transit, bicycle, walk or use any other ~~chosen-legal~~ mode of travel. The *City* recognizes the public health and environmental ~~quality~~-benefits of encouraging active transportation modes through a safe, welcoming, connected network of modal choices. The *City*'s ~~target zero goal (City Resolution No. 14-235) adopting (target zero resolution)~~as a city goal is a core component of this vision, seeking to have zero pedestrian or cyclist deaths or serious injuries as the result of a collision with a motorized vehicle by the year 2025. [Ord. 16-0427 § 1.]

#### 12.45.020 Policy.

The term "complete streets" is a guiding principle for the consideration of all modes of travel within the public *right-of-way*. This chapter constitutes the *City*'s "complete streets" policy. Through the adoption of a layered network approach ~~to complete streets~~ (as described in the ~~Transportation Element of the Comprehensive Plan-transportation element~~) ~~to complete streets~~, the *City* recognizes that it can be a challenge for a single roadway to meet the demands of all modes at one time. Safety is a primary concern for the *City*, and the target zero resolution guides the pursuit of increased safety for pedestrians and cyclists, which can require the separation of some uses on certain roads. ~~In addition to safety, pedestrian and bicycle comfort is of high importance and policies and plans shall consider comfort for pedestrians and bicyclists where practical.~~ A *City*-wide network (as described in the comprehensive plan transportation element) which accommodates users of all modes of transportation (including air/seaplane and freight) and users of all abilities on appropriate networks of roads, paths and trails balances the principles of complete streets with the realities of promoting a transportation system that is fiscally, economically and environmentally sustainable within existing and future constraints.

Using a toolbox of diverse techniques, the *City* will plan ~~for~~, design, construct, operate and maintain a transportation network that meets these goals. Recently developed projects, and those in future years, will incorporate traditional and modern tools ~~to create a safe, effective and efficient transportation network~~, such as, ~~but not limited to~~:

Traditional	Modern
Sidewalks	Shared use paths
Paved shoulders	Bike lanes (buffered) and sharrows
Street trees and planting strips	Narrow vehicle lanes
Curbs with ramps	Transit priority lanes
Crosswalks	Enhanced pavement markings and symbols
Pedestrian signals	Countdown and lead pedestrian signals
Signage	Bulb-outs <del>and refuge islands</del>

Traditional	Modern
Transit stops and facilities	Rectangular rapid-flash beacon enhanced crosswalks
Speed bumps	Bike parking
Raised medians	Street furniture and temporary installations
Street lighting	Textured and colored pavements
	Focused LED street lighting and pedestrian-level lighting
	Traffic circles and roundabouts
	Chicanes

The *City* will emphasize the layered network approach to complete streets in the review of private *development* plans, transportation system improvements, and the *City's* six-year transportation improvement plan (TIP). This approach shall include new construction, reconstruction, and rehabilitation/overlay projects, except as noted in KMC 12.45.040, Exceptions. A context-sensitive approach to each project will consider neighborhood character, underserved/underutilized modal choices, and school transportation routes (including busing, walking and vehicle circulation around schools), in addition to safety and fiscal considerations. Projects must meet the requirements of the current system and the needs of the updated future network (as described in the Comprehensive Plan), specifically as it applies to nonmotorized modal choices. Consideration will be given to accommodation of future transportation technologies, such as driverless cars, and the impact these may have on other modes of travel in the layered network. [Ord. 16-0427 § 2.]

#### 12.45.030 Design guidance.

The ~~city public works~~ department maintains design criteria, standards and guidelines based upon recognized best practices in ~~streets~~street design, construction and operation. These criteria, standards and guidelines include, but are not limited to, the latest editions of the American Association of State Highway Transportation Offices (AASHTO) policies for vehicular and bicycle facilities, National Association of City Transportation Officials (NACTO) Urban Bikeway and Street Design Guides, publications and recommended practices from the Institute of Transportation Engineers (ITE), the ~~Washington State Department of Transportation (WSDOT)~~ Design Manual, and the Manual on Uniform Traffic Control Devices (MUTCD), ~~and the Public Rights-of-Way Accessibility Guidelines (PROWAG)–~~ ~~Public works department employees have taken and will continue to take advantage of local training opportunities to become more familiar with these standards and their associated updates.~~

The *City* has adopted ~~Road Standards (2016)~~ and a street planning toolkit (Transportation Element, ~~Figure 12~~), which include a number of complete streets principles, to guide all public and private transportation projects in the *City*. These documents emphasize consideration of multiple modes of travel, especially pedestrian and bicyclists, through the use of a number of the techniques described in KMC 12.45.020, Policy. The *Road Standards* include provisions for flexibility and the adoption of new techniques and tools with the approval of the *city manager*. New techniques and future developments in design which enhance the safety of all transportation users may be incorporated into future versions of the *Road Standards*. [Ord. 16-0427 § 3.]

#### 12.45.040 Exceptions.

Exceptions to the policies of this chapter must be ~~submitted to the public works director and~~ approved by the *city manager*. The circumstances under which the *city manager* may consider exceptions to a complete streets approach to enhancement of the layered network are as follows:

A. ~~Street~~City projects may exclude those elements of the policies of this chapter that would require the accommodation of ~~street road~~ uses that are prohibited by law, grants, or other agencies, or that would otherwise pose a public safety risk unacceptable to the City;

B. *Maintenance* activities, such as mowing, snowplowing, sweeping, spot repair, joint or crack sealing, surface treatments, minor pavement marking changes, or pothole filling, do not require that elements of the policies of this chapter be applied beyond the scope of that *maintenance* activity;

C. ~~Street construction, reconstruction and maintenance~~*City projects* may exclude elements of the policies of this chapter when the accommodation of a specific use or mode is expected to:

1. Require more space than is physically available (topographic or *right-of-way*, where acquisition of additional *right-of-way* isn't possible or would significantly increase project costs), or
2. Be located where both current and future demand is demonstrated as being absent, including a lack of current or planned transit routes, or
3. Significantly increase project costs and equivalent alternatives for those travel modes that are documented to exist within close proximity, or
4. Be incompatible with the layered network (comprehensive plan transportation element), or
- ~~5. 5. Be incompatible with neighborhood character, or~~Have an adverse impact on disadvantaged communities,  
or
6. Have adverse impacts on environmental resources such as streams, wetlands, ditches, floodplains or historic structures or sites above and beyond the impacts of currently existing infrastructure. [Ord. 16-0427 § 4.]

#### 12.45.050 Implementation.

The *City* recognizes that many other agencies have a direct or regional interest in the *City's* transportation network. Because transportation frequently crosses city borders, it is crucial for an effective network to ensure ~~ensuring-~~ compatibility for all modes ~~with across jurisdictional lines with~~ neighboring cities ~~is crucial to an effective network~~. The *City* fosters partnerships with adjacent cities, local transit providers, King and Snohomish Counties, ~~Washington State Department of Transportation (WSDOT)~~ and Northshore School District to implement complete streets principles in *city projects* involving these entities. ~~WSDOT owns maintains~~ a regionally significant ~~facility highway highway~~ passing through the *City* and shares in the *City's* dedication to complete streets and a layered network approach.

The *City* has developed and continues to update a six-year TIP based on the Comprehensive Plan. The comprehensive plan identifies both pedestrian and bicycle priority networks, in addition to vehicular transportation network improvements. The TIP and Comprehensive Plan shall guide the development of *city projects*. *City projects* will be constructed ~~with using~~ a combination of *City* funds and ~~or~~ grant funding. The *City* will stay informed of, and will apply for, grant funding programs, especially those with a focus on complete streets and nonmotorized travel improvements. Funding agency partnerships, such as those mentioned above, are key to implementation of complete streets projects within the layered network. Low-cost *city projects* which can be achieved within existing pavement widths using temporary installations, signing and striping are continually identified and implemented by the *City*. [Ord. 16-0427 § 5.]

#### 12.45.060 Performance measures.

The ~~public works director and/or designee(s)~~*city manager* shall report annually to the city council on *city projects* that were completed in the last year, that are planned for the coming year, and that further the vision of this complete streets ordinance. The report shall identify yearly progress in advancing the lineal feet and connectivity of the bicycle and pedestrian network. ~~facilities and the connectivity of those networks~~. [Ord. 16-0427 § 6.]



## Chapter 12.50

### ROAD STANDARDS

#### Sections:

- 12.50.010 Adoption.
- 12.50.020 Terms.
- 12.50.030 Applicability.
- 12.50.040 Developments.
- 12.50.050 References.
- 12.50.060 Variances.
- 12.50.070 Appeals from decisions on variances.
- 12.50.150 Interpretation.
- 12.50.160 Penalties.
- 12.50.170 Severability.

#### 12.50.010 Adoption.

A. The City of Kenmore 2021 Road Standards ~~(the standards)~~, along with all companion documents referenced in Section 1.03 of the Road Standards\*, are ~~hereby~~ approved, adopted and incorporated herein as the City of Kenmore standards for road design and construction.\*

B. Consistent with the council's direction and intent in adopting the Road Standards, the ~~city engineer department of public works~~ is hereby authorized to develop public rules and make ~~minor administrative~~ changes to the Road Standards to better implement the Road Standards and as needed to stay current with changing design, environmental, and construction technology and methods. The following are examples of administrative changes:

1. De minimus changes

2. Revisions to the documents in the appendices in the standards,

3. Revisions to comply with the Kenmore Municipal Code

4. Revisions related to changes to the referenced companion documents

5. Revisions to comply with state and federal law

~~, to better implement the standards and as needed to stay current with changing design, environmental, and construction technology and methods.~~ [Ord. 21-0531 § 1 (Att. A); Ord. 16-0428 § 2 (Att. A); Ord. 15-0410 § 1 (Att. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.42.010).]

\*Code reviser's note: The Road Standards and the companion documents are on file in the office of the city clerk.

#### 12.50.020 Terms.

~~A. "Standards" means the "City of Kenmore 2021 Road Standards."~~

~~B. "Engineer" means the city engineer, having authorities specified in RCW 36.75.050 and Chapter 36.80 RCW, or his/her authorized representatives. Whereas "County" shall be replaced with "City" throughout.~~

~~C. "City manager" means the city manager or designee.~~

~~D. "Projects" means any new construction or alteration, including maintenance activities, to the right of way or City-owned property.~~

~~E. Additional Terms~~ are defined in Section 1.01 of the Road Standards. [Ord. 21-0531 § 1 (Att. A); Ord. 15-0410 § 1 (Att. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.42.020).]

### 12.50.030 Applicability.

A. The Road Standards shall apply to all ~~work relating to:~~newly construction of and alterations to:

1. Privately owned roads.

2. The right-of-way facilities for, both public and private development, and

3. City projects within the City.

~~B. The standards shall apply to modifications of roadway features or existing facilities, roadway widening, pedestrian facility improvements or alterations, bicycle facility improvements or alterations, road improvements for land developments, and capital improvement City projects.~~

~~B. C. The standards shall apply to every new placement and every planned, nonemergency replacement or repair of existing utility poles and other utility structures facilities on private roads and within the City right of way. Every effort shall be made to meet the standards The Road Standards shall apply during emergency replacement of existing facilities utility poles and other structures.~~

~~D. Design detail, construction workmanship, and materials shall be in accordance with the Road Standards and the latest edition of the companion documents referenced in Section 1.03 of the standards Road Standards. Design and construction shall meet the applicable standards, policies, and codes, including the standards Road Standards, this code, the City comprehensive or master plans, as well as project specific City-approved geotechnical reports, traffic impact studies, drainage reports, and/or other studies, as determined by the city engineer.~~

~~E. City maintenance activities are exempted from the Road Standards at the discretion of the city engineer.~~ [Ord. 21-0531 § 1 (Att. A); Ord. 15-0410 § 1 (Att. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.42.030).]

### 12.50.040 Developments.

Any land *development* which is required by operation of any *City* ordinance or adopted standard to improve ~~streets~~ roads within, abutting, or serving the *development* shall do so in accordance with the ~~se~~ Road Standards. [Ord. 21-0531 § 1 (Att. A); Ord. 15-0410 § 1 (Att. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.42.040).]

### 12.50.050 References.

The Road Standards implement and are intended to be consistent with the references listed in Section 1.03 of the Road Standards. [Ord. 21-0531 § 1 (Att. A); Ord. 15-0410 § 1 (Att. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.42.050).]

### 12.50.060 Variances.

A. A variance is required for any design or construction deviation from the Road Standards and shall be a Type 1 decision per Chapter 19.25 KMC.

B. A variance from the ~~se~~ Road Standards may be granted by the city engineer upon evidence that the variance is in the public interest and that the requirements for safety, function, fire protection, transit needs, appearance and maintainability are fully met. The need for a variance is not assumed by the *City* to be evidence of an impractical or undesirable ~~design standard~~, and variances that meet these requirements are encouraged to keep the *City* at the forefront of innovative design and construction.

C. Variance requests for subdivisions shall be proposed at preliminary plat stage and prior to any public hearing. All ~~known~~ variance requests must be reviewed by the City-city engineer prior to approval of the engineering plans for construction. Variances may be approved during construction at the city engineer's discretion. Variances from these Road Standards which do not meet the International Fire Code, as adopted by the *City*, will require ~~concurrence~~ approval by the *City's* fire marshal.

D. Applications for Road Variances.

1. *Applications* for proposed variances shall be written, including graphics, studies and drawings as needed to support the request, and shall include a specific description of the proposed alternative along with supporting documentation. Documentation may include, but is not limited to, a record of successful use by other agencies, or evidence of meeting criteria for quality/safety such as AASHTO and WSDOT standards.

2. The *applicant* shall indicate those sections of the Road Standards or this eCode which are proposed for deviation.

3. Variance requests shall be on forms prescribed by the *City* and shall be accompanied by the variance review fee ~~as specified in the City of Kenmore fee schedule, imposed by the city council by resolution.~~

E. Variances to these Road Standards may also be granted by the city council through a development agreement per Chapter 18.110 KMC.

F. ~~Capital improvement projects performed by the City or its representatives~~City projects need not file for a formal variance request; provided that all deviations from the Road Standards are documented and approved by the city engineer.

G. Road Variance Fee: The permittee shall pay the fees at the rates imposed by the city council by resolution. The fees shall be collected in accordance with administrative procedures developed by the department.

[Ord. 21-0531 § 1 (Att. A); Ord. 15-0410 § 1 (Att. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.42.060).]

#### **12.50.070 Appeals from decisions on variances.**

The *city engineer* shall hear administrative appeals as set forth in Section 1.04 of the Road Standards. The decision on appeals shall be final. [Ord. 21-0531 § 1 (Att. A); Ord. 15-0410 § 1 (Att. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.42.062).]

#### **12.50.150 Interpretation.**

The *city engineer* is authorized to interpret the Road Standards, provide guidelines for their implementation, promulgate rules, and to resolve conflicts or inconsistencies that may arise in their interpretation or application. Any interpretation made by the city engineer shall be final. [Ord. 21-0531 § 1 (Att. A); Ord. 15-0410 § 1 (Att. A); Ord. 00-0096 § 8.]

#### **12.50.160 Penalties.**

Failure to comply with the Road Standards may result in denial of plan or ~~development~~ permit approval, revocation of prior approvals, legal action for forfeiture of financial guarantee, code enforcement, and/or other penalties as provided by law. [Ord. 21-0531 § 1 (Att. A); Ord. 15-0410 § 1 (Att. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.42.070).]

#### **12.50.170 Severability.**

If any part of the Road Standards is found invalid, all other parts shall remain in effect. [Ord. 21-0531 § 1 (Att. A); Ord. 15-0410 § 1 (Att. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.42.080).]



## Chapter 12.55

### UTILITIES ON CITY RIGHTS-OF-WAY

#### Sections:

- 12.55.005 General Provisions.
- 12.55.010 Purpose.
- 12.55.020 ~~Construction~~Utility permit – Required.
- 12.55.030 ~~Construction~~Utility permit – Application – ~~Generally.~~
- 12.55.040 ~~Construction~~Utility permit – ~~Application~~ – Fees.
- 12.55.050 ~~Inspection fee.~~Repealed
- 12.55.060 ~~Construction~~Utility permit – Application – Review – Form.
- 12.55.065 Utility Permit – Expiration/Extension.
- 12.55.070 ~~Emergency construction permits – Unfranchised utilities.~~
- 12.55.080 Policy on accommodation of utilities.
- 12.55.090 Coordination of right-of-way construction.
- 12.55.100 Performance guarantee required.
- 12.55.110 ~~Construction permit – Form.~~Repealed.
- 12.55.115 Insurance and Indemnification
- 12.55.120 ~~Notification by permittee of construction commenced.~~Job Start Notification.
- 12.55.130 Enforcement.
- 12.55.135 Repealed.
- 12.55.140 Repealed.
- 12.55.145 Working hours and road closures.
- 12.55.150 Utility locates.
- 12.55.155 Aesthetic and scenic considerations.
- 12.55.160 Adjustments and relocations.
- 12.55.165 Facility security and safety.
- 12.55.170 Abandonment.
- 12.55.175 Right-of-way vacations.

#### 12.55.005 General Provisions

A. The requirements of this chapter shall apply to the installation, replacement, adjustment, relocation, repair, and maintenance of all above and below ground facilities within the right-of-way. The requirements of this chapter shall also apply to all traffic control devices placed within the right-of-way by utilities in conjunction with any work.

B. All utilities with facilities within the right-of-way, shall comply with the requirements of this chapter and with all applicable federal, state, and local laws, codes, rules and regulations.

C. If a direct conflict exists between the requirements of this chapter and the requirements established in an effective franchise and/or utility permit, then the terms of the utility permit shall control first followed by the franchise agreement and lastly by this chapter. The city manager shall make any final decisions on whether a conflict exists.

D. Compliance with this chapter does not relieve the utility or its representatives from the responsibility of meeting other applicable codes, standards or regulations and does not preclude the need for obtaining any pertinent federal, state, or other local permits. Identification of and compliance with other required permits and applicable regulations is the sole responsibility of the utility or its representative.

E. It shall be the responsibility of any utility installing, relocating, adjusting, repairing, maintaining, or contracting for any of those activities to comply with the requirements of this chapter. The utility shall be responsible for the design, construction, operation, and maintenance of their facilities and for public safety during the installation, operation, and maintenance of their facilities. This responsibility shall include, in addition to ensuring the integrity

of the proposed facility, provisions for public safety during the course of construction, maintenance, and operation for the life of the facility.

F. All facility design, construction, repair, maintenance, relocations, and removals shall comply with the most recently adopted Road Standards, the municipal code, and other codes and regulation applicable to the type of facility. The methods of installation and materials used shall conform to Federal, State, City and industry codes and standards-

G. Definitions:

1. "Abandonment" means action by a utility to cease operation and/or maintenance of a facility in the right-of-way.
2. "Appurtenance" means equipment and/or accessories which are a necessary part of an operating system or subsystem.
3. "Construction" means the construction, maintenance, alteration, replacement, or repair of any facility.
4. "Job start" means the date and time the utility begins work within the right-of-way on an approved permit.
5. "Relocation" means removal of an existing facility and installation of that facility in an alternate location.
6. "Replacement" means removal of an existing element of a system or subsystem with a like or improved element of the system or subsystem in the same location in the right-of-way.
7. "Third-party utility" means a utility that has attached its facility to another facility owned by a different utility.

**12.55.010 Purpose.**

The purpose of this chapter is to regulate facilities within the public right-of-way and the granting of right-of-way construction-utility permits, and to ensure that utility construction work undertaken pursuant to such permits is consistent with the applicant's right-of-way franchise from with the City (if applicable), the Road Standards, the applicable district utility's comprehensive plan, the critical areas code, the City comprehensive plan, sound engineering and design standards, health and sanitation regulations, and City standards for water mains and fire hydrant safety standards. [Ord. 11-0330 § 1 (Exh. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.44.010).]

**12.55.020 ~~Construction-Utility~~ permit – Required.**

A. All construction performed by utilities or by their representatives within the right-of-way shall be required to obtain a right-of-way utility permit issued by the City. Construction undertaken as a direct result of a city project and where the utility has entered into a contract agreement with the City for said construction shall be exempt from this requirement. All construction performed by franchised utilities, telephone and telegraph companies and within shall require a right of way construction permit to be issued by the ; provided, that construction undertaken by the City or under contract to the or requested by the City due to new construction shall be exempted from this requirement. Construction work shall include but not be limited to the construction and maintenance of waterlines, gas pipes, sewer lines, petroleum pipelines, telephone, telegraph and electric lines, cable TV and petroleum products and any other such public and private utilities.

B. The City, during the construction of capital improvement projects, shall install vacant conduit reserved for the future installation of fiber optic cable in accordance with the City's I net and wide area network plans; all capital improvement projects not requiring trenching or modification to the subgrade, such as overlays and shoulder widening, shall be exempted from this requirement. [Ord. 11 0330 § 1 (Exh. A); Ord. 03 0180 §§ 1, 2; Ord. 02 0141 § 1; Ord. 98 0024 §§ 1, 2 (KCC 14.44.020).]

B. Right-of-way utility permits for the construction of facilities within the right-or-way shall be applied for and given in the name of the utility, or the utility's representative if authorized by the City. The utility shall be responsible for all work done under the permit, including but not limited to, paving, patching, grading, and any other necessary repair or restoration to the right-of-way and any impacted private property. The utility shall be responsible for all work performed by the utility, its contractors or by other third parties.

C. Any work performed on private property or within a critical area may require additional permits, reviews, and/or approvals by the City or other agencies. Utilities shall be responsible for determining and obtaining all required permits/approvals prior to starting work.

D. An annual permit for all facility maintenance activities within the right-of-way which do not include ground disturbances may be approved for utilities with a franchise in lieu of a right-of-way utility permit to maintain each facility.

1. If an annual permit is not on file, utilities will be required to submit for a right-of-way utility permit for each and all maintenance activities within the right-of-way for every facility.

2. Failure to obtain a permit shall be subject to a fine as set forth in KMC 12.55.130 for each instance maintenance activities are performed in the right-of-way without a permit.

3. The city manager shall have the discretion to determine what activities qualify under an annual permit and has the authority to adopt rules identifying the activities and criteria for said permit.

**12.55.030 ~~Construction-Utility~~ permit – Application—~~Generally~~.**

A. Applications for all right-of-way utility ~~construction~~ permits shall be submitted, in writing, to the City on forms provided by the department. ~~The application shall contain whatever information, including plans and specifications, which the City shall require. The application shall contain the information deemed necessary by the department, including, but not limited to, plans and specifications.~~

B. Applications for which no permit is issued within 12 months following the date of application submittal shall expire, and the plans and other data submitted for permit review may be returned to the applicant or destroyed in accordance with State law.

C. Applications may be canceled for inactivity, if an applicant fails to respond to the department's written request for revisions, corrections, actions or additional information within 90 days of the date of request. The city manager may extend the response period beyond 90 days if within the original 90-day time period the applicant provides and subsequently adheres to an approved schedule with specific target dates for submitting the full revisions, corrections or other information needed by the department.

D. The city manager may extend the life of an application for any of the following reasons:

1. Compliance with the State Environmental Policy Act is in progress; or

2. Any other City review is in progress; provided, that the applicant has submitted a complete response to City requests, or the city manager determines that unique or unusual circumstances exist that warrant additional time for such response, and the city manager determines that the review is proceeding in a timely manner toward final City decision; or

3. Litigation against the City or applicant is in progress, the outcome of which may affect the validity, or the provisions of any permit issued pursuant to such application.

4. At the sole discretion of the city manager when there have been newly adopted codes, fees, ordinances, standards, or laws which directly affect the application. [Ord. 11-0330 § 1 (Exh. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.44.030).]

**12.55.040 ~~Construction-Utility~~ permit —Application—Fees.**

A. Each application requires a fee, imposed by the city council by resolution, payable to the City for the administrative costs and expenses of processing the application and for other functions necessary for the approval and use of the permit. These fees shall be equal to the administrative costs of approving the permit, including but not limited to preparing the permit, review, processing, coordinating review with other departments, preparing environmental documents, inspection, etc. Additional fees shall be imposed as noted below. All fees shall be paid as required in accordance with the most current fee schedule established by the city council. Fees shall be collected in accordance with the administrative procedures developed by the department.



B. *Application fee:* This fee will be billed at the rate in effect at the time the application is received and covers all administrative costs necessary to receive, process, coordinate, and invoice for each *application* received. The fee shall cover up to 3 submittals (the original submittal and 2 revisions). Subsequent revisions may be subject to a new *application fee* in effect at the time the revision is received.

C. *Review fee:* This fee will be billed at the hourly rate in effect at the time of the review and covers all costs necessary in the review of a *permit*.

D. *Inspection fee:* This fee will be billed at the hourly rate in effect at the time of the ~~review~~ inspection and covers all costs necessary in the inspection and approval of *work* for all approved *applications*.

E. *Accelerated job start fee:* At the request of the *utility*, a *job start* request with less than the required notice may be approved. If approved, a fee shall be charged for each request and each permit. Any *work* performed after submission of a *job start* request but before written confirmation by the City shall be subject to an accelerated job start fee. Any *work* performed without written confirmation of a *job start* on an approved *permit* shall be subject to a job start fee.

F. *After hours work fee:* ~~Work~~ on an approved permit performed within the *right-of-way* outside of regular work hours shall be subject to a fee of one and a half times the inspection fee. Regular work hours are 7:00am to 4:00pm, Monday thru Friday. *Work* performed on an approved permit on Saturday or Sunday or between the hours of 4:00pm to 7:00am Monday thru Friday will be subject to a 4-hour minimum charge. With the exception of an emergency, no *work* will be allowed on *City* observed holidays unless approved by the *city manager*.

H: *Permit extension fee:* Each extension of an active *permit* approved by the *City*.

~~–[Ord. 11-0330 § 1 (Exh. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 02-0139 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.44.040).]~~

#### **12.55.050 Inspection fee.**

~~*Repealed A. The permittee shall pay to the department an inspection fee at the rate imposed by the city council by resolution per hour of utility inspection. The fee is in addition to any other City fees and is nonrefundable.*~~

~~*B. The fee shall be collected in accordance with administrative procedures developed by the department.*–[Ord. 11-0330 § 1 (Exh. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 02-0139 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.44.045).]~~

#### **12.55.060 Construction-Utility permit – Application – Review - Form.**

A. The department shall ~~coordinate the review by all departments of~~ *right-of-way* ~~construction~~ *utility* permit applications and shall determine whether the proposed ~~work~~ *construction* is consistent with the applicant's franchise ~~with from~~ the City (if applicable), the KMC, and the Road Standards.

B. The department shall review and evaluate applications in respect to the hazard and risk of the proposed construction, location of the proposed construction in relation to other ~~utilities~~ *facilities* in the *right-of-way* and the adequacy of the engineering and design of the proposed ~~construction~~ *facility* as it relates to the safety and operation of the *right-of-way*.

~~C. The department shall review and evaluate all applications for right of way construction permits for sewer and water main extensions to determine whether the proposed construction is consistent with the sewer or water comprehensive plan approved by the city council. If the facility is not consistent with an approved comprehensive plan, then the construction permit shall not be issued. Applications for those water utilities with Group A nonexpanding public water systems that are not required to prepare comprehensive plans for approval by the city council shall be approved if all other conditions of this chapter are met. The utility shall submit traffic control plans as needed for review. The department shall review the plans for compliance with the most recent Manual on Uniform Traffic Control Devices, site safety, the Road Standards and applicability to existing site conditions.~~

D. The department shall determine if the application meets the requirements identified in this section. If the application meets the requirements the department may issue the utility permit, subject to conditions consistent with

KMC 12.55.060.E, and if the *work* does not conflict with a *city project* as determined by the *city manager*. If the *application* is not consistent with the requirements identified in this section, the *department* may deny the utility permit.

E. The *right-of-way utility permit* granted shall be in a form approved by and be made subject to all terms and conditions imposed by the *department* and shall also include conditions of approval consistent with the requirements of Chapter 12.05 KMC, General Provisions.

~~–[Ord. 11-0330 § 1 (Exh. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.44.050).]~~

**12.55.065 Utility permit – Expiration/Extension.**

A. *Right-of-way utility permits* shall expire 6 months from the date of issuance. Permits may be extended an additional 6 months from the date of expiration at the discretion of the *city manager* as long as no changes have been made to the originally approved plans and no new development standards have been adopted. Permits that have been expired longer than 6 months will require a new permit application, review, and associated fees. At the *city manager's* discretion, permits may be extended beyond the 6-month extension period if one of the following circumstances applies:

1. Compliance with the State Environmental Policy Act is in progress; ~~or~~
2. Any other *City* review is in progress; provided, that the *applicant* has submitted a complete response to *City* requests, or the *city manager* determines that unique or unusual circumstances exist that warrant additional time for such response, and the *city manager* determines that the review is proceeding in a timely manner toward final *City* decision;
3. Litigation against the *City* or *applicant* is in progress, the outcome of which may affect the validity, or the provisions of any permit issued pursuant to such application;–
4. At the sole discretion of the *city manager* when there have been newly adopted codes, fees, ordinances, standards, or laws which directly affect the application; or
5. At the sole discretion of the *city manager* that an extension would be in the interest of the public's welfare.

B. Annual *maintenance* permits shall expire at midnight on the 31<sup>st</sup> day of December of the issuing year.

C. 30 days after the expiration of a *permit* (or extensions as applicable), *work* that is not completed as required by the *permit* will be considered delinquent and *restoration* of the *right-of-way* may be completed by the *City*. Any cost associated with completing the permitted ~~work~~*work* shall be charged to and paid by the *applicant*. If no *work* has been performed under the *permit*, the *permit* shall be closed and the *applicant* will need to submit a new application.

**12.55.070 ~~Emergency~~ ~~construction permits~~ – Unfranchised utilities.**

*Work* may be performed before a *permit* is issued in emergency situations. In these situations, the *City* will require the *utility* to submit for a *right-of-way utility permit* within 1 business day after *work* is performed or in the case of an extended emergency situation, as soon thereafter as practical. Emergency situations occur when: ~~A. The *City* may issue *construction permits* to unfranchised utilities under the following circumstances:~~

A. The *utility* has determined, with *City* concurrence, that emergency work is necessary to address a public health or safety hazard; ~~When the Seattle-King County department of public health has determined that the proposed work is necessary to address a public health hazard; or~~

B. ~~When~~ ~~The~~ *city manager* has determined that the proposed *work* is necessary to address actual or imminent damage to ~~City~~ *the right-of-way, facilities, City property*, or to address *health or safety* hazards to ~~users of City right-of-way~~ *the public*; or

C. When an outage has occurred due to forces outside of the *utility's* control. [Ord. 11-0330 § 1 (Exh. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.44.055).]

**12.55.080 Policy on accommodation of utilities.**

~~A. Adoption. "King County Regulations for Accommodation of Utilities on County Road Rights of Way, 1997," or as later amended, is hereby approved and adopted as the policy for installation and operations within the City of Kenmore street rights of way. Standards of Installation: The Road Standards establishes the City standards for facility location, installation, maintenance, and relocations with the right-of-way. For installations on bridges, facilities shall be located so as to not impact existing operations above and below the bridge. [Ord. 11-0330 § 1 (Exh. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.44.060).]~~

**12.55.090 Coordination of right-of-way construction.**

A. The applicant, at the time of submitting an application for a right-of-way ~~construction-utility~~ permit, shall notify all other public and private utility entities known to be using or proposing to use the same right-of-way of the applicant's proposed construction and the proposed timing of such construction. Any such entity so notified may, within seven days of such notification, request a delay in the commencement of such proposed construction for the purpose of coordinating other right-of-way construction with that proposed by the applicant.

B. The City shall ~~also~~ coordinate the approval of right-of-way ~~construction-utility~~ permits with ~~city projects-street improvements and maintenance~~ and may delay the commencement date for the applicant's right-of-way construction for ~~90-180~~ days or less, except in the case of emergencies, if it finds that such delay will reduce the inconvenience to ~~City street road~~ users from construction activities, if it finds that such delay will not create undue economic hardship on the applicant, or if it finds that such delay will allow the City to install conduit for future ~~facility~~ installations ~~of fiber optic cable~~.

C. The ~~utility~~ City shall ~~inform the~~ coordinate with ~~Washington State Department of Transportation WSDOT on~~ all ~~right-of-way construction-utility permit work issued~~ within the SR 522 ~~right-of-way~~ or ~~if the work impacts a traffic signal~~ within one City block ~~of SR 522~~.

~~D. At the city manager's discretion, the utility shall coordinate with Northshore School District on all work that will occur along any identified school walk routes, school bus routes, or student pick up/drop off locations.~~

~~E. The utility shall coordinate with King County Metro and Sound Transit on all right-of-way utility permits issued along bus routes.~~

~~DE~~ F. The City shall review all right-of-way ~~utility construction~~ permit applications for underground projects 1,000 feet or longer to determine, within 15 ~~working-business~~ days, whether the installation of conduit may be needed for the future installation of fiber optic cable to connect City or other public facilities.

~~G. Failure to coordinate with the respective agencies identified in this Section may result in a suspension or revocation of the approved permit. [Ord. 11-0330 § 1 (Exh. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.44.070).]~~

**12.55.100 Performance guarantee required.**

~~Performance guarantees may be required for utilities for work in the right-of-way, at the discretion of the city manager.~~ Prior to final approval of all right-of-way ~~utility construction~~ permits, the department shall determine the amount of the performance guarantee necessary to assure compliance with the approved construction plans, applicable State and local health and sanitation regulations, ~~and City standards,~~ and to assure proper restoration of the ~~right-of-way street~~ and the health and safety of the users of the ~~right-of-way street~~. If required, the applicant shall submit the financial guarantee consistent with the provisions of KMC Title 21. [Ord. 11-0330 § 1 (Exh. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.44.080).]

**12.55.110 Construction permit – Form.**

~~Repealed The right of way construction utility permit granted shall be in a form approved by and be made subject to all reasonable and necessary terms and conditions imposed by the department and shall also include conditions of approval consistent with the requirements of Chapter 12.05 KMC, General Provisions. [Ord. 18-0458 § 1 (Att. A); Ord. 11-0330 § 1 (Exh. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.44.090).]~~



**12.55.115 Insurance and Indemnification.**

Utilities without a franchise with the City shall be required to provide insurance and indemnification to the City. Insurance and indemnification requirements shall be consistent with the requirements of KMC 12.35.110. Coverage term of insurance shall be for a minimum of 6 months and shall cover all work performed within that coverage period.

**12.55.120 Notification by permittee of construction commencedJob start notification.**

The permittee shall give ~~oral or~~ written notice of the date of commencement of construction to the City per the department administrative policies. following agencies: department for all right of way construction, Seattle King County department of public health for construction of waterworks (except for domestic service connections), and city Additional notifications shall be given to the district fire marshal and Northshore Utility District for work that may interrupt water supplyworks and to Northshore School District where work may impact school district activities. Failure to give such notice is grounds for the revocation or suspension of the ~~construction~~ permit. [Ord. 11-0330 § 1 (Exh. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.44.100).]

**12.55.130 Enforcement.**

The ~~city manager and the director of the Seattle King County department of public health are~~ authorized to enforce the provisions of this chapter, the ordinances codified in it, and any rules and regulations adopted hereunder pursuant to the ~~enforcement and penalty provisions of Chapter 1.20 KMC. following:~~

- A. Activities performed in the right-of-way without a permit shall be fined \$1,000 per day per each occurrence;
- B. Lane/road closures that occur outside of the permitted closure hours or without prior approval from the city manager shall be fined \$500 per day, per permit for each day a violation occurs. Repeat occurrences may result in revocation of the permit.
- C. Where a relocation is required for a city project per KMC 12.55.160, daily penalties shall be determined by the City and shall include the daily financial impacts to the city project including but not limited to the total daily impact cost to the contractor, daily engineering and daily inspection services needed as determined by the City, and City staff cost (including overhead) as a result of a utility's failure to meet the City's relocation requirements.
- A-D. Facility relocation required for a utility driven relocation shall be fined \$500 per day per each individual location as a result of not relocating as required by this chapter. [Ord. 11-0330 § 1 (Exh. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.44.110).]

**12.55.135 Productivity and customer service report.**

*Repealed by Ord. 11-0330.* [Ord. 03-0180 §§ 1, 2 (KCC 14.44.115).]

**12.55.140 Severability.**

*Repealed by Ord. 11-0330.* [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.44.120).]

**12.55.145 Working hours and road closures.**

Working hours shall comply with Chapter 8.05 KMC unless otherwise approved by the city manager. Road closures, partial or otherwise, shall not be permitted unless otherwise approved by the city manager.

**12.55.150 Utility locates.**

All utilities shall be responsible, at no expense to the City, for locating their own facilities whether above ground or underground and whether active or abandoned. All underground facilities shall be located both horizontally and vertically in relation to the existing finished road elevation. Vertical locates shall be performed within 60 calendar days of notice by the City unless otherwise approved by the city manager. If vertical locates are not performed by the time prescribed by the City, the City shall assume the facilities are in conflict and will require relocation per KMC 12.55.160.

**12.55.155 Aesthetic and scenic considerations.**

A. Facility installations shall be designed and constructed to minimize the adverse effect on existing right-of-way, manmade or natural amenities. Special efforts shall be taken to minimize any potential negative impact on areas of scenic beauty such as viewpoints, recreation areas, public parks, and historic sites.

B. Overhead *facilities* shall be permitted in areas of scenic beauty only when underground locations are not technically feasible, unreasonably costly, or less desirable from the standpoint of aesthetics.

C. Overhead *facilities* shall take into consideration existing trees and future growth. *Facilities* shall be located to avoid or minimize branch trimming, root pruning, or other damage to existing trees.

D. Areas of scenic beauty shall be determined by the *city manager*.

**12.55.160 Adjustments and relocations.**

A. *Utilities* shall be responsible, at no expense to the *City*, to repair, remove or relocate all existing *facilities* within the *right-of-way* if such installation, repair, removal, or *relocation* is required by the *City* for any purpose, including, but not limited to, conflicts with a *city project*, *City maintenance* and operation, public safety, scenic beauty, *utility-* driven *relocations* or replacements.

B. *Utility-driven relocations*: In the event of a pole *relocation* or replacement, all *utilities* using the original pole shall transfer to the new pole within 30 calendar days of the notification to relocate. The *utility* pole owner shall be responsible for the coordination of and providing notice to any *third-party utilities* for the transfer of their respective *facilities*. The *City* may provide the 30-day relocation notice at the *city manager's* discretion. Failure to relocate *facilities* as required by this section shall be enforced by the *department* by issuance of daily fines per KMC 12.55.130.D.

C. *Facilities* shall be relocated as directed by the *City* that conflict with *city projects*, as determined by the *city engineer*. The *utility* shall relocate its *facilities* within 120 calendar days from written notice by the *City* to relocate. *Facilities* shall be relocated in the time frame required under this section. The 120 days shall not be extended for any reason unless provided for in any written agreement. Failure to relocate *facilities* as required by this section shall be enforced by the *department* by issuance of daily fines per KMC 12.55.130.C.

**12.55.165 Facility security and safety.**

Notwithstanding reinforcement or protection otherwise provided, a *utility* shall be responsible for the security and safety of any *facility* within the *right-of-way*. Where there are construction hazards or where heavy construction equipment will be used, the *utility* shall provide adequate temporary protection as determined by the *department*. Construction of *facilities* shall be performed in such a manner as to provide a safe passage within the *right-of-way*. In restoring the *right-of-way*, the *utility* shall give due consideration to the protection of previously placed *facilities* in the *right-of-way* without impacting the safe and efficient operation of the *right-of-way*.

**12.55.170 Abandonment.**

In general, all abandoned *facilities* shall be removed from the *right-of-way* once decommissioned. All abandoned *facilities* shall be removed within 30 calendar days of abandonment. The *city manager* may approve a request to abandon *facilities* in place if deemed to be safe and consistent with the *City's* future use of the *right-of-way*. The *utility* shall submit a plan to the *City* to ensure the safe decommissioning of the *facility*. The *department* may hire consultants to review the submitted plan and the *utility* shall pay all costs of said review. the city may approve the request to abandon facilities if deemed to be safe and consistent with the city's future use of the - All facilities abandoned in-place shall remain the property of the *utility* and shall be maintained and/or removed at the request of the *City* right of way. If, at any time, the *City* requires removal of the abandoned *facility*, the *utility* shall do so in accordance with KMC 12.55.160.

**12.55.175 Right-of-way vacations.**

If at any time the *City*, in accordance with Chapter 12.95 KMC, vacates the *right-of-way* or any portion therein, the *City* will not be liable for any damages or loss to a *utility* by reason of such vacation. When a *right-of-way* is vacated, it ceases to be a *City right-of-way* and the *utility's* authority from the *City* to have its *facilities* within such *right-of-way* is extinguished. The *City* will use its best efforts to notify any *utility* that may have *facilities* within the *right-of-way* to be vacated to allow the *utility* an opportunity to negotiate an easement for its *facilities*.

## Chapter 12.58

### WIRELESS COMMUNICATION FACILITIES WITHIN CITY RIGHTS-OF-WAY

#### Sections:

- 12.58.010 Purpose.
- 12.58.020 ~~Definitions.~~Repealed.
- 12.58.030 Exemptions.
- 12.58.040 Grant of authority – Right-of-way use agreement required.
- 12.58.050 Grant of authority – Effective period.
- 12.58.060 Application – Contents.
- 12.58.070 Application review.
- 12.58.080 Application review and inspection fees.
- 12.58.090 Annual compensation for use of right-of-way.
- 12.58.100 Insurance requirements.
- 12.58.110 Liquidated damages.
- 12.58.120 Liability and indemnification.
- 12.58.130 ~~Repealed.~~
- 12.58.140 Aesthetic and scenic considerations.
- 12.58.150 Adjustments and relocations.
- 12.55.165 Facility security and safety.
- 12.55.170 Abandonment.

#### **12.58.010 Purpose.**

The purpose of this chapter is to grant, through *right-of-way use agreements*, authority for the placement of *wireless communication facilities* within the ~~City~~*right-of-way*; and to establish standards for *right-of-way use agreements* which:

- A. Compensate the *City* for the value of the use of the ~~City~~*right-of-way* by *wireless communication providers*; and
- B. Reimburse the *City* for ongoing costs associated with those uses of the ~~City~~*right-of-way*; and
- C. Encourage competition by establishing consistent terms and conditions under which *wireless communication providers* may use valuable public property to serve the public; and
- D. Fully protect the public and the *City* from any harm that may flow from such private use of ~~the~~ *City**right-of-way*; and
- E. Protect and carry out the authority of the *City* over activities in the ~~City~~*right-of-way*, while recovering costs; and
- F. Allow the *City* to exercise its stewardship responsibilities with regard to ~~the~~ *City**right-of-way* in a manner consistent with all applicable *City* policies and codes, including but not limited to the zoning code, the *City* comprehensive plan, ~~City street standards~~and the Road Standards; and
- G. Otherwise protect the public interests in the development and use of the ~~City~~*right-of-way* infrastructure and in preserving and improving the aesthetics of the community. [Ord. 16-0426 § 9 (Att. G); Ord. 03-0180 §§ 1, 2; (KCC 14.45.010).]

#### **12.58.020 Definitions.**

~~The following terms shall be applicable to this chapter.~~Repealed

- ~~A. “City manager” means the City city manager or his or her designee(s).~~



~~B. "Right of way" is land, property or property interest, such as an easement, usually in a strip, as well as bridges, trestles, or other structures, dedicated to, or otherwise acquired by the City for public motor vehicle transportation purposes, including, but not limited to, streets, avenues, and alleys, whether or not opened, improved or maintained for public motor vehicle transportation purposes.~~

~~C. "Right of way use agreement" is an agreement between the City and a wireless communication provider through which is granted a site specific and revocable privilege to use city right of way at a location identified in the agreement for wireless communication facilities, and through which are set forth the terms and conditions for exercising the granted privilege to use the City right of way.~~

~~D. "Wireless communication facility" is the capital, equipment and property, including but not limited to the poles, pipes, mains, conduits, ducts, pedestals, and electronic equipment within the right of way used for the purpose of transmitting, receiving, distributing, providing, or offering wireless communications.~~

~~E. "Wireless communication provider" is every person that owns, controls, operates or manages a wireless communication facility within the City right of way for the purpose of offering wireless communication services (i.e., transmission for hire of information in electronic or optical form, including, but not limited to, voice, video, or data).~~

~~F. "Wireless" means transmissions through the airwaves including, but not limited to, infrared line of sight, cellular, microwave, or satellite. [Ord. 16-0426 § 9 (Att. G); Ord. 03-0180 §§ 1, 2; (KCC 14.45.020).]~~

#### 12.58.030 Exemptions.

The following *wireless communication facilities* are not subject to the provisions of this chapter:

A. *Facilities* located or constructed by the ~~City of Kenmore~~City; and

B. *Facilities* located or constructed by emergency services within the ~~City of Kenmore~~City as approved by the city manager; or:

~~C. *Utility's that have an existing franchise with the City.* [Ord. 16-0426 § 9 (Att. G); Ord. 05-0228 § 2; Ord. 03-0180 §§ 1, 2; (KCC 14.45.030).]~~

#### 12.58.040 Grant of authority – Right-of-way use agreement required.

*Wireless communication facilities* shall only be located or constructed within ~~the City of Kenmore~~rights-of-way after a *right-of-way use agreement* is approved by the *city manager*. Prior to approving the agreement, the *City* shall ensure that the proposed *facility* is located, designed and proposed to be constructed in a manner that complies with all applicable *City* policies and codes, including but not limited to the provisions of KMC Title 18, Zoning, the *City* comprehensive plan, ~~street standards~~the Road Standards, and ~~the regulation for accommodations of utilities~~facilities on City street rights-of-way adopted byper Chapter KMC-12.55-080 KMC. Furthermore, the *right-of-way use agreement* shall only allow placement of *wireless communication facilities* on improved and maintained ~~City street~~rights-of-way. [Ord. 16-0426 § 9 (Att. G); Ord. 03-0180 §§ 1, 2; (KCC 14.45.040).]

#### 12.58.050 Grant of authority – Effective period.

The *right-of-way use agreement* constitutes authorization for the *applicant* to use the ~~City~~right-of-way at the location specified in the agreement for no more than 10 years. One request for an extension may be approved for up to two years at the discretion of the city manager. Failure to comply with the terms and conditions of the *right-of-way use agreement*, including payment of required annual compensation, is cause for revoking ~~of the use~~of the agreement. The agreement holder shall remove *facilities* authorized by the agreement from the ~~City~~right-of-way upon termination or expiration of the agreement, unless renewed, or upon revocation of the agreement for cause. [Ord. 16-0426 § 9 (Att. G); Ord. 03-0180 §§ 1, 2; (KCC 14.45.050).]

#### 12.58.060 Application – Contents.

A. The *City* shall not commence review of any *application* set forth in this chapter until the *applicant* has submitted the following:

1. An *application* form provided by the City and completed by the *applicant*;
2. The name of the *applicant* and a designated contact person;
3. Plans and specifications for any structures, antenna or other equipment to be placed in the *right-of-way* or, if applicable, on *abutting private* property;
4. A vicinity map showing the specific location of *right-of-way* subject to the *application*;
5. When structures and equipment are to be located on *abutting properties*:
  - a. A site plan illustrating the relationship to property lines and other structures on the site;
  - b. Legal description of the site *abutting property*; and
  - c. Proof that the *abutting property* is a legally recognized lot pursuant to KMC Title 17;
6. A critical areas affidavit if required by Chapter 18.55 KMC; and
7. A completed environmental checklist, if required by Chapter 19.35 KMC; and.
- ~~8. Payment of any review fees established by KMC Title 21;~~

B. The *applicant* shall attest by written oath to the accuracy of all information submitted for an *application*. [Ord. 16-0426 § 9 (Att. G); Ord. 03-0180 §§ 1, 2; (KCC 14.45.060).]

#### 12.58.070 Application review.

~~A. The department of engineering and environmental services and the development services department~~department shall coordinate review and inspection of the *application* for a *right-of-way use agreement* and, to the extent required, any zoning approvals, building permits and environmental review under the State Environmental Policy Act, as follows:

~~A. The department of development services shall coordinate the review by all departments of the right of way use agreement application.~~

B. The ~~department of engineering and environmental services~~ shall review and evaluate *applications* with respect to the hazard and risk of the proposed construction and location of the proposed construction in relation to other ~~utilities~~facilities in the *right-of-way*.

C. The ~~department of development services~~City shall review and evaluate all *applications* to determine consistency with respect to the standards and requirements of Chapter 18.60 KMC and KMC Title 21. The ~~City~~department shall also be the lead agency for purposes of any environmental review required under Chapter 19.35 KMC. [Ord. 16-0426 § 9 (Att. G); Ord. 11-0329 § 6; Ord. 03-0180 §§ 1, 2; (KCC 14.45.070).]

#### 12.58.080 Application, review, and inspection fees.

~~The following fees shall be required for the administrative costs and expenses of processing and inspecting a right-of-way use agreement application.~~

Review Agency	Fee
Development services department- (application processing)	Imposed by the city- council by resolution
Development services department- (zoning review)	
Engineering and environmental services- department (inspection)	

The applicant shall pay the fees imposed by the city council by resolution, payable to the City for the administrative costs and expenses of processing the application and for other functions necessary for the approval and use of permits and the agreement. These fees shall be equal to the administrative costs of approving the agreement, including but not limited to preparing the permit for construction, review, processing, coordinating review with other departments, preparing environmental documents, inspection, agreement preparation, legal review, etc. [Ord. 16-0426 § 9 (Att. G); Ord. 03-0180 §§ 1, 2; Ord. 02-0139 § 1; (KCC 14.45.080).]

#### **12.58.090 Annual compensation for use of right-of-way.**

A. In consideration for continuing use of the City rights-of-way, ~~the an~~ agreement holder shall annually pay compensation ~~commit to the City provide an annual use payment. in an~~ The amount ~~of the use payment shall be as follows~~ approved by the city council by resolution.

Type of Equipment/Facility within the Right-of-Way	Use Payment
Separate support structure (such as a monopole or lattice) used solely for wireless antenna, with antenna/ receiver transmitter and/or equipment cabinet	Imposed by the city council by resolution
Antenna/receiver transmitter (on an existing or replacement pole) and equipment cabinet	
Antenna/receiver transmitter (on an existing or replacement pole) or equipment cabinet, but not both	

B. For the purpose of this section, “replacement pole” means a new ~~utility~~ pole replacing an existing ~~utility~~ pole in the City right-of-way with no increase in the total number of ~~utility~~ poles in the *right-of-way*. Replacement poles provide extra capacity to support attached *wireless communication facilities*.

C. ~~P~~Use payments of required compensation shall be paid to the City and are due upon the signing of the agreement, prorated to the end of the year, and the first of January every year thereafter.

D. All use payments prescribed by subsection A of this section shall be automatically escalated annually ~~, beginning January 1, 2001, and every year thereafter,~~ for the change in the U.S. Department of Labor, Bureau of Labor Statistics Consumer Price Index for All Urban Consumers (“CPI-U”) for the Seattle Tacoma-Bremerton Statistical Metropolitan Area for the preceding calendar year. In the event the CPI-U (or a successor or substitute index) is no longer published, a reliable government or other non-partisan index of inflation selected by the county shall be used to calculate the adjusted amounts. [Ord. 16-0426 § 9 (Att. G); Ord. 03-0180 §§ 1, 2; Ord. 02-0139 § 1; (KCC 14.45.090).]

#### **12.58.100 Insurance requirements.**

A. For any *right-of-way use agreement*, the agreement holder must carry commercial general liability, automobile liability and stop gap or employers liability coverage, each in minimum limits of not less than \$~~2~~1,000,000, in an amount approved by the city manager. All policies must provide endorsements naming the ~~City of Kenmore~~City as an additional named insured.

B. All policies shall be placed with insurers having a Bests’ rating of no less than A:VIII or, if not rated by Bests, with surpluses equivalent to or greater than Bests’ A:VIII rating. The agreement holder shall send copies of certificates, endorsements or other adequate evidence of compliance with this section to the ~~office so designated in the application~~City prior to the City’s execution of the agreement. [Ord. 16-0426 § 9 (Att. G); Ord. 03-0180 §§ 1, 2; (KCC 14.45.100).]

#### **12.58.110 Liquidated damages.**

All *right-of-way use agreements* may provide for liquidated damages to compensate the City for harm caused by violation of an agreement or this chapter, or any applicable law in an amount which is a reasonable forecast of just compensation for the harm caused by the violation but no less than \$250.00 per day for each day the violation occurs. [Ord. 16-0426 § 9 (Att. G); Ord. 03-0180 §§ 1, 2; (KCC 14.45.110).]



**12.58.120 Liability and indemnification.**

A. All *right-of-way use agreements* shall contain the following provision: the holder of agreement shall have no recourse whatsoever against the ~~county~~-*City* or its officials, boards, commissions, agents, or employees for any loss, costs, expenses, or damages arising out of any provision or requirement of the agreement, or KMC Title 21 because of the enforcement of the agreement, or KMC Title 21 except if such loss, costs, expenses or damages are the result of the sole negligence or misconduct on the part of the *City* or its agents.

B. All *right-of-way use agreements* shall contain the following provision: to the extent permitted by law, the holder of the agreement shall, at its sole cost and expense, indemnify, hold harmless, and defend the *City* and its officers, boards, commissions, agents and employees, against any and all claims, including but not limited to third-party claims, suits, causes of action, proceedings and judgments for damages or equitable relief arising out of the construction, repair, *maintenance* or operation of its *wireless communication facilities*, or in any way arising out of the agreement holder's enjoyment or exercise of the *right-of-way use agreement* granted pursuant, or otherwise subject to KMC Title 21, regardless of whether the act or omission complained of is authorized, allowed or prohibited by KMC Title 21 or an agreement. This provision includes, but is not limited to, expenses for reasonable legal fees and for disbursements and liabilities assumed by the *City* as follows:

1. To persons or property, in any way arising out of or through the acts or omissions of the agreement, its officers, employees, or agents or to which the agreement holder's negligence shall in any way contribute;
2. Arising out of an agreement holder's failure to comply with the provisions of any federal, State or local statute, ordinance, rule, or regulation applicable to the agreement holder.

C. The *City* shall give the agreement holder ~~timely~~-**30 calendar days'** written notice of the making of any claim or the commencement of any action, suit or other proceeding covered by KMC Title 21. In the event any such claim arises, the *City* or any other indemnified party shall tender the defense thereof to the permit and the agreement holder shall have the right to defend, settle, or compromise any claims arising hereunder and the *City* shall cooperate fully therein. [Ord. 16-0426 § 9 (Att. G); Ord. 03-0180 §§ 1, 2; (KCC 14.45.120).]

**12.58.130 Antenna and equipment cabinets/buildings abutting residential zones.**

*Repealed by Ord. 16-0426. [Ord. 03-0180 §§ 1, 2; (KCC 14.45.130).]*

**12.58.140 Aesthetic and scenic considerations.**

A. Facility installations shall be designed and constructed to minimize the adverse effect on existing *right-of-way*, manmade or natural amenities. Special efforts shall be taken to minimize any potential negative impact on areas of scenic beauty such as viewpoints, recreation areas, public parks, and historic sites. Facility designs shall be in accordance with Chapter 18.60 KMC.

B. Overhead facilities shall take into consideration existing trees and future growth. Facilities shall be located to avoid or minimize branch trimming, root pruning, or other damage to existing trees.

**12.58.150 Adjustments and relocations.**

A. The utility shall be responsible, at no expense to the *City*, to repair, remove or relocate all existing facilities within the *right-of-way* if such installation, repair, removal, or relocation is required by the *City* for any purpose, including, but not limited, conflicts with a city project, *City maintenance* and operation, public safety, -pole relocations or replacements.

B. Utility driven relocations: In the event of a relocation or replacement, all utilities using the original structure shall transfer to the new structure within 120 calendar days of the new structure installation. The utility initiating the relocation/replacement shall be responsible for the coordination of and providing a minimum of 90 calendar day notice to any other third-party Utilities for the transfer of their respective facilities.

C. Facilities that conflict with city projects shall be relocated as directed by the *City*. Facilities shall be relocated in the time frame required by the *right-of-way use agreement*.

D. Failure to relocate facilities as required by this section shall be considered a breach of agreement and may result

in termination of the ~~and~~ agreement and shall be subject to enforcement and the penalties set for in KMC 12.55.130.

**12.58.165 Facility security and safety.**

Notwithstanding reinforcement or protection otherwise provided, a *utility* shall be responsible for the safety and security of any existing *facility* within the *right-of-way*. Where there are construction hazards or where heavy construction equipment will be used, the *utility* shall provide adequate temporary protection. Construction of *facilities* shall be performed in such a manner as to provide a safe passage within the *right-of-way*. In restoring the *right-of-way*, the *utility* shall protect existing *facilities* in the *right-of-way* without impacting the safe and efficient operation of the *road*.

**12.58.170 Abandonment.**

All abandoned *facilities* shall be removed by the agreement holder from the *right-of-way* within 30 days of being decommissioned by the *utility*.

## Chapter 12.60

### PUBLIC AND PRIVATE UTILITIES ON REAL PROPERTY

#### Sections:

- 12.60.010 Purpose.
- 12.60.020 Permit – Required – Exceptions.
- 12.60.030 Permit – Issuance authority – Use.
- 12.60.040 Permit – Privilege limitations.
- 12.60.050 Permit – Compliance with applicable provisions.
- 12.60.060 Permit – Terms and conditions.
- 12.60.070 Permit – Application – Required information.
- 12.60.090 ~~Permit — Review and certification by agencies.~~
- 12.60.095 Grant of authority.
- 12.60.098 Grant of authority – Effective period.
- 12.60.100 Financial guarantee requirements.
- 12.60.110 Notice of proposed use and commencement – Departmental coordination of permit approval.
- 12.60.120 Notice to agencies of construction date.
- 12.60.130 Permit revocation.
- 12.60.140 Termination of privileges – Assessment.
- 12.60.150 Enforcement.
- 12.60.160 Rights reserved to City – Conformance and payment of cost required.
- 12.60.170 Rule and regulation promulgation.
- 12.60.180 Severability.
- 12.60.190 Application, review, and inspection fees.
- 12.60.200 Annual compensation for use of real property.

#### **12.60.010 Purpose.**

The purpose of this chapter shall be to authorize and regulate the issuance of permits for the accommodation of public and private ~~utility facilities~~, and other related uses upon the ~~City-owned~~ real property which is not dedicated as *right-of-way* and to ensure that privileges authorized by the permits are consistent with public ownership of the property, the ~~City~~ comprehensive plan, the critical areas code, sound engineering and design standards, and health and sanitation regulations. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.46.010).]

#### **12.60.020 Permit – Required – Exceptions.**

All ~~work utility construction work and other uses~~ performed upon, along, over, under or across any public place in the ~~City of Kenmore City~~ shall require a special use permit to be issued by the ~~City of Kenmore City~~; provided, that ~~construction work~~ undertaken by the ~~City of Kenmore City~~ or under contract to the ~~City of Kenmore City~~ or requested by the ~~City of Kenmore due to new construction~~ shall be exempted from this requirement. ~~Utility construction~~ ~~Work~~ includes, but is not limited to, construction and *maintenance* of waterworks, gas pipes, telephone, telegraph and electric lines, sewers, cable television, wireless communications, ~~and~~ petroleum products and any other such public and private facilities. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.46.020).]

#### **12.60.030 Permit – Issuance authority – Use.**

The ~~City of Kenmore City~~ is authorized to issue revocable permits for all ~~utility construction work and installation~~, and other related uses upon, along, over, under or across any public place in the ~~City of Kenmore City~~. The permits shall be used to authorize an act or series of acts on ~~City-owned~~ real property which is not dedicated as *right-of-way*. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.46.030).]

#### **12.60.040 Permit – Privilege limitations.**

The permits shall not be construed to convey any vested right in the property. The permits grant only a personal and revocable privilege and license to do one or more acts on the property without possessing any interest in the property. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.46.040).]



**12.60.050 Permit – Compliance with applicable provisions.**

The issuance of permits authorized in this chapter does not relieve or release the *permittee* from complying with other applicable statutes, ordinances, restrictions, regulations, rules or obligations in connection with the *permittee's* proposed use of the property. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.46.050).]

**12.60.060 Permit – Terms and conditions.**

The *permits* shall be subject to all terms, conditions and restrictions, imposed by the department responsible for the management of the property to be affected, deemed necessary to preserve all characteristics consistent with public ownership. ~~consequently, the~~ The general and specific terms, conditions and restrictions of the *permits* will vary according to, but not limited to, the following:

- A. The property interest owned by the ~~City of Kenmore~~City;
- B. All federal, State or local restrictions placed on the use of the property;
- C. The purpose for acquiring the property;
- D. Plans for the future development of the property;
- E. The *applicant's* proposed use of the property; and
- F. The individual characteristics of the property. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.46.060).]

**12.60.070 Permit – Application – Required information.**

*Applications* for all *permits* shall be submitted, in writing, to the ~~City of Kenmore~~City. The *application* shall contain whatever information, including plans and specifications, the ~~City of Kenmore~~City shall require. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.46.070).]

**12.60.090 ~~Permit – Review and certification by agencies.~~**

A. The ~~City of Kenmore~~City shall ~~coordinate the review by all departments of permit applications for compliance with all City codes, plans, and Road Standards. Work within City parks shall be reviewed for consistency with the City's most current Parks, Recreation, and Open Space Plan.~~

B. The department responsible for the management and maintenance of the property to be affected shall review and evaluate *applications* with respect to the hazard and risk of the proposed construction or use, location of the proposed construction or use in relation to other *facilities* and infrastructure using the property, the adequacy of the engineering and design of the proposed construction or use, and applicable ~~F~~Federal, State, ~~e~~County and local laws and regulations.

~~C. The Seattle King County department of public health shall review and evaluate applications for the construction of waterworks (except for domestic service connections) to determine consistency with State and local health and sanitation regulations.~~

~~D. If applicable, the City of Kenmore district fire marshal and/or utility district shall review and evaluate applications for the construction of waterworks to determine consistency with standards for water mains and fire hydrants.~~

~~E. All s for the construction of sewer or water facilities must be certified by the department of community development as consistent with a sewer or water comprehensive plan approved by the city council.~~

~~F. In any case, the City of Kenmore~~City shall ~~forward the review applications to the department for compliance with recommendations on~~ critical area regulations issues and ~~the City of Kenmore~~City shall be responsible for assuring that any *application* meets the requirements of the critical areas code set out in Chapter 18.55 KMC and the administrative rules promulgated thereunder before the permit is issued.

E. Additional permitting may be required by other agencies. The *applicant* shall be responsible for securing all necessary permits not issued by the *City*. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.46.090).]

**12.60.095 Grant of authority.**

*Facilities* shall only be located or constructed on real property after a use agreement is approved at the discretion of the *city manager*. Prior to approving the agreement, the *City* shall ensure that the proposed *facility* is located, designed and proposed to be constructed in a manner that complies with all applicable *City* policies and codes, including but not limited to the provisions of KMC Title 18, Zoning, the *City* comprehensive plan, and other sections of KMC as applicable.

**12.60.098 Grant of authority – Effective period.**

The use agreement constitutes authorization for the *applicant* to use the *City* property at the location specified in the agreement for no more than 10 years. Extensions may be approved at the discretion of the *city manager*. Failure to comply with the terms and conditions of the use agreement, including payment of required annual compensation, is cause for revoking of the use agreement. The agreement holder shall remove *facilities* authorized by the agreement from the *City* property upon the termination or expiration of the agreement, unless renewed, or upon revocation of the agreement for cause.

**12.60.100 Financial guarantee requirements.**

Prior to final approval of all permits, the *department* ~~responsible for the management of the property to be affected~~ shall determine the amount of the performance guarantee necessary to assure compliance with approved construction plans, applicable State and local health and sanitation regulations, *City* standards for water mains and fire hydrants, and to assure proper *restoration* of the property and the health and safety of the users of the property. The *applicant* shall submit the financial guarantee consistent with the provisions of KMC Title 21. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.46.100).]

**12.60.110 Notice of proposed use and commencement – Departmental coordination of permit approval.**

A. The *applicant*, at the time of submitting an *application* for a permit, shall notify all public and private *utility* entities known to be using or proposing to use the same public place of the *applicant's* proposed use and the proposed timing of any construction. Any such entity notified may, within seven days of such notification, request a delay in the commencement of any proposed construction for the purpose of coordinating other construction work on the property with that proposed by the *applicant*. The ~~City of Kenmore~~*City* may delay the commencement date for the *applicant's* construction *work* on the property for 90 days or less if it finds that such delay will reduce the inconvenience to the public from construction activities, and it finds that such delay will not create undue economic hardship on the *applicant*.

B. The ~~City of Kenmore~~*City* shall also coordinate the approval of *permits* with the department responsible for the management *and maintenance* of the property to be affected and may delay the commencement date for the *applicant's* construction *work* for ~~90-180~~ days or less upon making the findings described in subsection (A) of this section.

~~C. The City of Kenmore shall inform the Seattle King County department of public health of permits for construction of waterworks (except domestic service connections), and the City of Kenmore fire marshal of permits for waterworks. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.46.110).]~~

**12.60.120 Notice to agencies of construction date.**

The *permittee* is required to give written notice of the date construction will begin to the following agencies: the *department* responsible for the management *and maintenance* of the property to be affected; ~~Seattle King County department of public health~~*Northshore Utility District* for construction of waterworks ~~(except for domestic service connections)~~; the ~~City of Kenmore~~ fire marshal for construction of waterworks. Failure to give such notice is grounds for the revocation or suspension of the permit. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.46.120).]

#### **12.60.130 Permit revocation.**

Any permit issued by the authority of this chapter shall be revocable at any time that the *department* responsible for the management and maintenance of the property affected shall determine that the public health, safety, general welfare, or public use requires such revocation, and the right to revoke is expressly reserved to the ~~City of Kenmore~~City. At a reasonable time prior to action upon such revocation or proposed revocation, opportunity shall be afforded to the *permittee* to present for consideration action or actions alternative to the revocation of such permit. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.46.130).]

#### **12.60.140 Termination of privileges – Assessment.**

All privileges granted by the ~~permits~~use agreement shall automatically terminate at such time as the *permittee* ceases to use the property and any *facilities* authorized by the ~~permit~~agreement. The *permittee* may terminate the agreement by written notice to the *city manager*. Upon revocation, termination or abandonment of any ~~agreement~~permit, the *permittee* shall remove at ~~the permittee's~~this expense all *facilities* placed on such property by the *permittee* and restore the premises to a condition which is equivalent in all respects to the condition existing prior to installation of the *facilities*, as noted in the agreement, or to a condition which is satisfactory to the *City*. If the *permittee* has not accomplished removal and restoration at the end of a 90-day period following the effective date of revocation, termination or abandonment, the *City* may accomplish all of the necessary work and charge all ~~of the~~ costs related to said work to the *permittee*. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.46.140).]

#### **12.60.150 Enforcement.**

In addition to other enforcement powers and not in limitation thereto, the *city manager* is authorized to enforce the provisions of this chapter, and any rules and regulations adopted thereunder pursuant to the enforcement and penalty provisions of Chapter 1.20 KMC. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.46.150).]

#### **12.60.160 Rights reserved to City – Conformance and payment of cost required.**

The *City* reserves the sole right to use, occupy and enjoy its property for such purposes as it ~~shall~~ desires and deems fit, including, but not limited, to constructing or installing structures and *facilities* on the property, or developing, improving, repairing, *maintaining* or altering the property. The *permittee* upon written notice will, at the ~~permittee's~~this own ~~cost and~~ expense, remove, repair, relocate, change or reconstruct ~~such installations~~facilities to conform with the plans of *work* contemplated or ordered by the *City* according to a time schedule contained in the written notice. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.46.160).]

#### **12.60.170 Rule and regulation promulgation.**

The *city manager* may promulgate any rules and regulations necessary for the operation of this chapter. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.46.170).]

#### **12.60.180 Severability.**

If any provision of this chapter or its *application* to any person or circumstances is declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portion of this chapter. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.46.180).]

#### **12.60.190 Application, review, and inspection fees.**

Each application requires fees, imposed by the city council by resolution, payable to the City for the administrative costs and expenses of processing the application and for other functions necessary for the approval and use of permits and the agreement. These fees shall be equal to the administrative costs of approving the agreement, including, but not limited to, preparing the permit for construction, review, processing, coordinating review with other departments, preparing environmental documents, inspection, agreement preparation, legal review, etc.

#### **12.60.200 Annual compensation for use of real property.**

In consideration for continuing use of City real property, an agreement holder shall pay annual compensation for use of the property. The amount of the use payment shall be as adopted by the city council by resolution.



## Chapter 12.65

### SNOW EMERGENCY ROUTES

#### Sections:

- 12.65.010 Designation.
- 12.65.020 Publication.
- 12.65.030 Snow emergency – Declaration authority – News bulletin.
- 12.65.040 Coordination of snow removal activities with other jurisdictions.

#### 12.65.010 Designation.

Certain arterial ~~and collector roads-highways, and~~ school bus routes, ~~and other roads-in the City of Kenmore,~~ to be identified and so designated by the ~~director of public works~~city manager, are declared snow emergency routes. Such snow emergency routes shall be the first streets to be sanded and/or cleared of snow.

~~A. A list of streets which will remain open and available for school bus use during thawing conditions shall be supplied to each and every school district operating on City streets within the City.~~

[Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.48.010).]

#### 12.65.020 Publication.

The ~~director of public works~~city manager shall issue a news bulletin ~~to all newspapers of general circulation-servicing the City of Kenmore~~to all City police, fire services and the school district, a listing of all such snow emergency routes. Such listing ~~of snow emergency routes shall be prepared and a news bulletin issued within two-weeks of January 29, 1973, and thereafter annually;~~ prior to the second Monday in ~~November~~October. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.48.020).]

#### 12.65.030 Snow emergency – Declaration authority – News bulletin.

A. The ~~director of public works or his authorized representative~~city manager is empowered to declare a snow emergency. The ~~director~~city manager shall establish guidelines for conditions which will warrant the declaring of a snow emergency.

B. When a snow emergency is declared, the ~~director~~city manager shall issue an emergency news bulletin ~~to all radio and television stations and newspapers serving the City of Kenmore~~through the City's electronic media; and to the chief of the police ~~and fire departments~~, so that there may be coordination for the deployment of personnel and equipment. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.48.030).]

#### 12.65.040 Coordination of snow removal activities with other jurisdictions.

The ~~director of public works~~city manager shall coordinate ~~City of Kenmore~~City snow removal activities with federal, State, county and other local jurisdictions located within or adjacent to the ~~City of Kenmore~~City for the purpose of continuity in clearing snow emergency routes. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.48.040).]

**Chapter 12.70**  
**SIDEWALKS, PLANTING STRIPS**  
**AND STREET TREES**

Sections:

- 12.70.010 Definitions.
- 12.70.020 ~~Sidewalk – Repair determination – Responsibility and costs. Abutting property owner to maintain sidewalk in safe condition~~
- 12.70.030 ~~Sidewalk – Notice to repair – Cost assessment. Abutting property owner shall be responsible for expense of sidewalk maintenance and repair~~
- 12.70.040 ~~Planting strip. Right of way maintenance. Procedure for sidewalk construction or repair.~~
- ~~12.70.050 Right-of-way vegetation maintenance~~
- 12.70.060 Sidewalk – Snow, ice and trash removal required when.
- 12.70.070 Sidewalk – Violation of KMC 12.70.050 deemed misdemeanor.
- 12.70.080 Exemption from KMC 12.70.040 and 12.70.050 permitted when.
- 12.70.090 ~~Street trees and plantings~~ Right-of-way vegetation – Trimming limitations – Removal prohibited.
- ~~12.70.100~~ Right-of-way maintenance – Enforcement.

**12.70.010 Definitions.**

~~Terms used in this chapter with relation to sidewalks, planting strips, unimproved right of way, and curbs will have the meanings as set forth in this section. In addition to the definitions in Section 12.05 KMC, the following definitions shall apply to this Section:~~

~~A. “Abutting property” means property having a frontage upon the sides or margins of any street or right of way.~~

~~B. “Curb” means a cement, concrete or asphaltic concrete raised structure designed to delineate the edge of the pavement and to separate the vehicular portion from that provided for pedestrians and surface drainage control.~~

~~C. “Hazardous tree” means any tree with any structural defect, disease, damage, or combinations of these which make it subject to a high probability of failure which might cause damage to persons or property. A “hazard tree” includes, but is not limited to, any isolated tree(s) that have a high probability of failure due to low wind-firmness in post-construction conditions as determined by a qualified tree protection professional.~~

~~B. “Planting strip” means that portion of the right-of-way which lies:~~

- ~~1. Behind the curb line and b~~ Between the curb line and the sidewalk; and
- ~~2. Between the sidewalk and the right-of-way line; or~~
- ~~3. Between the edge of pavement and the right-of-way line where sidewalks and/or curb are not present; or~~
4. Between the curb line and the right-of-way line where sidewalk is not present.

~~And may include, but not limited to, trees, shrubs, groundcover, fences, facilities, signs, hydrants, gravel, drainage infrastructure. right of way by the City D. “Public works director” means the public works director, or designee.~~

[Ord. 17-0445 § 1; Ord. 16-0428 § 2 (Att. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.52.010).]

**12.70.020 Abutting property owner to maintain sidewalk in safe condition—Repair determination—Responsibility and costs.**

~~A. Whenever a portion of any public street, including any boulevard, avenue, lane or place, is improved by a sidewalk thereon, and the sidewalk has become unfit or unsafe for public travel, the city manager may determine that the reconstruction or repair of that portion of sidewalk is necessary for the public safety and convenience. If the manager makes such a determination, the manager will also determine the cause of the damage to such sidewalk. It shall be the responsibility of the owner of property abutting upon a public sidewalk to maintain the sidewalk at all times in a safe condition, free of any and all obstructions or defects, see section 12.70.050.~~

~~B. If the city manager finds that damage to the sidewalk results from activities on or use of the abutting privately-owned property or actions or omissions of the abutting private property owner (examples include roots from trees not planted by any public entity, private vehicle traffic at driveways, etc.), the duty, burden and expense of reconstruction or repair will be the responsibility of the owner; provided, that the owner will not be responsible for any construction or repair in excess of 25 percent of the valuation of the abutting property, exclusive of improvements.~~

~~C. If the city manager does so find the cause of damage to the sidewalk lies on public property, within the right-of-way, or can be identified as placed by a public entity, the duty, burden and expense of repair will be the responsibility of the City.~~

~~D. The city manager will prepare a written order of the city manager's determinations under this section. This chapter and the city manager's determinations will constitute the "resolution" identified in Chapters 35.68, 35.69 and 35.70 RCW. [Ord. 17-0445 § 2; Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC-14.52.020).]~~

**12.70.030 Abutting property owner shall be responsible for expense of maintenance and repair.**

The burden and expense of maintaining sidewalks along the side of any street or other public place shall be borne by and the responsibility of the owner of the property directly abutting thereon. The abutting property owner shall also be responsible for performing and paying for sidewalk repairs to the extent the need for repairs is caused by the actions or omissions of the abutting property owner.

**12.70.030—040 Procedure for sidewalk construction or repair. Sidewalk—Notice to repair—Cost assessment.**

~~A. Whenever the city manager has determined that a portion of a sidewalk has become unfit or unsafe for public travel, that reconstruction or repair is necessary for public safety and convenience, and that the abutting property owner is responsible for reconstruction or repair pursuant to KMC 12.70.020(B), the public works director will give written notice of the determination to the owner of the abutting property. The notice will:~~

~~A. If the judgment of the city engineer or another department of public works official, public convenience or safety requires that a sidewalk be constructed or repaired along either side of any street, such fact shall be reported to the city council.~~

~~B. If upon receiving a report from the proper official, the city council deems the construction of the proposed sidewalk or repair of such sidewalk necessary or convenient for the public health, safety or welfare, the city council may then order such work to be done pursuant to the procedures established in Chapter 35.68, 35.69 or 35.70 RCW. The cost of such proposed sidewalk construction or sidewalk repair shall be borne by the abutting property owner in accordance with Chapter 35.68, 35.69 or 35.70 RCW.~~

~~CB. Permit Required:~~ Before commencing reconstruction or repair of a sidewalk, the owner must submit an application for a right-of-way use permit, limited (Type A). The application must include provide to the public-works director—the plans for the reconstruction or repair, together with an estimate of the cost of the reconstruction or repair. ~~The city engineer shall evaluate the cost of the reconstruction/repair. —and information from which the public works director/city engineer may determine the valuation of the abutting property, exclusive of improvements.~~ The public works director/city engineer may require the owner to provide additional information to evaluate the cost, ~~determine such valuation, at the cost of the owner.~~ If the public works director/city engineer determines that the cost of the reconstruction or repair will exceed ~~50~~25 percent of ~~the abutting property such~~ —



valuation, exclusive of improvements, the *owner* must modify the plans for the reconstruction or repair so that the cost ~~of the work~~ does not exceed 5025 percent of such valuation. The *owner* will not commence the reconstruction or repair until the ~~public works director~~ city engineer has approved the modified plans. The abutting property valuation shall be the current valuation as determined by the King County Assessor's office website for said property.

~~B. If the owner fails to perform the approved reconstruction or repair within the time period stated in the notice, or a different time period approved by the public works director, the City will complete the reconstruction or repair. After completion, the public works director will determine the cost to be charged to the owner, and the time and manner of payment thereof; provided, that the cost will not exceed 25 percent of the valuation of the abutting property, exclusive of improvements. The public works director will give notice of the cost to the owner. The notice will:~~

- ~~1. State the cost to be charged to the owner, and the time and manner of payment thereof;~~
- ~~2. Include supporting documentation for the cost;~~
- ~~3. Advise the owner that the cost cannot exceed 25 percent of the valuation of the property, exclusive of improvements;~~
- ~~4. State that the public works director will hear protests to the determination of cost, at a time and place and in a manner established by the public works director.~~

~~The approved cost will become a lien upon the property. The lien will be collected in the manner as provided by law for collection of local improvements assessments.~~

~~The owner may appeal the city manager's determination of responsibility for the reconstruction or repair, and may appeal the public works director's determination of cost, by filing a notice of appeal with the city manager or the public works director, as applicable, within 10 calendar days after entry of the city manager's or public works director's city engineer determination. The city manager or public works director will consider the owner's protests at a time and place and in a manner determined by the city manager or public works director. The city manager or public works director will give notice of the date, time, place and manner of consideration of the protests to the owner's recorded tax address. After the protest consideration, the city manager or public works director will issue a decision, which will be the City's final decision on the owner's responsibility for reconstruction or repair or the cost. [Ord. 17-0445 § 3; Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.52.030).]~~

#### **12.70.0540 Planting strip Right-of-way vegetation maintenance.**

A. Maintenance of planting strips, sidewalks, and unimproved right-of-way, including tree ~~hazardous trees~~, tree limbs and shrubbery (that ~~protrude over~~ obstructs the road and/or sidewalk or blocks sight distance or signage), soil, gravel, weeds, grass, or other ground cover, will be the responsibility of the abutting property owner. Vegetation in planting strips will be kept maintained in a condition that does not impair the use of the right-of-way by the City or the traveling public. The use of the right-of-way includes, but is not limited to:

- ~~1. A. Motor vehicles on paved roadways;~~
- ~~2. B. Bicycles on paved surfaces or designated trails; and~~
- ~~3. C. Pedestrians on sidewalks, designated paved walkways or other pedestrian paths as determined by the city manager; and~~
- 3.4. City maintenance and operations.

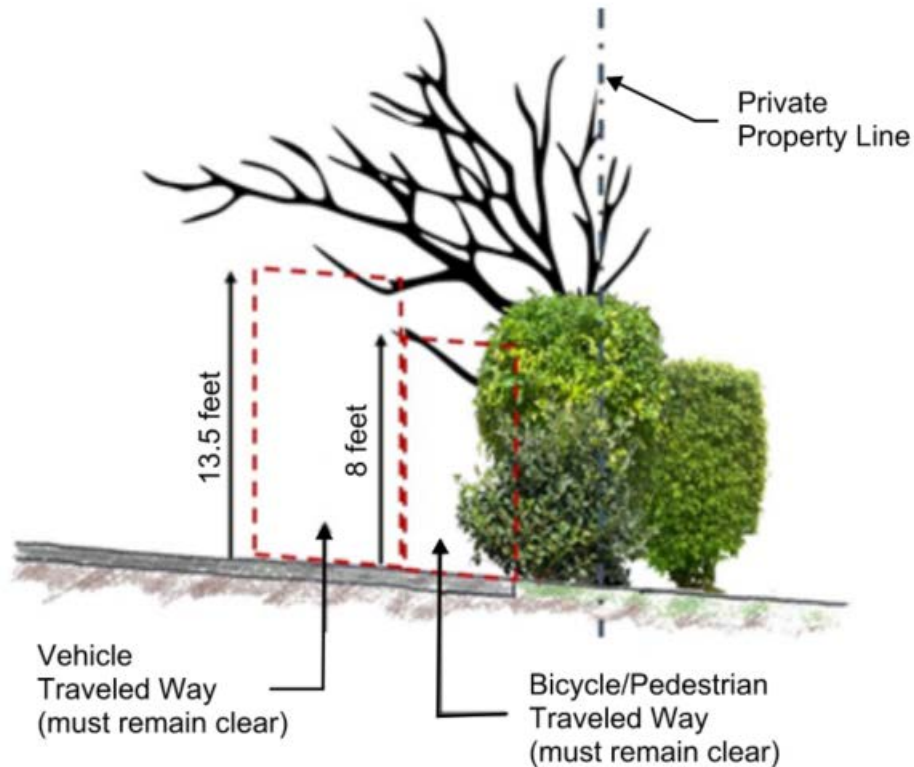
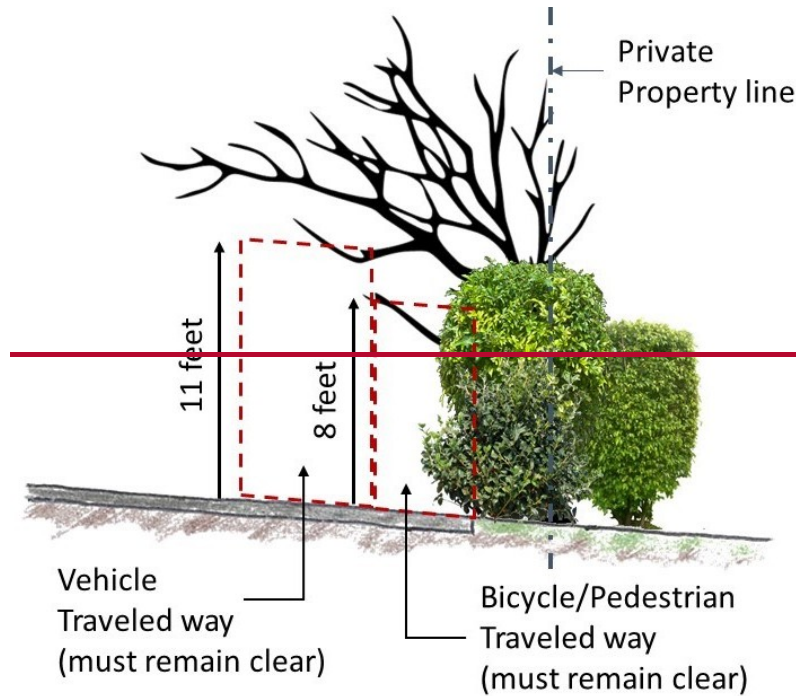
B. Vegetation ~~will~~ shall not overhang sidewalks, walkways or bike lanes within eight feet, measured vertically from any point on the traveled way. Vegetation ~~will~~ shall not overhang vehicle lanes within ~~11~~ 13.5 feet, measured vertically from any point on the traveled way. Vegetation shall be trimmed as needed to prevent blockage of sight distance per the Road Standards or any roadway sign. The traveled way is defined as:-

1. ~~DA.~~ The traveled way (facing private property) for pedestrians shall be for sidewalks, paved walkways separated by a curb from the vehicle traveled way, or paved walkways signed for pedestrians. or bike lanes will

~~be defined by the edge of paved surfaces.~~ Other pedestrian paths, as determined by the *city manager*, ~~will be a minimum of four feet wide~~ may also be defined as a pedestrian traveled way.

~~4.2. B.~~ The traveled way for bicycles shall be defined by signage and pavement markings and shall be a paved area separated by pavement markings from the vehicle traveled way or a paved path as determined by the *city manager*.

~~2.3. EC.~~ The traveled way for vehicles will be defined by the edge stripe or edge of pavement where no stripe is present.



C. Drainage ditches ~~will~~shall be kept free of debris and maintained in a condition that allows the free flow of water and provides for adequate access for City maintenance and inspections. Aesthetic maintenance of drainage ditch vegetation, assuming adequate access and free flow of water is maintained, is ~~the at the discretion and~~ responsibility and at the discretion of the ~~abutting~~ property owner.





D. Within unimproved right-of-way, abutting property owners shall be responsible for trimming vegetation that overhangs onto their respective property and for removing hazardous trees. The abutting property owner's responsibility shall extend to the center of the unimproved right-of-way.

E. Should the city manager find that such property is not being properly maintained, the city manager will send a notice as provided in KMC 12.70.030 specifying a reasonable time within which such maintenance will be accomplished. If the owner fails to proceed, the department will have the maintenance performed, and the cost may, at the discretion of the city manager, be assessed against the property owner. All slopes adjacent to abutting properties shall be maintained by the owner. Maintenance shall be consistent with the requirements for planting strips and shall include erosion control and vegetation stabilization.

F. Certain planting strips, sidewalks, unimproved right-of-way and other right-of-way areas may be maintained by the City at the city manager's discretion. Nothing in this chapter will preclude the City, at city manager's discretion, from maintaining vegetation in the City right-of-way. [Ord. 17-0445 § 4, 2017; Ord. 16-0428 § 2 (Att. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.52.040).]

#### **12.70.0650 Sidewalk – Snow, ice and trash removal required when.**

It is unlawful for any person, firm or corporation owning ~~real abutting property~~ within the ~~City of Kenmore~~ City to permit the accumulation of snow, ice, vegetative debris, trash or any other material ~~on~~ on an existing sidewalk which impedes the normal flow of pedestrian traffic. In the event the property is owned by a person not a resident of the ~~City of Kenmore~~ City, a reasonable period of time shall be provided for the owner or ~~the owner's~~ this agent to remove the material. If such removal is not accomplished within a reasonable period of time, the ~~director of public works~~ city manager may have the sidewalk cleaned and the cost thereof shall be ~~a collection~~ billed to lien on the property owner. The determination of reasonable period of time shall be at the sole discretion of the city manager. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.52.050).]

#### **12.70.0760 Sidewalk – Violation of KMC 12.70.050 deemed misdemeanor.**

Each day any sidewalk, or driveway portion thereof, is permitted to remain in a hazardous condition as specified in KMC 12.70.050 shall be considered and shall constitute a separate violation. Violation of KMC 12.70.050 shall constitute a misdemeanor and shall be punished ~~ed~~ able as provided by law. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.52.060).]

**12.70.0870 Exemption from KMC 12.70.0430 and 12.70.050 permitted when.**

~~Residents whose property~~ Property that abuts the right-of-way which is substantially higher or lower in elevation than the ~~street road, which does not have reasonable street access to that section of the right-of-way from one or more sides of their property, and where that portion of right-of-way is not continuous to abutted right-of-way that is accessible -~~ may apply for an exemption from the provisions of KMC ~~12.70.30 and 12.70.040 and~~ 12.70.050. Exemptions may be granted by the city engineer based upon standards which shall be established by the department. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.52.070).]

**12.70.0980 ~~Street-Right of way trees and plantings~~vegetation – Trimming limitations – Removal prohibited.**

A. Notwithstanding any provision of ~~franchise~~ agreements, ~~street trees~~vegetation ~~planted~~ within the public *right-of-way* ~~along streets under the jurisdiction of the City of Kenmore~~ shall not be removed or cut back so as to generally damage the aesthetic quality or survivability of the vegetation~~tree~~. Such trimming, when required by ~~power or telephone utility~~ companies to safeguard their facilities~~wires~~, shall be done in a manner that preserves the general appearance of the vegetation~~tree~~. The same provisions shall be applicable to others in that trees, shrubs and other plantings shall not be removed or otherwise trimmed so as to damage the general appearance of the planting areas.

B. Judicious trimming is permitted in such areas that will provide proper sight distance for intersections and driveways and such traffic warning or regulatory signs that are in place. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.52.080).]

**12.70.100 Right-of-way maintenance - Enforcement**

A. Should the city engineer find that such right-of-way is not being properly maintained consistent with KMC 12.70.050 through 12.70.090, the city engineer may, but is not required to, notify the abutting property owner to comply with the provisions of this chapter. The notice will be prepared per KMC 1.20.070 as amended below and include:

1. All references to “code enforcement officer” shall mean city manager;

2. Instruction to the abutting property owner to trim or remove the vegetation and specify a reasonable time for the trimming or removal of said vegetation.

2. A statement that if the owner fails to trim or remove the vegetation within the time frame provided, the City will begin enforcement proceedings per chapter 1.20 KMC or if determined by the city engineer to be a public safety hazard, interferes with Americans with Disabilities Act (ADA) accessibility, an environmental hazard, or impedes City maintenance and operations, that the City will perform the maintenance pursuant to subsection B of this section; and

3. A statement that in the case of a public safety hazard, interference with ADA accessibility, an environmental hazard, or impeding City maintenance and operations, that any cost incurred by the City may be assessed against the property owner for failure to comply with this provision.

B. If, by determination of the city engineer, the vegetation is a public safety hazard, environmental hazard, or impedes City maintenance and operations and the abutting property owner fails to complete the required maintenance within the time period stated in the notice, the City will perform the required maintenance and the cost may, at the discretion of the city engineer, be assessed against the abutting property owner. After completion, the city engineer will determine the cost to be charged to the owner and the time and manner of payment thereof; provided, that the cost will not exceed 50 percent of the valuation of the abutting property, exclusive of improvements. The cost will include all direct invoiced costs for materials and equipment as well as \$75.00 per hour per person of labor performed by the City in completing the maintenance requirements. If contracting services are necessary to complete the maintenance, the full cost of the contract services shall be included in the cost charged to the property owner. The abutting property valuation shall be as determined by the most current assessment of King County Assessor’s office for said property. The city engineer will give notice of the cost to the owner. The notice shall:

1. State the cost to be charged to the owner and the time and manner of payment thereof;

2. Include documentation to support the charges;

3. Advise the *owner* that the cost cannot exceed 50 percent of the valuation of the property, exclusive of improvements;

4. State that the *city engineer* will hear protests to the determination of cost, time, and manner of payment if received within 30 calendar days of date of delivery of the notice.

C. In the event payment is not received by the *City* within the time frame stated in the notice, the *city engineer* may place a lien upon the property or submit the charges to a licensed collection agency. Any lien will be collected in the manner as provided by law for collection of local improvements assessments.

D. The *owner* may appeal the *city engineer*'s determination of cost, time, and manner of payment for 12.70.050 through KMC 12.70.090 by filing a notice of appeal with the *city manager* within 14 calendar days after delivery of the *city engineer*'s determination. The *city manager* will give notice of receipt of the appeal and a deadline for response. After the protest consideration, the *city manager* will issue a decision, which will be the *City*'s final decision on the *owner*'s responsibility for maintenance. Additional time to submit an appeal may be granted at the *city engineer*'s discretion.

E. All notices will be mailed to the owner of the *abutting property*, to the property tax address on file on the King County Tax Assessor's website, if the *City* determines that the *abutting property* is not *owner-occupied*, or to any address noted on any communication from the *abutting property owner*.



**Chapter 12.75**

**INTEGRATED TRANSPORTATION PROGRAM**

**(Repealed by Ord. 16-0420)**

## Chapter 12.80

### INTEGRATED TRANSPORTATION PROGRAM

#### Sections:

- 12.80.010 Definitions.
- 12.80.020 Components of the integrated transportation program.
- 12.80.030 Level of service standards.
- 12.80.040 Concurrency requirements.
- 12.80.050 Transportation impact fees.
- 12.80.060 Safe site access.
- 12.80.070 Procedures for development review.
- 12.80.080 Administrative rules.
- 12.80.090 Appeals.
- 12.80.100 Relation to other permit authority.
- 12.80.110 Exceptions.

#### **12.80.010 Definitions.**

A. “Concurrency” means transportation improvements or strategies to accommodate the impacts of a development are made concurrent with the *development*, so that the level of service on a city transportation ~~facility~~road does not decline below the levels of service adopted in this chapter. “Concurrent with the development” means that improvements or strategies are in place at the time of the development, or that a financial commitment is in place to complete the improvements or strategies within six years.

B. “Mobility unit” means one PM peak hour person trip end. Each person trip has two trip ends, one each at the origin and destination.

C. “Transportation improvement program” means the annual program of capital transportation projects programmed by the *City* to be implemented during a six-year period.

~~D. “City manager” means the City of Kenmore city manager or his or her designee(s).~~ [Ord. 16-0420 § 2 (Exh. 1).]

#### **12.80.020 Components of the integrated transportation program.**

There are four components of the *City’s* integrated transportation program, the goal of which is to operate the program safely and efficiently for all modes of travel. These components are as follows:

A. Level of service (LOS) standards to evaluate the performance of the *City’s* multimodal transportation system and to ensure that the system is built over time to maintain LOS standards (KMC 12.80.030).

B. *Concurrency* requirements defining an adequate transportation system (KMC 12.80.040).

C. Transportation impact fees to require new growth and development to pay a proportionate share of the cost of new multimodal transportation improvements to serve the new growth and costs (Chapter 20.47 KMC).

D. Safe site access to facilitate safe and efficient operation of the transportation system through site-access improvements (KMC 12.80.060). [Ord. 16-0420 § 2 (Exh. 1).]

#### **12.80.030 Level of service standards.**

Level of service standards are established for different modes of travel within the *City*:

##### A. Roadway Level of Service Standards.

1. The level of service for roadways shall be as described in the most recent Transportation Research Board Highway Capacity Manual. The LOS shall be amended on a date selected by the *city manager* whenever the LOS in the Highway Capacity Manual is amended by the Transportation Research Board. The *city manager* may select and apply alternative LOSs, to be effective on a date selected by the *city manager*.

2. Roadway LOS shall be by functional classification of roadway:

- a. ~~Boulevards (primary~~Major arterials) – LOS “E” or better;
- b. ~~Urban avenues and neighborhood connections (m~~Minor arterials and collectors) – LOS “D” or better;  
and
- c. Local ~~streets~~roads (collectors) – LOS “C” or better ~~(see transportation element of the comprehensive plan).~~

3. Roadway LOS shall be measured at intersections of classified roadways, except as provided in subsection (A)(4) of this section.

4. Roadway LOS shall be measured at the corridor level on SR 522 and 68th Avenue ~~(south of SR 522)~~/Juanita Drive/Simonds Road.

5. When a lower classification of roadway intersects with a higher classification of roadway (for example, when a local ~~street~~road connects with a ~~minor arterial~~urban avenue), the LOS for the higher classification shall apply.

#### B. Pedestrian Level of Service Standards.

1. The *City* has designated a yellow LOS for pedestrian ~~facilities~~access where indicated in the pedestrian priority network (all as defined in the transportation element of the comprehensive plan) as the minimum standard to achieve.

2. Outside of the pedestrian priority network, the *City* has not established an LOS ~~for pedestrian facilities~~.

#### C. Bicycle Level of Service Standards.

1. The *City* has designated a yellow LOS for bicycle ~~infrastructure facilities~~ where indicated in the bicycle priority network (all as defined in the transportation element of the comprehensive plan) as the minimum standard to achieve.

2. Outside of the bicycle priority network, the *City* has not established an LOS ~~for bicycle facilities~~.

#### D. Transit Level of Service Standards.

1. The transportation element of the comprehensive plan contains guidance for providing quality transit service, amenities, and access to an identified transit priority network. While the *City* does not control transit service, it has established the following level of service standards for transit stop amenities and pedestrian access to transit:

a. The *City* has designated a yellow LOS for transit stop amenities and pedestrian access to transit (as defined in the transportation element of the comprehensive plan) as the minimum standard to achieve.

b. Outside of the transportation priority network, the *City* has not established an LOS ~~for transit stop facilities~~. [Ord. 16-0420 § 2 (Exh. 1).]

#### 12.80.040 Concurrency requirements.

A. Transportation *concurrency* shall be determined using the *City* owned and maintained *mobility unit* spreadsheet. This spreadsheet compares the amount of transportation capital ~~facilities~~projects constructed or programmed in the next six years (*mobility unit* capacity) to the amount of *mobility units* that would be generated by new *development* (*mobility unit* demand). If the *City*’s *mobility unit* capacity is larger than the *mobility units* that would be generated by new *development*, then the transportation system will be deemed to be concurrent.

1. *Mobility unit* capacity shall be determined annually ~~in coordination with the City’s transportation improvement program~~.

B. The *city manager* may approve a reduction in estimated *mobility units* based on the types of land uses that are to be developed or expected travel characteristics of the *development*.

1. The calculation of *mobility unit* reductions as described in this section shall be based upon sound and recognized technical information and analytical processes that represent current engineering practice. In all cases, the *city manager* shall have final approval of all such data, information and technical procedures used to calculate *mobility unit* reductions. [Ord. 16-0420 § 2 (Exh. 1).]

**12.80.050 Transportation impact fees.**

A. Transportation impact fees shall be assessed and collected as described in Chapter 20.47 KMC.

B. *Mobility units* calculated for *concurrency* requirements (KMC 12.80.040) shall also be used to calculate transportation impact fees. [Ord. 16-0420 § 2 (Exh. 1).]

**12.80.060 Safe site access.**

A. *Developments* shall provide for safe site access to facilitate safe and efficient operation of the multimodal transportation system, in accordance with the ~~City road~~*Road Standards* adopted in Chapter 12.50 KMC.

B. For the purposes of this chapter, the developer shall achieve “safe site access” by mitigating either or both of the following when the *development* is complete and able to generate traffic:

1. A roadway intersection that provides access to a proposed *development* and that will function at a level of service worse than specified in KMC 12.80.030; or
2. A roadway intersection or approach lane where the *city manager* determines that a hazard to safety could reasonably result.

C. The developer shall provide improvements which bring the site access into compliance with the level of service and within a time schedule as may be required by the *city manager*. Approval to construct the *development* shall not be granted until the developer has satisfied the *concurrency* definition and its elements, as set forth in KMC 12.80.010(A). [Ord. 16-0420 § 2 (Exh. 1).]

**12.80.070 Procedures for development review.**

Following the submission of an ~~development application~~, the *city manager* shall calculate the transportation impact fee to be paid under Chapter 20.47 KMC, and shall determine whether necessary transportation improvements are provided for as set forth in KMC 12.80.010(A) and that any required site access improvements are provided. [Ord. 16-0420 § 2 (Exh. 1).]

**12.80.080 Administrative rules.**

For transportation impact fees, transportation *concurrency*, and safe site access, the *city manager* may adopt such administrative rules and procedures as are necessary to implement this chapter. [Ord. 16-0420 § 2 (Exh. 1).]

**12.80.090 Appeals.**

A. The *city manager*’s final decision on impact fees and/or transportation *concurrency* may be appealed to the hearing examiner using the procedures set forth in Chapter 19.30 KMC. The appeal shall be submitted within 21 calendar days of the date of issuance of the *City*’s written decision.

B. Along with the information required by KMC 19.30.080(B), the *applicant* must show that either:

1. The *City* committed a technical error; or
2. Alternative data or a mitigation plan submitted to the *City* was inadequately considered. [Ord. 16-0420 § 2 (Exh. 1).]

**12.80.100 Relation to other permit authority.**

The procedures set forth in this chapter do not limit the authority of the *City* to deny or to approve with conditions the following:



- A. Any zone reclassification request, based on its expected impacts on the multimodal transportation system;
- B. Any proposed *development* or zone reclassification, if the *City* determines that a hazard to safety would result from direct traffic impacts of the *development* or reclassification, without roadway or intersection improvements, regardless of level of service standards; or
- C. Any proposed *development* subject to review under the Washington State Environmental Policy Act. [Ord. 16-0420 § 2 (Exh. 1).]

**12.80.110 Exceptions.**

Except for KMC 12.80.030 and 12.80.050, the city manager may grant an exception to or deviation from the requirements of this chapter. Any exception or deviation shall be in writing and supported by a finding that extraordinary conditions exist which make full compliance infeasible or would be an unreasonable hardship. The city manager shall make the final determination on what is infeasible or an unreasonable hardship. [Ord. 16-0420 § 2 (Exh. 1).]

## Chapter 12.85

### STATE ROUTE 522 ACCESS MANAGEMENT PROGRAM

#### Sections:

- 12.85.010 Purpose.
- 12.85.020 Applicability.
- 12.85.030 Definitions.
- 12.85.040 Application process and procedures.
- 12.85.050 Permit application submittal process.
- 12.85.060 Fees and surety bond.
- 12.85.070 Permit application – Review and conditions.
- 12.85.080 Construction requirements.
- 12.85.090 Changes in property site use.
- 12.85.100 Permit modification and revocation – Closure of permitted connections.
- 12.85.110 Access control classification.

#### 12.85.010 Purpose.

SR 522 is a State route in the *City*; with a functional classification of principal arterial ~~street~~. The purpose of this chapter is to implement an access management program consistent with Chapter 47.50 RCW and Chapters 468-51 and 468-52 WAC; to protect and preserve the functional integrity of SR 522 by providing for adequate safety and transportation capacity; to protect the public health, safety, and welfare; and to promote the safe and efficient movement of people and goods.

The access management program, which coordinates land use planning and building permit decisions by the *City* and investments in the *State highway system*, will control the proliferation of connections and other access approaches to and from SR 522. Without such a program, the health, safety, and welfare of *City* residents and users of SR 522 are at risk due to the fact that uncontrolled access is a significant contributing factor to the congestion and functional deterioration of an arterial ~~street~~. The access management program further will enhance the development of an effective transportation system and increase the traffic-carrying capacity of SR 522, thereby reducing traffic accidents, personal injury, and property damage or loss; mitigating environmental degradation; promoting sound economic growth and the growth management goals of the State; reducing *highway maintenance* costs and the necessity for costly traffic operations measures; lengthening the effective life of the transportation ~~facility~~ *infrastructure*, thus preserving the public investment in such ~~facilities~~ *infrastructure*; and shortening response time for emergency vehicles. [Ord. 06-0247 § 1.]

#### 12.85.020 Applicability.

A. Connections. New connections or alterations to existing connections to SR 522 require a *connection permit*. The use of a new connection at the location specified in the *permit* is not authorized until the *applicant* constructs or modifies the connection in accordance with *permit* requirements.

B. Change in Use. Where a parcel of property is already developed, but where the type of use for that ~~development property~~ is changed, and where such change in use shall cause an increase of 10 peak hour trips generated from that property onto SR 522, then such change in use shall require a *connection permit* for its continued use of existing SR 522 ~~street~~ connection(s). The *connection permit* may require modifications to the existing connection(s).

C. Permit Modification. If a *property owner* or *applicant* holding a valid *connection permit* wishes to alter the *permit* conditions, the *permit* holder must apply for a *permit* modification. The ~~city-engineer~~ *manager* shall have authority to approve or deny the modification *application*.

D. Construction Cost. The cost of construction or alteration of a connection shall be borne by the *permittee*.

E. Unpermitted Connection. An unpermitted connection to SR 522 that occurs after approval of the ordinance codified in this chapter by the city council is subject to closure by the *City*. The *City* may install barriers across the connection or remove the connection. The ~~city-engineer~~ *city manager* will provide reasonable notice of the *City's*

impending action to the *owner* of property served by the connection. Cost of removal shall be paid for by the *property owner*.

F. Permit Fee. The *City* in this chapter has established a schedule of fees for *connection permits*. The fee shall be nonrefundable.

G. Joint-Use Connection. The ~~city engineer~~*city manager* may issue a *permit* subject to any conditions necessary to carry out the provisions of this chapter, including, but not limited to, requiring the use of a joint-use connection.

H. Nonconforming Access Permit. The ~~city engineer~~*city manager* may issue a nonconforming access *permit* after finding that to deny an access *permit* would leave the property without a reasonable means of access to the public ~~streets~~*road*. Every nonconforming access *permit* shall specify limits on the maximum vehicular use of the connection and shall be conditioned on the availability of future alternative means of access for which access *permits* can be obtained. [Ord. 06-0247 § 1.]

#### 12.85.030 Definitions.

Terms within this chapter are defined in the *Road Standards*. The following additional definitions shall apply to this chapter unless the context clearly indicates otherwise:

~~A. "Application" means an application form supplied by the City and completed by the applicant, a certified check or money order for the required application fee, and related property site, driveway, roadway, and traffic information.~~

~~B. "Average daily traffic (ADT)" means the volume of traffic passing a point or segment of SR 522, in both directions, during a period of time, divided by the number of days in the period and factored to represent an estimate of traffic volume for an average day of the year.~~

A. "Average weekday vehicle trip ends (AWDVTE)" means the estimated total of all trips entering plus all trips leaving the *applicant's* site, based on the final stage of proposed *development*.

B. "Conforming connection" means a connection that meets current *City* criteria pertaining to location, spacing, and design.

C. "Connection" means approaches, driveways, turnouts, or other means of providing for the right of access to or from a controlled access ~~street~~*road*.

D. "Connection category" means a permit category of all State *highway* connections, in accordance with the type of property served and the estimated traffic generated by the *applicant's* site, based on rates accepted by the *City*.

E. "Connection permit" means a written authorization of the *City* for a specifically designed connection, at a specific location, for a specific type and intensity of property use, and specific volume of traffic for the proposed connection, based on the final stage of proposed *development* of the *applicant's* property.

F. "ITE" means the Institute of Transportation Engineers.

~~H. "Controlled access facility" means a transportation facility to which access is regulated by the *City* or occupants of abutting properties; lands and other persons have a right of reasonable access to and from such facility at such points only and in such manner as may be determined by the *City*.~~

~~I. "Development approval" means an official action by the *City* authorizing the developer or land owner to begin construction of any permanent improvements on the property.~~

F. "Joint use ~~connection~~*driveway*" means a single ~~connection~~*access* point that serves as a connection to more than one property or *development*, including those in different ownerships or in which access rights are provided in the legal descriptions.

~~K. "Limited access facility" means a highway or street especially designed or designated for through traffic, and over, from, or to which *City* or occupants of abutting properties land or other persons have no right or easement, or only~~

~~a limited right or easement of access, light, view, or air by reason of the fact that their property abuts upon such limited access facility, or for any other reason to accomplish the purpose of a limited access facility.~~

**G.** “Median” means the portion of a divided *highway* or divided connection separating vehicular traffic traveling in opposite directions; not including speed change lanes, storage lanes for left turning or U-turning vehicles, or two-way left-turn lanes.

~~M. “Median opening” means either a full opening in a continuous median for the specific purpose of allowing vehicles to make a left turn maneuver into or out of a property abutting the highway, to facilitate U turns, or to allow for a vehicle to totally cross the road, or a directional opening allowing for left turn maneuvers into the property and U turn maneuvers, but not allowing for left turns or cross movements out of the property.~~

~~N. “Nonconforming connection” means a connection not meeting current City criteria pertaining to location, spacing, or design.~~

~~O. “Permit” means written approval issued by the City, subject to conditions stated therein, authorizing construction, reconstruction, maintenance, or reclassification of a connection and associated traffic control devices on or to the City’s right of way.~~

~~P. “Permitting authority” means the City.~~

**H.** “Reasonable access” means an access connection that is suitable for the existing and/or proposed property use and does not adversely affect the safety, operations, or *maintenance* of the ~~street~~road.

~~R. “Right of way (R/W)” is a general term denoting land or interest therein, acquired for or designated for transportation purposes. More specifically, the term means land in which the State of Washington, a county, or the City owns the fee simple title, has an easement devoted to or required for use as a public road and appurtenant facilities, or has established ownership by prescriptive right, or lands that have been dedicated for public transportation purposes.~~

~~S. “Shoulder” means the portion of the street or highway *highway* contiguous with the traveled lanes for the accommodation of stopped vehicles for emergency use, for lateral support of base and surface courses, and for other uses as allowed by law.~~

**I.** “State highway system” means all ~~roads, streets, and highways~~ designated as State routes in compliance with Chapter 47.17 RCW.

~~U. “Temporary connection” means a permitted connection for a specific property use, conditioned to be open for a specific purpose and traffic volume for a specific period of time with the right of way to be restored by the permit holder to its original condition upon connection closure.~~

~~V. “Variance permit” means a special nonconforming or additional connection permit, issued for a location not normally permitted by current City standards, after an engineering study demonstrates, to the satisfaction of the City, that the connection will not adversely affect the safety, maintenance, or operation of the street or highway in accordance with its assigned classification. This permit will remain valid until modified or revoked by the City.~~  
[Ord. 06-0247 § 1.]

#### **12.85.040 Application process and procedures.**

**A.** Early Consultation. ~~In order to~~<sup>T</sup>To expedite the overall *permit* review process, the *applicant* is strongly encouraged to consult with the *City* prior to submitting an *application* pursuant to this chapter. The purpose of the consultation is to obtain a conceptual review of the *development* site plan and proposed access connections to SR 522 with respect to location, quantity, spacing, and design standards. Such consultation will assist the *applicant* in minimizing problems and delays during the permit *application* process and could eliminate the need for costly changes to site plans when ~~unpermittable a proposed~~ connection ~~proposals would not be allowed~~<sup>are</sup> and identified ~~as such~~<sup>as such</sup> early in the planning phase.

**B.** Connection Categories. All *connections*, public or private, shall be determined by the *City* to be in one of the following categories:



1. "Category I – minimum connection" provides *connection* to SR 522 for up to 10 single-family residences, a duplex, or a small multifamily complex of up to 10 dwelling units, which use a common *connection*. The category shall also apply to permanent *connections* to agricultural and forest lands, including field entrances; *connections* for the operation, *maintenance*, and repair of ~~utilities~~*facilities*; and *connections* serving other low-volume traffic generators expected to have an ~~average weekday vehicle trip ends (AWDVTE)~~ of 100 or less.
2. "Category II – minor connection" provides *connection* to SR 522 for medium volume traffic generators expected to have an AWDVTE of 1,500 or less, but not included in Category I.
3. "Category III – major connection" provides *connection* to SR 522 for high volume traffic generators expected to have an AWDVTE exceeding 1,500.
4. "Category IV – temporary connection" provides a temporary, time limited *connection* to SR 522 for a specific property, for a specific use, with a specific traffic volume. Such uses include, but are not limited to, ~~logging, forest land clearing, temporary agricultural uses,~~ temporary construction, and temporary emergency access. The *City* reserves the right to remove any temporary *connection* at its sole discretion and at the expense of the *property owner/applicant* after the expiration of the *permit*. Further, a temporary *connection permit* does not bind the *City*, in any way, to the future issuance of a permanent *connection permit* at the temporary *connection* location.
5. "Nonconforming connection" designation may be issued for Category I through IV *permits* after an analysis and determination by the *City* that a ~~conforming connection~~*connection* cannot be made that conforms to City standards and a finding that the denial of a *connection* would leave the property without a reasonable means of access to the public *road* system. In such instances, the *permit* shall be noted as nonconforming and contain specific restrictions and provisions, including limits on the maximum vehicular use of the *connection*, the future availability of alternate means of *reasonable access* for which a *conforming connection permit* could be obtained, the removal of the nonconforming *connection* at the time the conforming access is available, and other conditions as necessary to carry out the provisions of this section.
6. "Variance connection" means a special nonconforming ~~or additional connection~~*permit*, issued for a location not normally permitted by *City* standards, after an engineering study demonstrates that the *connection* will not adversely affect the safety, *maintenance*, or operation of SR 522. This *permit* will remain valid until modified or revoked by the ~~permitting authority~~*City*.
7. "Median opening" includes openings requested for both new *connections* and existing *connections*. Openings may consist of either 1) a full opening in a continuous median for the specific purpose of allowing vehicles to make a left turn maneuver into or out of a property abutting the highway, to facilitate U-turns, or to allow for a vehicle to totally cross the road, or 2) a directional opening allowing for left turn maneuvers into the property and U-turn maneuvers, but not allowing for left turns or cross movements out of the property. New median openings proposed as part of a new driveway connection shall be reviewed as part of the permit application review process. Request for the construction of new median openings to serve existing permitted connections shall require a reevaluation of the location, quantity, design of existing connection, and traffic at the existing connections. The property owner must file a new connection permit application, for the proper connection category, showing the new proposed median opening location and design and its relationship to the existing or modified driveway connections. Nothing contained herein shall be construed to prohibit the City from closing an existing median opening where operational or safety reasons require the action. The City shall notify affected property owners, permit holders and tenants in writing 30 days in advance of the closure of a median opening unless immediate closure is needed for safety or operational reasons. [Ord. 06-0247 § 1.]

#### 12.85.050 Permit application submittal process.

A. Driveway Connections That Are Part of a Land Use Application. If the *connection permit* is being requested as part of an underlying *development application*, the issuance or denial of the *connection permit* shall be made in accordance with the type of decision applicable to the underlying land use *application(s)*.

B. Driveway Connections That Are Not Related to a Land Use Application. If the *connection permit* is being requested without relation to an underlying land use *application*, the *applicant* shall file for a *connection permit* with

the ~~city engineer~~City. The issuance or denial of the *connection permit* shall be made administratively by the ~~city engineer, or the city engineer's designee~~city manager, subject to appeal pursuant to subsection (E) of this section.

C. Submittal Requirements for Connection Permits. If the new *development* will generate more than 10 peak hour trips or is a change in use, each *application* for a *connection permit*, whether accompanying an underlying land use *application* or not, shall include a traffic impact study, as described below, the *connection permit application*, and additional information as required by the ~~city engineer~~city manager.

1. Traffic Impact Study. The traffic impact study, prepared by a *professional engineer* ~~registered in the State of Washington~~, shall contain information as noted in the Road Standards plus the following:

~~a. An inventory of existing traffic conditions, which shall include vehicular, pedestrian, bicycle, and transit facilities, and an evaluation thereof, plus a traffic safety and accident analysis based on the most recent three years of historical accident data.~~

~~b.~~ a. An analysis of existing conditions including approved, but not yet built, *development* and applied for, but not yet approved, *development*.

~~eb. An analysis of the changes to existing conditions that will occur with the proposed development, which includes: t~~ Trip generation, modal split, distribution, assignment, and level of service analysis for intersections, adjacent to or within 250 feet of any proposed access, during peak hours and time periods as required by the ~~city engineer~~city manager.

~~ed.~~ dc. An analysis of three years of background growth, unless otherwise determined by the ~~city engineer~~city manager.

~~ed.~~ ed. A traffic signal warrant analysis of the projected impact of the proposed *development* upon the affected transportation corridor or intersection as required by the city manager.

~~fe.~~ fe. Any additional information required by subsection (C)(2)(j)(5) of this section.

The traffic impact study shall be based on traffic counts obtained within the 12 months preceding the date the ~~development~~ application is deemed complete. The traffic impact study levels of service and traffic operations analysis shall be consistent with the latest Highway Capacity Manual's methodology. The ~~city engineer~~city manager reserves the right to require an *applicant* to provide additional data and/or analysis as part of the traffic impact study, where the ~~city engineer~~city manager determines that additional information or analysis is required to implement the standards and requirements contained in this chapter. The ~~city engineer~~city manager may waive the requirement for a traffic impact study, or limit the scope of analysis and required elements of a traffic impact study, where the ~~city engineer~~city manager determines that the potential transportation impacts on the SR 522 corridor or any of its intersections have been adequately analyzed in prior research or reports and are not projected to cause a reduction in the operating level of SR 522.

2. Connection Permit Application and Information. The *applicant* shall submit a *connection permit application* ~~in a form approved by the city engineer~~ and shall provide information as required by the ~~city engineer~~city manager. A complete *application* ~~shall~~ shall also consist of the ~~application form, application fee, plans, traffic data, and connection~~ information specified in this section.

a. All *connection* and roadway design documents for Category II and III *permits* shall bear the seal and signature of a *professional engineer*, ~~registered in accordance with Chapter 18.43 RCW~~.

b. The *applicant* shall provide the following information, unless the ~~city engineer~~city manager determines that specific information will not be necessary. Additional information required of Category II, III, and IV *permit applications* is specified in this chapter. In all cases it would be prudent, prior to submittal of the *application*, for the *applicant* to inquire of the ~~city engineer~~City whether the *application* needs additional information. The ~~city engineer~~city manager reserves the right to request clarification or additional information during the *application* review process. Failure to provide the requested information within the time limits specified in the request shall result in termination of the *permit application*.

c. Provide the current complete names, mailing addresses, and telephone numbers of the *property owner(s)*, the developer(s), the *applicant*, and the transportation and legal consultants representing the *applicant* (if any). If the *property owner* ~~desires-requests~~ to have a representative sign the *application*, a notarized letter of authorization from the *applicant* shall be provided with the *application*. When the *owner* or *applicant* is a company, corporation, or other public agency, the name, address, and telephone number of the responsible officer shall be furnished. The names of all individuals signing the *application* and their titles shall be typed or printed directly below the signature.

d. The ultimate planned property uses shall be indicated in sufficient detail to determine the appropriate permit classification. Estimated ~~AWDVTEaverage weekday vehicle trip ends~~ to be generated by the development, based on the planned property use, consistent with the latest trip generation information published by the ~~Institute of Transportation Engineers (ITE)~~, Washington, D.C., shall be included as appropriate. If local or special trip generation rates are used instead of the ITE rates, the latest and best information shall be used and all documentation for the rate ~~developmentdetermination~~ shall be submitted with the *application*. For residential developments with 10 or fewer units, 10 trips per day per unit may be assumed.

e. The *application* shall include a plan to scale showing critical dimensions, location of the property, existing conditions, and character and extent of the proposal. The location of existing and proposed on-site development with respect to the existing and proposed driveway location(s) and SR 522 shall be shown. Minimum information on the plan shall include:

- (1) Street names.
- (2) Pavement type.
- (3) Cross section.
- (4) Posted speed limit.
- (5) The existence and location of any existing and/or future proposed public or private *roads* abutting or entering the property; the horizontal and vertical curvature of the *road(s)*, noting the location of existing and proposed *connections* and any other pertinent information.

f. Property Information.

- (1) Show the location of all existing and proposed buildings, and other structures, such as gasoline pumps, lights, trees, etc., with respect to the existing and proposed property and *right-of-way* lines.
- (2) Show any adjacent properties that are owned or controlled by the *applicant*, or in which the *applicant* has a financial interest, and an indication of whether the properties will be accessed by means of the proposed *connection(s)*.
- (3) Provide proof of legal ownership or legal easement.
- (4) Include a boundary survey, which may be waived for Category I *connections*, at the discretion of the ~~city-engineercity manager~~.
- (5) Any existing or proposed parcels segregated from the *applicant's* property for separate development shall be clearly designated on the plan.

g. Connection Location Information.

- (1) *Connection* location by WSDOT milepost and *highway* engineer's station, if available.
- (2) Location of the SR 522 centerline with respect to existing and proposed property lines.

(3) Distance of proposed public or private access *connection* to intersecting ~~roads, streets, and railroads.~~

(4) Existing or proposed *median* openings (crossovers) and *connections* on all sides of SR 522 and other *roads* within 660 feet of the proposed *connection* location.

(5) Location of existing or proposed public or private retaining walls, fences, poles, *sidewalks*, bike paths, drainage structures and easements, traffic control devices, fire hydrants, ~~utilities facilities,~~ or other physical features, such as trees, landscaping, green belts, and wetlands that could affect driveway location.

h. Connection Design Information.

(1) Proposed *connection* and approach improvements, including the driveway profile approaching SR 522, and the driveway width, radii, and angle to the ~~street road.~~

(2) Existing and proposed grading.

(3) Drainage calculations and other pertinent data.

(4) Driveway, auxiliary lanes and crossover pavement design, including subgrade, base, surface materials, and thicknesses.

(5) Specific requirements for design information on individual Category I *permit applications* may be ~~relaxed modified,~~ or waived, at the discretion of the *city engineer*.

i. Joint Driveway Use.

(1) If the driveway is to serve more than one property, the plan shall detail information for all properties using the *connection* and the *application* shall include copies of legally enforceable agreements of concurrence for all *property owners* on *joint use driveways* ~~usage.~~

(2) *Joint use driveways* ~~use~~ serving adjoining properties ~~is are encouraged required where feasible.~~

j. Additional Information for Category II and Category III Permits. The ~~city engineer~~ *city manager* may require the following additional information for each phase of the *development*. Prior to the submittal of the *application*, the *applicant* shall coordinate with the *city engineer* on the level of detail and the analysis techniques to be used.

(1) Circulation Plans. All parking, interior drives, and internal traffic circulation plans.

(2) Connection Users. All internal and external adjacent parcels which will use the requested *connection*. All existing and proposed connecting roadways and potential means of alternate access through the final build-out stage of *development* shall be shown on the plans submitted with the *application*.

(3) Traffic Control Devices and Illumination. Proposed traffic control devices and lighting locations.

(4) Sight Distance. Analysis of horizontal and vertical sight distance on SR 522 with respect to the proposed *connection*.

(5) Traffic Data and Analysis. Traffic data submitted by the *applicant* shall be signed and sealed by a qualified *professional engineer*, ~~registered in accordance with Chapter 18.43 RCW.~~ The ~~city engineer~~ *city manager* may require the following traffic study information:

(a) Turning Movements. Vehicle turning movements for present and future traffic conditions.



(b) Volume and Type. Amount and type of traffic that will be generated by the proposed *development* including a breakdown of anticipated peak hour traffic and an analysis of the impact on the level of service on the State highway.

(c) Parking and Circulation. Analysis of off-~~street~~*street* parking and traffic circulation, including distances to secondary access points on the *connection* roadway and their impact on the operation of the State highway.

(d) Traffic Signal Data. If a traffic signal is requested, the following studies may be required: traffic signal warrants; phasing and timing analysis; signal progression analysis; signalization, signing, and lighting plans in compliance with *WSDOT* standards. A separate *WSDOT* traffic signal permit is required.

(e) Off-Site Improvements. A traffic analysis to determine the need for off-site related roadway and geometric improvements and mitigation requirements.

(f) Traffic Control Plan. A traffic control plan conforming to current standards set forth in the “Manual on Uniform Traffic Control Devices,” documenting how the *permit* holder will provide for safe and efficient movement on the ~~State highway system~~*State highway system* during the construction of the *connection*.

(6) Median Openings: New or modified *median* openings proposed as part of a new driveway *connection* shall be reviewed as part of the *permit application* review process. Request for the construction of new or modified *median* openings to serve existing permitted *connections* shall require a reevaluation of the location, quantity, design of existing *connections*, and traffic at the existing *connections*. The *property owner* must file a new *connection permit application*, for the proper *connection category*, showing the proposed new or modified *median* opening location and design and its relationship to the existing or modified driveway *connections*. Nothing contained herein shall be construed to prohibit the *City* from closing an existing *median* opening where operational or safety reasons require the action. The *City* shall notify affected *property owners*, *permit* holders and tenants in writing 30 days in advance of the closure of a *median* opening unless immediate closure is needed for safety or operational reasons.

(7) *WSDOT* review: a *WSDOT permit* or project review may be required by *WSDOT*. Applicant is responsible for contacting and coordinating with *WSDOT* on all work on SR 522.

3. Additional Information for Category IV *permits*. Category IV *permit applications* shall contain the specific dates that the *connection* is to be open and must contain assurances acceptable to the *City* that the shoulder, curbing, sidewalks, bikeways, ditch, right-of-way, and any other amenities will be restored to their original condition at the *permit* holder’s expense upon closure of the temporary *connection*.

D. Variance ~~from Access Standards~~*Connection*. The access standards above may be modified by the *city engineer* on the *connection permit* upon a showing by the *applicant* of the following:

1. Topography, right-of-way, existing construction or physical conditions, or other geographic conditions make it technically infeasible to meet ~~new construction~~*current* standards and an equivalent alternative, which can accomplish the same access management purpose, is available.
2. A minor change to a standard is required to address a specific design or construction problem which, if not enacted, will result in an unusual hardship.
3. An alternative standard is proposed which is equal to or superior to the ~~current~~*se* standards.
4. Application of ~~the~~ standards to the *development* would be grossly disproportional to the impacts created to the public.

E. Appeals. The *applicant* may appeal the decision of the *city engineer* under the following conditions:

1. For driveway *connections* that are part of land use *application* review, the appeal of a conditioning or denial of a *connection permit* shall be in accordance with the procedures for an appeal of the underlying land use *application*.
2. For all other driveway *connection permit applications*, the appeal of a conditioning or denial of a *connection permit* shall be to the ~~hearing examiner~~ city manager. [Ord. 06-0247 § 1.]

#### **12.85.060 Fees and surety bond.**

A. ~~Each application requires fees, imposed by the city council by resolution, payable to the City for the administrative costs and expenses of processing the application and for other functions necessary for the approval and use of the permits. Fee Structure. The following nonrefundable fee structure is established for the processing, review and inspection of the connection permit applications. Full payment of base fees must accompany the permit application. Due to the potential complexity of Category II and Category III connection proposals, and required mitigation measures that may involve construction on SR 522, the City may require a developer agreement in addition to the connection permit. The developer agreement may include, but is not limited to: plans; specifications; maintenance requirements; bonding requirements; inspection requirements; division of costs by the parties, where applicable; and provisions for payment by the applicant of actual costs incurred by the City in the review and administration of the applicant's proposal that exceed the required base fees in the following schedule:~~

~~1. Category I—Base fee for one connection:~~

- ~~a. Agricultural, forest, utility operation and maintenance: \$50.00;~~
- ~~b. Residential dwelling units (up to 10)—single connection: \$50.00 per dwelling;~~
- ~~c. Other, with 100 AWDVTE or less: \$500.00;~~
- ~~d. Fee per additional connection point: \$50.00.~~

~~2. Category II—Base fee for one connection:~~

- ~~a. Less than 1,000 AWDVTE: \$1,000;~~
- ~~b. One thousand to 1,500 AWDVTE \$1,500;~~
- ~~c. Fee per additional connection point: \$250.00.~~

~~3. Category III—Base fee for one connection:~~

- ~~a. One thousand five hundred to 2,500 AWDVTE: \$2,500;~~
- ~~b. Over 2,500 AWDVTE: \$4,000;~~
- ~~c. Fee per additional connection point \$1,000.~~

~~4. Category IV—Base fee per connection: \$100.00.~~

B. Surety Bond. Prior to the beginning of construction of any *connection*, the *City* may require the *permit* holder to provide a surety bond as specified in WAC 468-34-020(3). [Ord. 06-0247 § 1.]

#### **12.85.070 Permit application – Review and conditions.**

A. Application Review, Processing, and Approval. Applications for all SR522 connection permits shall be submitted, in writing, to the City. The application process and documentation shall be in accordance with the administrative procedures developed by the City and shall contain whatever information, including plans and specifications, which the City shall require.~~The city engineer shall review the application. If the city engineer identifies errors in the application or needs additional information, the city engineer shall notify the applicant. The applicant shall provide such information or correct such errors within 30 days of the notification. If the applicant needs additional time to provide such information or correct errors, the applicant shall contact the city engineer in-~~

~~writing to request that additional time be approved. If the additional or corrected information has not been received by the city engineer within 30 days or within an approved extended time period, the application shall be terminated.~~

~~B. Review. Upon timely receipt of all required information, or upon expiration of the time period for receipt of additional or corrected information, the city engineer shall examine the location and design of the connection for consistency with current City standards pertaining to design, location, quantity, spacing and classifications. The examination shall also include an analysis of the impact of the site's existing and projected traffic on the operation and safety of SR 522.~~

~~C. Notice of Concurrence or Denial. If the city engineer concurs in the location and design of the proposed connection, the city engineer shall send written notification of that concurrence to the applicant and to the City's community development department. If the applicant has completed the voluntary conceptual review process, the written notice of concurrence shall indicate whether or not there have been any changes in the number, location, or design of the connection required by the City. No construction may commence on the City's right of way until all necessary permits are issued in accordance with subsection (D) of this section. If the city engineer does not concur in the connection location, quantity, or design, the applicant shall be notified in writing. The notice shall state the City's intent to deny the connection as proposed in the application, and shall further state the specific reasons for the denial, the process for submitting an amended application, and the appeal process. The applicant may submit a revised application within 30 days. The submittal of a revised application within 30 days shall not require the payment of any additional application fees.~~

~~D. Permit Issuance. Upon determining that the application and the location and design of the connection comply with City requirements, the city engineer shall issue the connection permit. Further, for permit applications connected with land use applications, the applicant shall receive development approval from the City's community development department.~~

~~The city engineer shall provide the applicant with the connection permit for signature, and the applicant shall sign and return the permit to the city engineer within 30 days after the mailing date. If the city engineer does not receive the signed permit back from the applicant within 30 days after the mailing date or within an agreed-upon time, the permit shall be void and the application fee shall be forfeited. The permit shall not be valid and construction on the access shall not begin without a completed permit that is signed by both the city engineer and the applicant. Additionally, the applicant shall satisfy the surety bond requirements specified in the permit prior to construction.~~

~~EB. Permit Conditions. Any special requirements or provisions for the connection, including off-site mitigation, shall be clearly and specifically stated in the permit. Failure by the applicant or permit holder to abide by the permit provisions and requirements shall be sufficient cause for the City to initiate action to alter the connection or to revoke the permit and close the connection at the expense of the permit holder. The permit requirements and provisions shall be binding on the permit holder, the permit holder's successors, heirs and assigns, the permit application signatories, and all future owners and occupants of the property. All long-term provisions exceeding the term of any bond shall be recorded onto the property title.~~

~~CF. Nonconforming Connection Permits. The city engineer may issue a permit for a connection not meeting the City's location and spacing criteria standards if the city engineer finds that a conforming connection is not attainable at the time of the permit application submittal and that denial would leave the property without a reasonable access to City streets or SR 522. The City may issue a nonconforming connection permit requiring a legally enforceable joint-use connection driveway when determined to be in the best interest of the City for restoring or maintaining the operational efficiency and safety of SR 522. All Nonconforming connection permits shall specify conditions or limits including:~~

- ~~1. Traffic Volume. The permit shall specify maximum vehicular usage of the connection.~~
- ~~2. Future Alternate Access. The permit shall specify that a conforming connection be constructed when future alternate means of access become available, and that the nonconforming connection be removed.~~
- ~~3. Users. The permit shall specify the properties to be served by the connection, and any other conditions as necessary to carry out the provisions of managing the access to SR 522.~~

~~G. Variance Connection Permits. Variance permits may be issued, at the discretion of the city engineer, for certain connections that do not satisfy the access classification location and spacing, or that exceed the number of connections allowed by the standards adopted for SR 522. These permits may be allowed if conditions warrant and are demonstrated to the satisfaction of the city engineer by a traffic analysis, signed and sealed by a qualified professional engineer who is registered in accordance with Chapter 18.43 RCW, which is included with the connection permit application. The variance permit will remain in effect unless a new permit is required due to changes in property site use or unless permit modification, revocation, or closure of the variance permitted connection is required. The city engineer may issue a connection permit requiring a legally enforceable joint use connection when the city engineer determines that such a permit is in the best interest of the City for restoring or maintaining the operational efficiency and safety of SR 522. Variance connection permits shall specify conditions or limits including, but not limited to:~~

~~1. Traffic Volume. The permit shall specify the maximum vehicular usage of the connection.~~

~~2. Users. The permit shall specify the properties to be served by the connection and any other conditions as necessary to carry out the provisions of managing the access to SR 522.~~

~~H. Appeals. In the event of a denial of a connection permit as proposed in the application, the applicant may appeal in accordance with the appeal rights of KMC 12.85.050(E). [Ord. 06-0247 § 1.]~~

#### **12.85.080 Construction requirements.**

~~A. Preconstruction Conference. The city engineer may require a preconstruction conference prior to any work being performed on the public right-of-way. When required by provisions in the permit, the city engineer will schedule a preconstruction conference. The preconstruction conference should be attended by the necessary personnel to assure compliance with the terms and provisions of the permit.~~

~~B. Time Limit. Substantial construction of the connection shall begin within 90 days of the effective date of the permit, unless the city engineer approves a longer time. Construction shall be completed within 120 days of the date of issuance of the permit, unless the city engineer approves a time extension. As a condition of the permit, the city engineer may further limit construction time, if the city engineer determines that such limitation is warranted. Failure to comply with the time limits specified in the permit shall result in an automatic expiration of the permit following written notification to the permit holder. For any permit which expires for failure to begin construction or to complete construction within the specified time limits, the city engineer may require a new application, including the payment of the required application fee prior to the initiation of any construction.~~

~~C. Posting of Permit. The approved connection permit shall be displayed in a prominent location, protected from the weather, within the vicinity of the connection construction.~~

~~D. Disruption of Traffic. All construction and/or maintenance within the SR 522 right-of-way shall conform to the provisions of the connection permit, the current "Manual on Uniform Traffic Control Devices (MUTCD)"; WSDOT's current "Design Manual," and WSDOT's current "Standard Specifications for Road, Bridge, and Municipal Construction." The City may require or restrict hours of construction to minimize disruption of traffic. If construction activity within the SR 522 right-of-way causes undue disruption of traffic or creates safety hazards, or if the construction activity is not in compliance with the traffic control specifications in the permit, the city engineer city manager shall advise the permit holder or the permit holder's contractor of the need for immediate corrective action and may order immediate suspension of all or part of the work if deemed necessary. Failure to comply with this provision may result in permit modification or revocation.~~

~~E. Traffic Signals and Other Traffic Control Devices. Traffic signals and other traffic control devices installed by the permit holder shall conform to MUTCD and City design and construction standards. The permit holder shall be responsible for coordinating with and securing any WSDOT permits needed for traffic signalization and regulatory signing and marking.~~

~~F. Connection Construction Inspection. For Category II and Category III connections, the city engineer city manager may require the permit holder, developer, or landowner owner to provide inspection of construction and certification that connection construction is in accordance with permit provisions and appropriate City standards. by~~



~~a professional engineer, registered in accordance with Chapter 18.43 RCW, or the city engineer may perform the inspection at the applicant's expense, as provided in any developer agreement.~~ [Ord. 06-0247 § 1.]

#### **12.85.090 Changes in property site use.**

The *connection permit* shall be issued to the *permit* holder for a particular type of land use generating specific projected traffic volumes at the final stage of proposed *development*. Any changes made in the use, intensity of *development*, type of traffic, or traffic flow of the property requires the *permit* holder, ~~his or her~~*any* assignee, or *property owner* to contact the ~~city engineer~~*city manager* to determine whether further analysis is needed to determine if the change is significant and would require a new *permit* and modifications to the *connection*. An engineering study, signed and sealed by a *professional engineer*, may be required to document the extent of the change. If modification of the existing *connection* is required, based on a significant change as determined by the *city engineer*, the *permit* holder, his or her assignee, or the *property owner* shall obtain a new *permit* prior to the initiation of any on-site construction to the *connection* or to the property.

A. Significant Change. A significant change is one that would cause a change in the category of the *connection permit* or one that causes an operational, safety, or *maintenance* problem on SR 522 based on objective engineering criteria or available ~~accident-crash~~ data. Such data shall be provided to the *property owner* and/or *permit* holder and tenant upon written request.

B. Notification. Failure to contact the ~~city engineer~~*City* to determine the need for *connection* modifications or to apply for a new *permit* for such modifications prior to initiation of property improvements, land use changes or traffic flow alteration actions shall result in notification to the *property owner* and/or *permit* holder and tenant of intent to revoke the existing *permit* and closure of the *connection* to the property.

C. Costs. The *permit* holder shall be responsible for all costs associated with *connection* removal, *relocation*, or modification caused by increased or altered traffic flows necessitated by changes to ~~facilities~~*the site*, use, or to the nature of the business on the property. [Ord. 06-0247 § 1.]

#### **12.85.100 Permit modification and revocation – Closure of permitted connections.**

A. Revocation Criteria. All *connection permits* issued by the *City* remain valid until revoked. The ~~city engineer~~*city manager* may initiate an action to revoke any *permit* if significant changes have occurred in the use, design, or traffic flow of the property or of SR 522, requiring the *relocation*, alteration, or closure of the *connection*; if the *connection* was not constructed at the location or to the design specified in the *permit*; if the *permit* provisions were not met; or if the *connection* causes a safety, *maintenance*, or operational problem on the ~~street~~*road*.

The ~~city engineer~~*city manager* shall give written notice ~~by first-class U.S. mail~~ to the *permit* holder, the *permit* holder's successors or assigns, or the *property owner* with a copy to the occupant, for any *connection* found to be in noncompliance with the conditions of the *permit*. The notice shall identify the deficiencies and request that they be corrected within 30 calendar days of the date of the notice. The notice shall further advise that the *City's* determination of noncompliance or deficiencies shall become final and conclusive 30 calendar days following the date of the notice unless the violations are corrected or an appeal is filed by the *permit* holder, *permit* holder's successor or assigns, or the *property owner*.

B. Costs. The *permit* holder, *permit* holder's successor or assignee, or *property owner* shall be responsible for the costs of closure due to revocation of a *connection permit*, except when the closure is required by changes to SR 522.

C. Emergency Action. This chapter shall not restrict the *city engineer's* right to take immediate remedial action, including the closure of a *connection*, if there is an immediate and serious danger to the public health, safety, and welfare.

D. Appeals. All appeals must be received within 30 calendar days of the date of the notice. Appeals shall include all contact information and justification for why the City's decision is in error or extenuating circumstances that merit reconsideration. Appeals shall be reviewed by the city manager. Appeal decisions shall be final and may not be further appealed. [Ord. 06-0247 § 1.]

**12.85.110 Access control classification.**

A. WSDOT has created an access control classification system consisting of five classes, where Class One is the least restrictive. WSDOT has designated SR 522 as Class Four. On all access classes, property access shall be located and designed to minimize interference with transit facilities/operations and/or high occupancy vehicle (HOV) facilities/use on SR 522 where such facilities/operations/uses exist or where such facilities/operations/uses are proposed. In such cases, if *reasonable access* is available from the *City* street system, primary property access shall be provided from the *City* street system rather than from SR 522.

B. SR 522, with its Class Four designation, has the following functional characteristics and access control standards:

1. Functional Characteristics. SR 522 has the capacity for moderate travel speeds and moderate traffic volumes for medium and short travel distances providing for inter-City, intra-City, and inter-community travel needs. There is to be a reasonable balance between direct access and mobility needs. Existing level of development of the adjoining land is intensive. SR 522 is distinguished by existing or planned nonrestrictive *medians*. Restrictive *medians* may be used as operational conditions warrant to mitigate turning, weaving, and crossing conflicts. Minimum *connection* spacing standards should be applied if adjoining properties are redeveloped.

2. Access Control Design Standards. The public street-roadway intersection spacing and driveway *connection* spacing distances specified are minimums. Greater distances may be required by the *city engineer* to provide desirable traffic operational and safety characteristics. If greater distances are required, the *city engineer* will document the reasons, based on traffic engineering principles, for such greater distances. Nonconforming *permits* may be issued allowing for less than minimum spacing where no other *reasonable access* exists. A *variance connection permit* may be issued where it can be substantiated by a traffic analysis, to the satisfaction of the *city engineer*, that allowing less than the minimum spacing or more than the maximum number of *connections* would not adversely affect the desired function of SR 522 and would not adversely affect the safety, *maintenance* or operation of SR 522.

a. Public Street-Roadway Intersections. ~~SR 522 should generally be capable of achieving a posted speed-limit of 40 to 45 mph.~~ In the *City*, where higher volumes are present or growth that will require signalization is expected in the foreseeable future, it is imperative that the location of any public access be planned carefully to ensure adequate signal progression. Where feasible, major intersecting roadways that may ultimately require signalization shall be planned with a minimum of one-half mile spacing. Addition of all new *connections*, public or private, that may require signalization will require an engineering analysis signed and sealed by a qualified *professional engineer*.

b. Private Direct Access.

(1) Regardless of the number of access points that exist prior to any development, No more than one access shall be provided to an individual parcel or to contiguous parcels under the same ownership, unless it can be shown that additional access points are necessary for the functionality of the development, would not adversely affect the desired function, safety, or operations on SR 522, and would not cause an unreasonable risk to public health, safety, and welfare.

(2) The minimum distance to another public or private access *connection* shall be 250 feet. Nonconforming *connection permits* may be issued to provide access to parcels whose *highway* frontage, topography, or location would otherwise preclude issuance of a *conforming connection permit*.

(3) *Variance permits* may be allowed if conditions warrant. These conditions must be demonstrated to the satisfaction of the *city engineer* by a traffic analysis that is signed and sealed by a qualified *professional engineer*.

3. Corner Clearance. Corner clearances for *connections* shall meet or exceed the minimum *connection* spacing requirements. A single *connection* may be placed closer to the intersection in accordance with the following criteria:

a. If, due to property size, corner clearance standards cannot be met, and where ~~joint access-connections~~ use driveways meeting or exceeding the minimum corner clearance standards cannot be obtained, or is determined by the *city engineer* to be not feasible because of conflicting land use or conflicting traffic volumes or operational characteristics, then the following minimum corner clearance criteria may be used:

**Corner Clearance at Intersections**

With Restrictive Median		
Position	Access Allowed	Minimum (Feet)
Approaching intersection	Right in/right out	115
Approaching intersection	Right in only	75
Departing intersection	Right in/right out	230
Departing intersection	Right out only	100
Without Restrictive Median		
Position	Access Allowed	Minimum (Feet)
Approaching intersection	Full access	230
Approaching intersection	Right in only	100
Departing intersection	Full access	230
Departing intersection	Right out only	100

b. Additional Conditions.

(1) There shall be no more than one *connection* per ~~property abutting property frontage~~ on SR 522, regardless of minimum connection spacing unless it can be shown that additional access points are necessary for the functionality of the development, would not adversely affect the desired function-, safety, or operations on SR 522, and would not cause an unreasonable risk to public health, safety, and welfare.-

(2) When *joint use driveways* or alternate accesses meeting or exceeding the minimum corner clearance standards becomes available, the *permit* holder shall close the permitted *connection*, unless the *permit* holder shows to the *city engineer's* satisfaction that such closure is not feasible. [Ord. 06-0247 § 1.]

## Chapter 12.90

### TRANSPORTATION BENEFIT DISTRICT

#### Sections:

- 12.90.010 Transportation benefit district established.
- 12.90.020 Governing board.
- 12.90.030 Authority of the district.
- 12.90.040 Use of funds.
- 12.90.050 Revenue sources.
- 12.90.060 Dissolution of district.

#### **12.90.010 Transportation benefit district established.**

There is created a transportation benefit district to be known as the Kenmore transportation benefit district with geographical boundaries comprised of the corporate limits of the *City* as they currently exist or as they may exist following future annexations. [Ord. 12-0339 § 1.]

#### **12.90.020 Governing board.**

A. The governing board of the transportation benefit district shall be the Kenmore city council, which shall have the authority to exercise the statutory powers set forth in Chapter 36.73 RCW and this chapter.

B. The treasurer of the transportation benefit district shall be the *City* director of finance.

C. The board shall develop a material change policy to address major plan changes that affect project delivery or the ability to finance the plan, pursuant to the requirements set forth in RCW 36.73.160(1).

D. The board shall issue an annual report, pursuant to the requirements of RCW 36.73.160(2). [Ord. 16-0424 § 3; Ord. 12-0339 § 1.]

#### **12.90.030 Authority of the district.**

The board shall have and may exercise any powers provided by law to fulfill the purpose of the Kenmore transportation benefit district. [Ord. 12-0339 § 1.]

#### **12.90.040 Use of funds.**

The funds generated by the transportation benefit district may be used for any purpose allowed by law including to operate the district and to make transportation improvements that are consistent with existing State, regional, and local transportation plans and necessitated by existing or reasonably foreseeable congestion levels pursuant to Chapter 36.73 RCW. The transportation improvements funded by the district shall be made in an effort to preserve and maintain transportation infrastructure, improve public safety, or implement *city projects* identified in Kenmore's *transportation improvement program*. [Ord. 12-0339 § 1.]

#### **12.90.050 Revenue sources.**

The board shall have the authority to establish all fees and other revenue sources authorized by Chapter 36.73 RCW, consistent with RCW 36.73.065. [Ord. 12-0339 § 1.]

#### **12.90.060 Dissolution of district.**

The transportation benefit district shall be dissolved when all indebtedness of the district has been retired and when all of the district's anticipated responsibilities have been satisfied. [Ord. 12-0339 § 1.]



**Chapter 12.95**

**RIGHT-OF-WAY VACATIONS**

Sections:

- 12.95.010 Purpose.
- 12.95.020 Definitions.
- 12.95.030 Applicability.
- 12.95.040 Initiation of proceedings.
- 12.95.050 Public petition for vacation.
- 12.95.060 Council resolution for vacation.
- 12.95.070 Date of public hearing.
- 12.95.080 Public notification of hearing.
- 12.95.090 Objection by property owners.
- 12.95.100 Public hearing procedures.
- 12.95.110 Criteria for granting street vacation.
- 12.95.120 Limitations on vacations
- 12.95.130 Right to reserve easements.
- 12.95.140 Voluntary agreement between city and applicant.
- 12.95.150 Final decision.
- 12.95.160 Appraisal reviews.
- 12.95.170 Fees and costs.
- 12.95.180 Title to vacated street or alley.
- 12.95.190 Vested rights not affected.
- 12.95.200 City use of revenue.

**12.95.010 Purpose.**

This chapter establishes the procedures and criteria that the *City* will use to decide upon vacation of *roads*, alleys, or any part thereof. This chapter is intended to implement the authority granted to the *City* pursuant to Chapter 35.79 RCW and RCW 35A.47.020. In case of a conflict between this chapter and those statutes, the statutory provisions shall prevail.

**12.95.020 Definitions**

A. "Subject right-of-way" means the *road* or alley, or portions thereof, sought to be vacated.

**12.95.030 Applicability.**

This chapter applies to requests for the vacation of *roads*, alleys and public easements relating to said roads or alleys, or any part thereof. This chapter shall not apply to vacation or termination of other types of public easements.

**12.95.040 Initiation of proceedings.**

A vacation may be initiated by the city council or by *abutting property owners* pursuant to RCW 35.79.010.

**12.95.050 Petition for vacation.**

The *owners* of an interest in any real estate abutting upon any *road*, or alley who may desire to vacate the *street* or alley, or any part thereof, may petition the city council. The petition shall be in a form prescribed by the *city engineer* and shall contain the following information:

A. Upon receiving a petition signed by owners of more than two-thirds of the property abutting upon the part of such street or ally sought to be vacated, petitioners shall submit a complete vacation application to the City. A vacation application shall contain the name, address, email and telephone number of a representative for the petitioners, with supporting documentation from each petitioner on forms provided by the department.

B. A legal description of the area to be vacated prepared by a licensed surveyor in the State of Washington.

C. Site map showing all property lines and the subject right-of-way highlighted, scaled as required by the department.

D. Verification of ownership and providing a legal description of the property owned by each petitioner.

E. A copy of the King County assessor's map identifying all property owners and parcel ID numbers.

F. A completed request for public utility review.

G. The vacation application fee as established by resolution.

H. An appraisal of each abutting property of the subject property prepared by a WSDOT approved appraiser.

I. A signed agreement to pay the cost of an appraisal review as provided for in Section 12.95.170;

J. The petition shall discuss the criteria set forth in KMC 12.95.110-; and

K. Any additional information or material that the department determines is reasonably necessary for the city council to consider the requested vacation.

**12.95.060 Council resolution for vacation.**

The city council may initiate, by resolution, vacation procedures. The resolution shall contain a legal description of the subject right-of-way and shall be filed with the city clerk.

**12.95.070 Date of public hearing.**

Upon receiving a petition signed by owners of more than two-thirds of the property abutting upon the part of such street or ally sought to be vacated and a complete application, the city council by resolution shall fix a time and date when the city council will hold a public hearing on the proposed vacation. If vacation is initiated by the city council, the resolution initiating the vacation shall fix a time and date on when the city council will hold a public hearing on the vacation. The hearing shall not be more than sixty days nor less than twenty days after the date of passage of such resolution. The two-thirds measure shall be determined pursuant to Section 12.95.090.

**12.95.080 Public notification of hearing.**

A. The City shall prepare a public notice containing the following information:

1. A statement that a petition to vacate the subject right-of-way has been filed with the city and will be considered by the city council or that the city council has initiated a street vacation of the subject right-of-way;
2. A statement of the time and place of the public hearing before the city council;
3. A location description in non-legal language along with a vicinity map that identifies the subject right-of-way proposed to be vacated;

B. At least twenty calendar days before the public hearing, the *City* shall distribute the public notice as follows:

- 1. In all cases where the proceeding is initiated by resolution of the city council, in addition to the notice required herein, there shall be given by mail at least fifteen days before the date fixed for the hearing, a similar notice to the owners or reputed owners of all lots, tracts or parcels of land or other property abutting upon any *street* or alley or any part thereof sought to be vacated, as shown on the rolls of the county treasurer, directed to the address thereon shown.
2. A copy will be published in the official newspaper of the *City*, except no vicinity map shall be required;
3. Posted in a conspicuous location at the three most public places within the *City*;
4. A copy will be posted on the *subject right-of-way* in the manner set out in subsection C of this section.

C. Public Notice Sign. The city clerk shall provide for and have public notice signs posted at least twenty calendar days before the public hearing as follows:

1. The posted notice shall be designed and constructed in accordance with the administrative procedures developed by the *department*. A copy of the public notice described in subsection A of this section and the vicinity map shall be attached to each sign.
2. One posted notice shall be located at each public access location and placed so that the sign(s) are conspicuously visible from an improved public *right-of-way* not subject to the vacation request. The *department* shall approve the location of each sign.
3. All posted notices shall be removed after the final public hearing.

**12.95.090 Objection by property owners.**

A. If fifty percent or more of the *abutting property owners* file written objections to a city council initiated vacation with the city clerk, prior to the time of the public hearing, then the *City* shall be prohibited from proceeding with the vacation. The calculation of each *abutted property's* percentage shall be based on the following:

1. Roads and alleys: the total length of each individual property linear footage abutting the *subject right-of-way* over the total perimeter length of the *subject right-of-way*.
2. Public easements: the square footage of the *subject right-of-way* on each individual property over the total area of the *subject right-of-way*.

**12.95.100 Public hearing procedures.**

A. The city council shall hold a public hearing on each street vacation pursuant to KMC 12.95.0870 and 12.95.0980.

B. The city council may continue the hearing if the city council determines that it needs more information on the vacation. If, during the hearing, the city council continues the hearing to a specific time and place on the vacation, no further notice of the hearing need be given.

C. The department shall provide an analysis of the requested vacation in relation to the provisions of this chapter and the applicable provisions of the comprehensive plan with a recommendation on the requested vacation.

D. Any interested person may participate in the public hearing in either or both of the following ways:

1. By submitting written comments to the city council by delivering the comments to the city clerk as noted in the public notice prior to the hearing; and
2. By appearing in person, or through a representative, at the hearing and making oral comments directly to the city council.

**12.95.110 Criteria for granting street vacation.**

A. The decision on a vacation application is a legislative determination. The city council may, at its discretion, vacate a road or alley or part thereof if it determines that vacation is in the public interest and that:

1. The subject right-of-way is not currently necessary for travel or other road purposes, nor likely to be in the future;
2. The vacation request takes into account ~~right-of-way~~ existing facilities and other uses into consideration per KMC 12.95.130; and
3. No property is denied access to the public right-of-way as a result of the vacation.

B. The city council may consider any other fact or issue it deems relevant when deciding whether to vacate a road, alley.

C. If the City Council determines to grant the petition or any part thereof, the city shall be authorized to vacate such street, or alley, or any part thereof, and the ordinance may provide that it shall not become effective until the owners of property abutting upon the street or alley, or part thereof so vacated, shall compensate the City in an amount which does not exceed one-half the appraised value of the subject right-of-way. If the street or alley has been part of a dedicated public right-of-way for twenty-five years or more, or if the subject property or portions thereof were acquired at public expense, the city may require the owners of the property abutting the street or alley to compensate the city in an amount that does not exceed the full appraised value of the area vacated.

**12.95.120 Limitations on vacations.**

Vacations of roads abutting bodies of water shall be limited and follow the procedures set forth in RCW 35.79.035.

**12.95.130 Right to reserve easements.**

In vacating a road or alley governed by this chapter, the city council may retain an easement or the right to exercise and grant any easements in respect to the vacated land for construction, repair, and maintenance of for the following purposes:

A: Construction, repair, and maintenance of public facilities and services.

**12.95.150 Final decision of vacation.**

A. Following the public hearing, the city council shall either:

1. Adopt an ordinance granting the vacation, subject to conditions the city council deems necessary; or
2. Adopt a motion denying the vacation.

B. The ordinance may be conditioned as follows:



1. Receipt of monetary compensation pursuant to RCW 35.79.030 and KMC 12.95.170.

2. Receipt of *utility* easements, if any, per KMC 12.95.130.

3. Other conditions deemed appropriate by the city council.

C. Within 14 calendar days of the city council's approval of the ordinance or from the date all conditions of the ordinance are met, whichever comes later, the ordinance shall be recorded by the city clerk in the office of the auditor of the county in which the vacated land is located.

**12.95.160 Appraisal reviews.**

The *city manager* is authorized to obtain appraisals from qualified, independent appraisal reviewers as part of the *application* review.

**12.95.170 Fees and costs.**

The *city manager* is authorized to collect fees for the following:

A. Application fee: The cost for reviewing, noticing, and preparing documentation for city council review shall be paid by the *applicant*. Fees shall be as determined by the city council by resolution;

B. Appraisal review cost: The cost for an appraisal review shall be paid by the *applicant*. Cost shall be the direct invoice cost for the appraisal review;

C. Subject right-of-way cost: The cost for the *subject right-of-way* shall be the full appraised value of the *subject right-of-way* area as determined by the *City's* appraisal reviewer, the calculation for each abutting property owner based upon percentage calculations pursuant to Section 12.95.090.

**12.95.180 Title to vacated street or alley.**

Title of *subject right-of-way* shall be pursuant to RCW 35.79.040.

**12.95.190 Vested rights not affected.**

No vested rights shall be affected by the provisions of this chapter.

**12.95.200 City use of revenue.**

One half of the revenue received by the *City* as compensation for the vacated *right-of-way* must be dedicated to the acquisition, improvement, development, or related *maintenance* of public open space or transportation capital projects within the *City*.

**Title 12**

**STREETS, SIDEWALKS AND PUBLIC SPACES**

**Chapters:**

- 12.05 General Provisions**
- 12.10 Official Street System**
- 12.15 Street Closures and Load Restrictions on Streets**
- 12.20 Load Limits on Bridges**
- 12.25 *Repealed***
- 12.30 *Repealed***
- 12.35 Rights-of-Way**
- 12.40 Permit System for Use of City Real Property**
- 12.45 Complete Streets Policy**
- 12.50 Road Standards**
- 12.55 Utilities on City Rights-of-Way**
- 12.58 Wireless Communication Facilities within City Rights-of-Way**
- 12.60 Public and Private Utilities on Real Property**
- 12.65 Snow Emergency Routes**
- 12.70 Sidewalks, Planting Strips and Street Trees**
- 12.75 *Repealed***
- 12.80 Integrated Transportation Program**
- 12.85 State Route 522 Access Management Program**
- 12.90 Transportation Benefit District**
- 12.95 Right-of-Way Vacations**

## Chapter 12.05

### GENERAL PROVISIONS

Sections:

- 12.05.010 *Repealed.*
- 12.05.015 Intent.
- 12.05.020 Financial guarantees authorized.
- 12.05.030 Definitions.
- 12.05.040 Removal of facilities and personal property in City rights-of-way.
- 12.05.050 Violation – Enforcement – Penalty.

**12.05.010 Relationship to comprehensive plan and Growth Management Act.**

*Repealed by Ord. 11-0330.* [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.02.010).]

**12.05.015 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. It is also the purpose of this code to regulate activities within the *rights-of-way* in the interest of public health, safety and welfare; and to provide for the fees, charges, enforcement, and procedures required to administer such regulations.

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 persons, organizations, *utility*, or *permittees* adjacent to or seeking to use the rights-of-way, and no provision is intended to impose any duty upon the City of Kenmore, 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 Kenmore, or its officers, employees or agents, for any injury or damage resulting from the failure of the persons, organizations, *utility*, or *permittees* 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 Kenmore, its officers, employees or agents.

D. All *work* performed or contracted by the *City* within the *right-of-way* is exempt from the permitting requirements outlined in this Title. [Ord. 18-0458 § 1 (Att. A).]

**12.05.020 Financial guarantees authorized.**

The *city manager* is authorized to require all *applicants* issued permits or approvals under the provisions of this title to post financial guarantees consistent with the provisions of KMC Title 21. [Ord. 18-0458 § 1 (Att. A); Ord. 11-0330 § 1 (Exh. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.02.020).]

**12.05.030 Definitions.**

This section contains definitions of terms used throughout this title.

A. “Abutting property” means real property having a frontage upon or common boundary with the sides or margins of any road or right-of-way.

B. “Applicant” means a property owner(s), person(s), company, public agency, or public or private utility, or authorized agent of the applicant who files an application for a permit under this title requesting approval to access/use publicly owned land or right of way.

C. “Application” means an application form supplied by the City and completed by the *applicant*, payment for the required application fee(s), and related property site, driveway, roadway, traffic information, and any other documentation as determined necessary by the City in the evaluation of the application.

D. “City” means the City of Kenmore.

E. “City manager” means the City of Kenmore city manager or his or her designee(s).

F. “City engineer” means the city engineer herein authorized with the same powers specified in RCW 36.75.050 and 36.80, or his/her authorized representatives. Whereas “County” shall be replaced with “City” throughout.

G. “City project” means any work performed by the City (either with city personnel or by way of contract) including but not limited to capital projects, *maintenance*, or repair/*restoration* activities.

H. “City property” means all City real property, including but not limited to recreational trails, critical areas, roads, parks and dedicated open space, that is owned by the City.

I. “Contractor” means any person, firm, corporation, or other entity who or which, in the pursuit of an independent business undertakes to, or offers to undertake, or submits a bid to, construct, alter, repair, add to, subtract from, improve, develop, move, wreck, demolish, or excavate for any structure, road, sidewalk or other infrastructure below ground, at ground or above ground.

J. “Curb” means a cement, concrete or asphalt raised structure designed to delineate the edge of the travel way or pavement, to separate the vehicular portion from that provided for pedestrians or bicyclists, and for surface water drainage control.

K. “Department” means the City department or outside agency assigned by the city manager to administer a portion of the Municipal code.

L. “Development” means any activity that requires a permit or approval, including, but not limited to, a right-of-way use permit (limited, access, and encroachment), *special use permit*, utility permit, right of use agreement, connection permit, or right-of-way vacation.

M. “Encroachment” means any structure, object, or obstruction, including, but not limited to, building extension, marquee, fence, stairway, railing, retaining wall, artwork, private landscaping, barriers, or any other building or structure constructed, erected or maintained in, over or under any public place, right-of-way, easement, roadway, parking strip and/or sidewalk, including the airspace above them.

N. “Engineering permit” means a *permit* authorizing the use or improvement of privately owned property. Permitted activities include clearing, grading, roads, drainage facilities, utilities.

O “Facility” or “Facilities” means any pole, pipe, line, pipeline, cable, vault, antenna, appurtenances, fixtures, conduit, guys, anchors, vaults, attachments, fencing, or other equipment or structure owned and/or operated by a utility company or public/private agency necessary for a fully functional system.

P. “Franchise” means an agreement granting the non-exclusive right, privilege, and authority to occupy the right-of-way.

Q. “Highway” means the same as “Road.”

R. “Maintenance” means the routine upkeep of the right-of-way or property, equipment, materials, etc. to retain its original function and/or to allow for access or safety.

S. “Permit” means any activity requiring written approval issued by the *City*, subject to conditions stated therein, authorizing the use, construction, alteration, reconstruction, relocation, *maintenance*, or development within the right-of-way or publicly owned real property. This includes, but not limited to, reclassification of a road, street vacation, and traffic control devices.



T. “Permittee” same as “Applicant.”

U. “Professional engineer” means a civil engineer with an active status license in the State of Washington registered in accordance with Chapter 18.43 RCW.

V. “Property owner” means a person(s) or entity with ownership of real (fee title and/or mortgages) or personal property.

W. “Restoration” means activities necessary to replace, repair or otherwise restore the *right-of-way* and adjacent private property and all features contained within to the same or better condition as existed prior to any construction and in compliance with the Road Standards.

X. “Right-of-way” means land and the space above and below, property or property interest, such as a right-of-way use easement, as well as bridges, trestles, or other structures, dedicated to, or otherwise acquired by the City of Kenmore for public motor vehicle, pedestrian, bicycle, or other non-motorized transportation purposes, including, but not limited to, roads and trails, whether or not opened, improved or maintained for public transportation purposes.

Y. “Right-of-way use agreement” is an agreement with the City through which is granted a site-specific and revocable privilege to use city right-of-way at a location identified in the agreement for *facilities* and *wireless communication facilities*, and through which are set forth the terms and conditions for exercising the granted privilege to use the City right-of-way. The *city manager* shall have the discretion to use right-of-way use agreements for other purposes as needed.

Z. “Right-of-way use permit, limited” means a *permit* authorizing a person to enter, use and/or improve City right-of-way.

AA. “Right-of-way use permit, access” means a *permit* authorizing to enter and use unopened City right-of-way for a subdivision or property access.

BB. “Right-of-way use permit, encroachment” means a *permit* authorizing the use of the City right-of-way for an *encroachment*.

CC. “Right-of-way utility permit” means a document issued under the authority of the city manager which provides specific authorization, requirements, and conditions for specific utility work at specific locations.

DD. “Road” means the improvements contained within the full width of the right-of-way boundary lines including permanent right-of-way easements obtained for use of the public for purposes of vehicle, pedestrian, and bicycle travel and storm drainage (same as Highway as defined by RCW 46.04.197 and City Street as defined in RCW46.04.120).

EE. “Road Standards” means the City of Kenmore Road Standards adopted under Chapter 12.50 KMC.

FF. “Sidewalk” means that space between the *curb* line or the edge of paved travel lane and the *abutting property*, set aside and intended for the use of pedestrians, improved by paving with cement concrete or asphaltic concrete.

GG. “Special use permit” means a *permit* for the use of *City property* issued pursuant to this title.

HH. “Street” means the same as “Road.”

II. “Unimproved *right-of-way*” means any *right-of-way* or portion thereof that has not been improved by the *City* for the use of public transportation. Unimproved right-of-way may contain *facilities*.

JJ. “Utility” means private and public providers/owners of utility infrastructure, including water, wastewater, electric, telephone, telegraph, telecommunications, fiber optic, wireless services, cable television, natural gas lines, and solid waste.

KK. “Wireless” means transmissions through the airwaves including, but not limited to, infrared line of sight, cellular, microwave, or satellite.

LL. “Wireless communication facility” generally means an unmanned *facility* for the transmission and/or reception of radio frequency (RF) signals or other **wireless** communications, typically consisting of one or more antennas, a transmission or alternative transmission support structure, cables and other transmission equipment, and an equipment enclosure or cabinets. **Wireless** communication facility shall not include equipment intended solely for internal household or business use such as **wireless** modems, cellular signal boosters, or personal cellular cellspots.

MM. “Wireless communication provider” means every person that owns, controls, operates or manages a wireless communication facility within the right-of-way for the purpose of offering wireless communications services (i.e. transmission for hire of information in electronic or optical form, including, but limited to, voice, video, or data.

NN. “Work” means any construction or alteration of existing infrastructure, maintenance, or other improvements or actions whether identified under an approved *permit* or not.

OO. “WSDOT” means the Washington State Department of Transportation. [Ord. 18-0458 § 1 (Att. A); Ord. 11-0330 § 1 (Exh. A).]

**12.05.040 Removal of facilities and personal property in City rights-of-way.**

Except as may be required by Chapter 35.99 RCW, any *utility*, company or person (hereby referred to as *owner*) that locates any *facilities* or personal property in the *right-of-way* shall relocate, remove or reroute said *facilities* or personal property, as ordered and in the time frame required by the *City* per this Title, at no expense or liability to the *City*. If an *owner* fails to timely perform such *relocation, removal, or reroute*, then the *city manager* may, but is not required to, order and complete all actions necessary to remove the *facilities* or personal property from the *right-of-way*. The *city manager* may require the *owner* to reimburse the *City* for the reasonable actual costs of removal, including *City* overhead (provided that in no event shall such overhead exceed 10 percent of the total costs, fees and expenses of third parties), within 30 days of the *City’s* invoice. In addition, the *owner* shall indemnify, protect and hold harmless the *City* from any third-party claims for service interruptions or other losses in connection with any such change or removal of the *facilities/* or personal property, other than the *City’s* negligence or willful misconduct. [Ord. 18-0458 § 1 (Att. A).]

**12.05.050 Violation – Enforcement – Penalty.**

A. The violation of or failure to comply with any provision of this title is declared to be unlawful. The *city manager* shall have the authority to enforce this title and to adopt procedures for the purpose of implementing or carrying out other responsibilities required by this title.

B. Any violation or failure to comply with any provision of this title is a civil violation as provided for in Chapter 1.20 KMC, for which a monetary penalty may be assessed and abatement may be required as provided herein. Unless otherwise noted elsewhere within this Title, the *city manager* may, but is not required to, seek voluntary correction pursuant to KMC 1.20.070, prior to the assessment of monetary penalties for violation of this title. [Ord. 18-0458 § 1 (Att. A).]

## Chapter 12.10

### OFFICIAL STREET SYSTEM

Sections:

- 12.10.010 Official street system.
- 12.10.020 *Repealed.*
- 12.10.030 Streets included.
- 12.10.040 *Repealed.*
- 12.10.050 Additions and deletions.
- 12.10.060 *Repealed.*
- 12.10.070 Inclusion of streets which have reverted to City from the County.
- 12.10.080 Inaccuracies corrected.

**12.10.010 Official street system.**

To provide for the administration, *maintenance*, and dedication of *right-of-way* and improvement of the *City's roads*, the *City* needs to identify the official *City* street system. This system will be shown on maps which will also show the *roads* for which the *City* has *maintenance* responsibility. [Ord. 11-0330 § 1 (Exh. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.04.010).]

**12.10.020 Maps are exhibits.**

*Repealed* [Ord. 11-0330 § 1 (Exh. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.04.030).]

**12.10.030 Streets included.**

Only those *roads* within the boundaries of the *City* shall be considered part of the *City* street system. [Ord. 11-0330 § 1 (Exh. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.04.040).]

**12.10.040 Revision of street exhibits.**

*Repealed* [Ord. 11-0330 § 1 (Exh. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.04.050).]

**12.10.050 Additions and deletions.**

The *city manager* shall have the authority to make additions to, deletions from, or characteristic changes to the *roads* on *City* maps, consistent with RCW 35.78.010. [Ord. 11-0330 § 1 (Exh. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.04.060).]

**12.10.060 Streets constructed by Highway Department included.**

*Repealed by Ord. 11-0330.* [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.04.070).]

**12.10.070 Inclusion of streets which have reverted to City from the County.**

The *City* street system shall include all *right-of-way* which reverted to King County prior to incorporation by virtue of prescriptive rights as set forth in RCW 36.75.070 and 36.75.080. [Ord. 11-0330 § 1 (Exh. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.04.080).]

**12.10.080 Inaccuracies corrected.**

If any inaccuracies appear on the maps that are in conflict with other records on file, the inaccuracies shall be corrected on the maps, if applicable, and in no case shall affect the provisions of this chapter or the status of the maps as official designators of the official *City* street system. [Ord. 11-0330 § 1 (Exh. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.04.100).]

## Chapter 12.15

### STREET CLOSURES AND LOAD RESTRICTIONS ON STREETS

#### Sections:

- 12.15.010 Street closure policy.  
12.15.020 Winter and emergency load restrictions.

#### **12.15.010 Street closure policy.**

All *street* closure and load limit restrictions will be disseminated in accordance with this Chapter insofar as it is possible to do so.

A. Emergency services shall be allowed access through any *street* closure unless otherwise determined by the *city engineer* that such access would result in an unsafe condition to the public or the emergency service provider. If access cannot be provided to emergency services, detours shall be submitted to the *City* and all emergency service providers for approval.

B. The school district will be notified prior to 1:00 p.m. on the first business day preceding any *street* closure on a school bus route. If the morning pickup of children is accomplished, the school district will be permitted to use these routes for the returning of the children to their normal bus stops.

C. If sufficient space is available, school buses will be permitted to turn around at the intersection of a school bus route which is closed and the open route with the minimum maneuvering possible on the closed *street* in the intersection area.

D. The *City* will establish the necessary communications with the school district and emergency service providers to provide the proper notifications.

E. *Street* closure as a result of inclement weather shall be consistent with the provisions of Chapter 12.65 KMC, all other inclement weather closures shall be consistent with this Chapter and notifications shall be performed in accordance with KMC 12.65.030.

F. In the event of an emergency, notification of road closures shall be done as soon as possible.

G. It shall be at the *city manager's* discretion to close any *street* and shall have the authority to initiate *street* closures per this policy. [Ord. 11-0330 § 1 (Exh. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.12.010).]

#### **12.15.020 Winter and emergency load restrictions.**

The following emergency restrictions shall be in effect on *City streets* during such periods of freezing and thawing conditions as determined by the *city manager*:

#### REGULAR WINTER LOAD RESTRICTIONS

Conventional		Tubeless or Special with 0.5 Marking	
Tire Size	Gross Load Each Tire	Tire Size	Gross Load Each Tire
7.00	1,800 lbs.	8-22.5	2,250 lbs.
7.50	2,250 lbs.	9-22.5	2,800 lbs.
8.25	2,800 lbs.	10-22.5	3,400 lbs.
9.00	3,400 lbs.	11-22.5	4,000 lbs.



**REGULAR WINTER LOAD RESTRICTIONS**

10.00		4,000 lbs.	11-24.5		4,000 lbs.
11.00		4,500 lbs.	12-22.5		4,500 lbs.
12.00	or over	4,500 lbs.	12-24.5	or over	4,500 lbs.

**EMERGENCY LOAD RESTRICTIONS**

Conventional Tires		Tubeless or Special with 0.5 Marking			
Tire Size		Gross Load Each Tire	Tire Size		Gross Load Each Tire
7.00		1,800 lbs.	8-22.5		1,800 lbs.
7.50		1,800 lbs.	9-22.5		1,900 lbs.
8.25		1,900 lbs.	10-22.5		2,250 lbs.
9.00		2,250 lbs.	11-22.5		2,750 lbs.
10.00		2,750 lbs.	11-24.5		2,750 lbs.
11.00	or over	3,000 lbs.	12-22.5	or over	3,000 lbs.

A further load restriction of five tons gross on any vehicle may be placed on *streets* under severe conditions. [Ord. 11-0330 § 1 (Exh. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.12.020).]

## Chapter 12.20

### LOAD LIMITS ON BRIDGES

#### Sections:

- 12.20.010 Gross weight allowed and notification.
- 12.20.020 Permits.
- 12.20.030 Maximum gross vehicle weight.
- 12.20.040 Enforcement and penalty.
- 12.20.050 *Repealed*

#### **12.20.010 Gross weight allowed and notification.**

A. It is unlawful for any person to operate a vehicle over any *City* bridge when such vehicle has a gross weight that is greater than the posted maximum weight for that bridge, unless the driver is in possession of a *Right-of-way use permit, limited* – Type B per KMC 12.035.040 issued by the *city manager*.

B. Notice of closing of individual bridges to certain classes or weights of vehicles shall be:

1. Published in a local newspaper of general circulation; and
2. Posted on signs at each end of subject bridge, on or prior to the date of publication. All signs shall be erected and maintained in accordance with RCW 46.61.450 and 47.36.030.

C. Maximum gross weights for vehicles operating over *City* bridges shall be established by ordinance in accordance with RCW 46.44.080.

D. The *city engineer* shall have the authority by administrative determination to immediately impose temporary gross weight limits on bridges based on the results of an engineering investigation. The *city engineer* shall have the authority to immediately erect and maintain official traffic control devices for temporary gross weight limits on bridges in accordance with Chapter 46.90 RCW, WAC 308-330-265 and Chapter 10.05 KMC. The temporary gross weight limits on bridges shall be in effect for not longer than one year from the date of posting or until the weight limits are established by ordinance. [Ord. 11-0330 § 1 (Exh. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.16.010).]

#### **12.20.020 Permits.**

The *city manager* is authorized to issue *permits* for the safe use of load limited bridges by emergency vehicles and other vehicles exceeding the posted maximum weight. [Ord. 11-0330 § 1 (Exh. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.16.015).]

#### **12.20.030 Maximum gross vehicle weight.**

Those *City* bridges that are posted are done so pursuant to definitions and standards for maximum gross vehicle weight contained in Chapter 46.44 RCW, particularly the vehicle weight table of RCW 46.44.041. [Ord. 11-0330 § 1 (Exh. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.16.020).]

#### **12.20.040 Enforcement and penalty.**

Any violation of this chapter is a traffic infraction and subject to a penalty of \$250.00. [Ord. 11-0330 § 1 (Exh. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.16.170).]

#### **12.20.050 West Sammamish River Bridge (1071AW).**

[Ord. 14-0374 § 1.]

**Chapter 12.25**

**STANDARD SPECIFICATIONS FOR STREET AND BRIDGE CONSTRUCTION**

**(Repealed by Ord. 05-0231)**

**Chapter 12.30**

**STREET CONSTRUCTION RULES ADOPTED**

**(Repealed by Ord. 05-0231)**



## Chapter 12.35

### RIGHTS-OF-WAY

#### Sections:

- 12.35.010 *Repealed.*
- 12.35.015 *Repealed.*
- 12.35.020 Permit required for improvement or use – Application processing.
- 12.35.025 Time limitation of application.
- 12.35.030 Permit – Additional requirements.
- 12.35.035 Application – Fees.
- 12.35.037 Permit – Fees.
- 12.35.040 Permit – Limited.
- 12.35.050 Permit – Access.
- 12.35.055 Permit – Encroachment.
- 12.35.060 Permit – Application.
- 12.35.065 Obligation – Revocation.
- 12.35.070 Conformance.
- 12.35.075 Covenant.
- 12.35.077 Permit – Interpretation.
- 12.35.080 Enforcement.
- 12.35.090 Retroactivity.
- 12.35.100 *Repealed.*
- 12.35.110 Insurance and Indemnification.
- 12.35.120 Performance Guarantee Required.

#### **12.35.010 Definitions.**

*Repealed by Ord. 11-0330. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.28.010).]*

#### **12.35.015 Fee exemptions – Beautification permit.**

*Repealed by Ord. 11-0330. [Ord. 04-0206 § 1.]*

#### **12.35.020 Permit required for improvement or use – Application processing.**

##### A. Permits Required.

1. The *right-of-way* shall not be improved and no *development* approval shall be issued unless a *permit* has been issued pursuant to this chapter.
2. The *unimproved right-of-way* shall not be used for access or other purposes unless a *permit* has been issued pursuant to this Chapter.
3. Exceptions: *Utility construction work*, *City projects*, and special events shall be exempt from this chapter. *Utility construction work* shall be authorized pursuant to Chapter 12.55 KMC and special events approved and permitted in accordance with Chapter 8.40 KMC.

##### B. General Procedures.

1. Upon receipt of an *application* for *right-of-way use permit*, *limited*, *access*, or *encroachment*, the *city manager* shall determine whether the proposed activity is within *City-owned right-of-way*.
2. The *City* shall be the lead agency for compliance with the State Environmental Policy Act. In addition, the *city manager* shall review *applications* for compliance with applicable *City* plans, policies, regulations and standards. Prior to issuing a *right-of-way use permit*, the *city manager* may require an appropriate financial guarantee consistent with the provisions of KMC Title 21 be secured by the *applicant* and submitted to the *City*.

3. The *city manager* may, when feasible, utilize an *engineering permit* in-lieu of *right-of-way use permits* to prevent duplication and increase efficiency. All requirements of this Chapter shall apply to any *engineering permit* used in lieu of a *right-of-way use permit*. The fees shall be reduced to the extent separate fees would be duplicative. [Ord. 12-0335 § 4; Ord. 11-0330 § 1 (Exh. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.28.020).]

**12.35.025 Time limitation of application.**

A. *Applications* for which no *permit* is issued within 18 months following the date of *application* submittal shall expire by limitation and plans and other data submitted for review may thereafter be returned to the *applicant* or destroyed in accordance with State law.

B. *Applications* may be canceled for inactivity, if an *applicant* fails to respond to the *department's* written request for revisions, corrections, actions or additional information within 90 days of the date of request. The *city manager* may extend the response period beyond 90 days if within the original 90-day time period the *applicant* provides and subsequently adheres to an approved schedule with specific target dates for submitting the full revisions, corrections or other information needed by the *department*.

C. The *city manager* may extend the life of an *application* if any of the following conditions exist:

1. Compliance with the State Environmental Policy Act is in progress; or
2. Any other *City* review is in progress; provided, that the *applicant* has submitted a complete response to *City* requests, or the *city manager* determines that unique or unusual circumstances exist that warrant additional time for such response, and the *city manager* determines that the review is proceeding in a timely manner toward final *City* decision; or
3. Litigation against the *City* or *applicant* is in progress, the outcome of which may affect the validity, or the provisions of any *permit* issued pursuant to such *application*.
4. At the sole discretion of the *city manager* when there have been newly adopted codes, fees, ordinances, standards, or laws which affect the *application*. [Ord. 11-0330 § 1 (Exh. A).]

**12.35.030 Permit – Additional requirements.**

A. Plans. Detailed engineering and *restoration* plans and/or drainage plans may be required when determined necessary by the *city manager*. Costs for the preparation of such plans and any required studies shall be borne by the *applicant*.

B. Survey. When determined necessary by the *city manager* to adequately define the limits of *right-of-way* and the existing improvements therein, the *applicant* shall cause the *right-of-way* to be surveyed by a Washington State licensed land surveyor. Such survey shall be recorded in accordance with the Survey Recording Act. The cost for the preparation of such survey shall be borne by the *applicant*.

C. Dedication. An *applicant* may be required to deed additional *right-of-way* across the *property owner's* property when necessary to fulfill the minimum *road* and *right-of-way* widths prescribed in Chapter 12.50 KMC.

D. Illegal Subdivision. A *permit* shall not be issued to provide access to a lot or parcel created in violation of State and/or *City* subdivision regulations.

E. Every *permit* granted under this chapter shall also condition approval consistent with the requirements of Chapter 12.05 KMC, General Provisions. [Ord. 18-0458 § 1 (Att. A); Ord. 11-0330 § 1 (Exh. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.28.030).]

**12.35.035 Application – Fees.**

A. Each *application* requires a fee, imposed by city council by resolution, payable to the *City* for the administrative costs and expenses of processing the *application*.

B. The purpose of this subsection B is to foster the public benefit by encouraging citizens to beautify publicly owned *right-of-way*, without compromising the public's safety. For purposes of maintaining a record of all beautification

projects, a *permit* shall be required prior to commencement of a beautification activity. A *permit* may be issued without charge for projects that satisfy the following criteria:

1. The project involves the planting of flowers or other vegetation that does not hinder the safe use of the *right-of-way* by drivers or others within 10 feet of the fog line or the edge of the pavement, if there is no fog line;
2. The project involves planting adjacent to the *applicant's* property;
3. No shrubs, trees, or structures (such as but not limited to landscape blocks, lawn or yard decorations), are installed within two feet of a *curb* line or, where no *curb* exists, within 10 feet of the edge of pavement. Certain restrictions shall apply to the installation of trees or shrubs. In any case, trees and shrubs shall not be installed that will interfere with sight distance.
4. Improvements that are a hazard to the public or impact *City maintenance* and operation of the *right-of-way* as determined by the *city manager* are prohibited. [Ord. 11-0330 § 1 (Exh. A).]

**12.35.037 Permit – Fees.**

A. The *permittee* shall pay fees for use of the *right-of-way* at the rates imposed by the city council by resolution.

B. The fees shall be collected in accordance with administrative procedures developed by the *department*. [Ord. 11-0330 § 1 (Exh. A).]

**12.35.040 Permit – Limited.**

A. Upon filing of a complete *application*, payment of the fee(s), and posting of the financial guarantee for construction, *maintenance*, and *restoration* of the *right-of-way* consistent with the provisions of KMC Title 21 (as needed), the *city manager* may issue a *permit* authorizing the limited use of *right-of-way*, for use by designated private parties for a specific use.

B. The *permit* may require construction and *restoration* of the *right-of-way* to adopted *City* standards based on the nature and duration of the specific use, and subject to inspection. In addition, conditions may be set to assure compliance with *City* plans, policies, standards and regulations. Such conditions may require performance in excess of adopted *Road Standards*.

C. The *applicant* shall assume sole responsibility for the safe and adequate operation and *maintenance* of any improvements or *work* performed by the *applicant* or the *applicant's* representative in the *right-of-way*.

D. The *applicant* may apply for an extension to the *permit* – upon written *application* for an extension, payment of the applicable fee(s), and being found to be in compliance with the conditions and requirements of the original *permit*. *Permits* shall be limited to one 6-month extension, unless otherwise approved by the *city manager*. *Permit* extensions must be applied for no later than 30 days from the permit expiration date. *Permit* extension is at the sole discretion of the *city manager*.

E. Types of *Right-of-way Use Permits*, Limited.

1. Type A. Activity which will alter the surface or subsurface of the *right-of-way*. Examples are:

- a. Paving operations;
- b. Driveway installation/removal;
- c. *Sidewalk* installation/removal;
- d. Open-cut trenching;
- e. Tree removal/installation;
- f. Storm drainage installation/removal;

- g. Shoulder improvements;
- h. Mailbox installation/removal;
- i. Beautification.

2. Type B. Temporary use of the *right-of-way* which does not change the *right-of-way* surface or subsurface. Examples are:

- a. Temporary storage of material/equipment outside of the pedestrian or vehicle traveled way;
- b. Temporary parking;
- c. Lane/shoulder/pedestrian travel way closures;
- d. Commercial activities in the *right-of-way*;
- e. Investigative activities;

3. Type C. Temporary use of the *right-of-way* which does not change the *right-of-way* surface or subsurface AND requires a *road* closure. Examples are:

- a. Fair or carnival;
- b. Farmer's market;
- c. Parade;
- d. Block party;

F. Permit expiration: *Permits* shall expire as noted below. If the *permit* is approved in conjunction with another *City* issued *permit*, the *permit* may be allowed to expire with the other *City permit*.

1. Type A and B: Type A and B *permits* shall expire 12 months from the date of issuance. *Permits* may be extended an additional 6 months from the date of expiration at the discretion of the *city manager* as long as no changes have been made to the originally approved plans and no new development standards have been adopted.

2. Type C: Type C permits shall expire 3 months from the date of issuance or upon completion of the permitted activity, whichever is shorter. The permit may be extended at the *city manager's* discretion.

3. Permits that have expired beyond the dates noted above, including any extensions, may be extended up to 12 months at the discretion of the *city manager* if any of the following conditions exist:

- a. Compliance with the State Environmental Policy Act is in progress; or
- b. Any other *City* review is in progress; provided, that the *applicant* has submitted a complete response to *City* requests, or the *city manager* determines that unique or unusual circumstances exist that warrant additional time for such response, and the *city manager* determines that the review is proceeding in a timely manner toward final *City* decision; or
- c. Litigation against the *City* or *applicant* is in progress, the outcome of which may affect the validity or the provisions of any permit issued pursuant to such *application*; or
- d. At the sole discretion of the *city manager* when there have been newly adopted codes, fees, ordinances, rules, standards or laws which directly affect the application; or
- e. At the sole discretion of the *city manager* that an extension would be in the interest of the public's welfare.



G. Exemptions: The following activities are exempt from permitting:

1. United States Postal Service mailbox installations are exempt from permitting if replacing in-kind with only de minimis alterations in location or to hard surfaces and no impacts to vehicle or bicycle travel lanes.
2. *Maintenance* activities such as sweeping, shoveling, landscaping, tree trimming, etc. that have no impacts to vehicle or bicycle travel lanes or close pedestrian access.
3. Other temporary activities as determined by the *city manager*. [Ord. 11-0330 § 1 (Exh. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 00-0088 (Exh. B); Ord. 98-0024 §§ 1, 2 (KCC 14.28.050).]

**12.35.050 Permit – Access.**

A. Upon filing of a complete *application* and payment of the fee, the *city manager* may issue a *right-of-way use permit*, *access* authorizing the use of *unimproved right-of-way* for property access.

B. The *applicant* may be required to construct *road* improvements to the adopted *Road Standards* and may be required to post financial guarantees consistent with the provisions of KMC Title 21 for construction, *restoration* and *maintenance*. Construction *work* and all *restoration work* required by the *permit* shall be completed within one year of the *permit*'s issuance. In addition, the *city manager* may set conditions to assure compliance of the *permit* with other adopted plans, *City* policies, and regulations.

C. The *city manager* may place and maintain permanent sign(s) denoting the end of the *City*-maintained road.

D. The *applicant* shall have sole responsibility for the safe construction, operation and *maintenance* of any *work* in the *right-of-way* pursuant to the *permit* until such time as the *work* is officially accepted for *maintenance* by the *City*.

E. Unless earlier revoked by the *city manager*, any *permit* shall be valid for a term of one year and shall be automatically renewable for successive one-year terms unless otherwise terminated by either party. [Ord. 11-0330 § 1 (Exh. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 00-0085 §§ 1, 3; Ord. 98-0024 §§ 1, 2 (KCC 14.28.060).]

**12.35.055 Permit – Encroachment.**

A. Upon filing of a complete *application* and payment of the fee, the *city manager* may issue a *right-of-way use permit*, *encroachment* authorizing the use of the *right-of-way* for an *encroachment*.

B. An *encroachment permit* may be issued to authorize private construction in *unimproved right-of-way* when it is unlikely in the judgment of the *city manager* that such *right-of-way* will be substantially improved by the *City* or other public agency within the foreseeable future.

In exercising such judgment, the *city manager* may consider existing traffic data in and around the site of the *permit application*, the *City*'s adopted transportation improvement plan, and any other plans, studies, data, or other information deemed relevant to the determination.

C. The *applicant* shall have sole responsibility for the safe construction, operation and *maintenance* of any *work* within the *right-of-way* pursuant to the *permit*.

D. Unless earlier revoked by the *city manager*, any such *permit* issued shall be valid for a term of one year and shall be automatically renewable for successive one-year terms until such time as the *permit* is revoked. [Ord. 11-0330 § 1 (Exh. A).]

**12.35.060 Permit – Application.**

An *applicant* for a *right-of-way use permit* issued pursuant to this chapter shall complete an *application* in a form prescribed by the *city manager*. The *city manager* may reject incomplete *application* forms. Such *application* forms shall require an *applicant* to identify the *right-of-way* to be used, the nature of the related *development* on the adjacent private property, and such other information as the *city manager* reasonably determines to be necessary, in relation to the specific project proposed. Such other information may include geotechnical studies, proof of liability insurance, performance bonding, and other measures designed to protect the public health, safety, and welfare. [Ord. 11-0330 § 1 (Exh. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.28.070).]

**12.35.065 Obligation – Revocation.**

This chapter authorizes the *city manager* to engage in discretionary acts and does not create any obligation on the part of the *City* to issue any such *right-of-way use permit*, nor does it create any right on the part of an *applicant* to initially obtain or subsequently retain any such *right-of-way permit*. Any such *permit* actually issued shall be revocable at any time after 90 days' written notice from the *city manager* to the *permit* holder. The *city manager's* revocation notice shall include a date by which the private use of the *right-of-way* must be discontinued and removed, all at the sole expense of the *permit* holder. Any private use of the *right-of-way* remaining after such date shall constitute a public nuisance and shall be abated as such. The cost of abatement, including the *City's* attorney fees, shall be borne by the *permit* holder. There shall be no administrative appeal from any such decision by the *city manager* to revoke any such *permit*. [Ord. 11-0330 § 1 (Exh. A).]

**12.35.070 Conformance.**

Any requirement imposed by this chapter shall be in addition to any other requirement imposed by any other ordinance or other law regulating or controlling the use and development of private or public property. Such additional requirements include but are not limited to any necessary setback variances. A *permit* issued pursuant to this chapter may not authorize any use or development otherwise not allowed or permitted under any other ordinance. [Ord. 11-0330 § 1 (Exh. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.28.080).]

**12.35.075 Covenant.**

The *applicant* for a *right-of-way use permit, limited, access or encroachment*, may be required to record a covenant running with the land and for the benefit of the *City*, which contains:

A. A legal description of the lot or parcel benefiting from the *right-of-way use permit*;

B. If the *permit* is for access, a statement indicating the following:

1. Access to such parcel is across an unmaintained *right-of-way*; the *City* is not responsible for *maintenance* of the *unimproved right-of-way*; and responsibility for *maintenance* of the permitted *work* rests jointly and equitably upon all *permit* holders;
2. The *owner(s)* of the parcel will not oppose participation in a *City street* improvement district, if formation of such a district is deemed necessary by the *City*;
3. Subdivision of such parcel is prohibited without obtaining either plat or short plat approval; and
4. Acknowledgement that any improvement made within the access area must be removed by the *property owner* within 90 days at the request of the *city manager*;

C. If the *permit* is for an *encroachment*, a statement indicating the following:

1. *Maintenance* of the *encroachment* is the responsibility of the *property owner*; and
2. Acknowledgement that the *encroachment* must be removed by the *property owner* within 90 days at the request of the *city manager*;

D. A statement that any *right-of-way use permit* covenant is binding on the successors and assigns of the *owner(s)*;

E. The notarized signature(s) of acknowledgement of the *owner(s)* of such parcel; and

F. The *right-of-way use permit* may be revocable with 90 days' written notice and that removal of any *encroachments* and/or access improvements shall be at the *property owner's* expense. [Ord. 11-0330 § 1 (Exh. A).]

**12.35.077 Permit – Interpretation.**

*Permits* issued pursuant to this chapter shall not be construed to convey any vested right or ownership interest in any *right-of-way*. Every *right-of-way use permit* shall state on its face that any *right-of-way* opened pursuant to this chapter shall be open to use by the general public except in those cases where specific conditions in a *right-of-way use permit* restrict the use of the *right-of-way* for safety reasons. [Ord. 11-0330 § 1 (Exh. A).]

**12.35.080 Enforcement.**

The *city manager* is authorized to enforce the provisions of this chapter, and any rules and regulations promulgated thereunder, pursuant to Chapter 1.20 KMC. [Ord. 11-0330 § 1 (Exh. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.28.090).]

**12.35.090 Retroactivity.**

All *right-of-way use permits* issued by the *City* prior to the effective date of this chapter shall not be affected by the provisions of this chapter. [Ord. 11-0330 § 1 (Exh. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.28.100).]

**12.35.100 Effective date.**

*Repealed by Ord. 11-0330.* [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.28.110).]

**12.35.110 Insurance and Indemnification.** Insurance and indemnity provisions as set forth below shall be included in all *permits*. Insurance and indemnity requirements for all *permits* may be revised at the *city manager's* discretion on a case-by-case basis:

A. Insurance Required: The *permittee* shall procure and maintain insurance for *permits*. Insurance shall provide coverage against claims for injuries to persons or damage to property which may arise from or in connection with operations or activities performed by or on the *permittee's* behalf with the issuance of any *permit*.

B. The *permittee's* maintenance of insurance as required by the *permit* shall not be construed to limit the liability of the *permittee* to the coverage provided by such insurance, or otherwise limit the *City's* recourse to any remedy available at law or in equity.

C. The *permittee* shall obtain insurance of the types and coverage described below:

1. Commercial General Liability insurance shall be at least as broad as Insurance Services Office (ISO) occurrence form CG 00 01 and shall cover liability arising from operations, products-completed operations, and stop-gap liability. There shall be no exclusion for liability arising from explosion, collapse or underground property damage. The *City* shall be named as an additional insured under the *permittee's* Commercial General Liability insurance policy using ISO Additional Insured-State or Political Subdivisions-Permits CG 20 12 or a substitute endorsement providing at least as broad coverage.

2. Automobile Liability insurance covering all owned, non-owned, hired and leased vehicles. Coverage shall be at least as broad as Insurance Services Office (ISO) form CA 00 01.

D. Minimum Amounts of Insurance: The *permittee* shall maintain the following insurance limits:

1. Commercial General Liability insurance shall be written with limits no less than \$2,000,000 each occurrence, \$2,000,000 general aggregate and \$2,000,000 products completed operations aggregate limit.

2. Automobile Liability insurance with a minimum combined single limit for bodily injury and property damage of \$1,000,000 per accident.

E. Other Insurance Provision: The *permittee's* Commercial General Liability insurance policy or policies are to contain or be endorsed to contain that they shall be primary insurance as respect to the *City*. Any insurance, self-insurance, or self-insured pool coverage maintained by the *City* shall be excess of the *permittee's* insurance and shall not contribute with it.

F. Acceptability of Insurers: Insurance is to be placed with insurers with a current A.M. Best rating of not less than A:VII.

G. Verification of Coverage: The *permittee* shall furnish the *City* with original certificates and a copy of the amendatory endorsements, including the additional insured endorsement, evidencing the insurance requirements of the *permittee* before issuance of the *permit*.

H. Notice of Cancellation: The *permittee* shall provide the *City* with written notice of any policy cancellation, within two business days of their receipt of such notice.

I. Failure to Maintain Insurance: Failure on the part of the *permittee* to maintain the insurance as required shall constitute a material breach of the *permit*, upon which the *City* may, after giving five business days' notice to the *permittee* to correct the breach, immediately terminate the *permit* or, at its discretion, procure or renew such insurance and pay any and all premiums in connection therewith, with any sums so expended to be repaid to the *City* on demand.

J. City Full Availability of Permittee Limits: If the *permittee* maintains higher insurance limits than the minimums shown above, the *City* shall be insured for the full available limits of Commercial General and Excess or Umbrella liability maintained by the *permittee*, irrespective of whether such limits maintained by the *permittee* are greater than those required by this permit or whether any certificate of insurance furnished to the *City* evidences limits of liability lower than those maintained by the *permittee*.

K. Indemnification: The *permittee* shall defend, indemnify, and hold the *City*, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses, or suits including attorney fees, arising out of or in connection with activities or operation performed by the *permittee* in the *right-of-way* and/or the performance of any *permit*, except for injuries and damages caused by the sole negligence of the *City*.

However, should a court of competent jurisdiction determine that RCW 4.24.115 applies, then the *permittee* agrees to defend, indemnify and hold the *City*, its officers, officials, employees and volunteers harmless to the maximum extent permitted thereunder. It is further specifically and expressly understood that the indemnification provided herein constitutes the *permittee's* waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties. The provisions of this section shall survive the expiration or termination of the permit.

**12.35.120 Performance guarantee required.**

Performance guarantees such as performance bonds or other security devices shall be required for all *right-of-way use permits*. Prior to final approval of all *right-of-way use permits*, the *department* shall determine the amount of the performance guarantee necessary to assure compliance with the approved construction plans, applicable State and local health and sanitation regulations, and *City* standards and to assure proper *restoration* of the *street* and the health and safety of the users of the *street*. Financial guarantees shall be consistent with the provisions of KMC Title 21. The *city manager* may waive the performance guarantee for some activities on a case-by-case basis.



## Chapter 12.40

### PERMIT SYSTEM FOR USE OF CITY REAL PROPERTY

#### Sections:

- 12.40.010 *Repealed.*
- 12.40.020 Permit requirement.
- 12.40.040 Permit issuance.
- 12.40.050 Liability.
- 12.40.060 Additional requirements.
- 12.40.080 Interpretation.
- 12.40.090 Enforcement.
- 12.40.100 *Repealed.*
- 12.40.110 Permit – Fees.

#### **12.40.010 Definitions.**

*Repealed by Ord. 11-0330.* [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.30.010).]

#### **12.40.020 Permit requirement.**

A. *Special use permits* shall be required for any use of *City* owned real property, except uses regulated pursuant to Chapter 12.55 KMC, Chapter 12.35 KMC relating to *right-of-way use permits*, or special event permits approved and permitted in accordance with Chapter 8.40 KMC. Examples of special uses include, but are not limited to, storage of materials not associated with a special event, *utility* services, temporary construction or repair/maintenance activities associated with adjacent properties, or temporary access.

B. Upon receipt of an *application* for a special use permit, the *city manager* shall determine whether the proposed use is upon *City*-owned real property.

C. The *department* shall evaluate the feasibility of the proposed use, its impact on other uses of the *City property* and its impact on public health and safety. Based on this evaluation, the *department* shall recommend whether the permit should be issued.

D. In all cases, the *City* shall be responsible for assuring that any *application* meets the requirements of the critical areas code set out in Chapter 18.55 KMC and the administrative rules promulgated thereunder before the permit is issued. [Ord. 12-0335 § 5; Ord. 11-0330 § 1 (Exh. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.30.020).]

#### **12.40.040 Permit issuance.**

A. Upon filing of a complete *application*, approval of the *application*, payment of the administrative fee and posting of any required bond, the *city manager* may issue a permit authorizing the designated use of *City* real property by the *permittee*.

B. The *permit* may require site *restoration* to certain standards in view of the nature and duration of the special use. In addition, conditions may be set to assure compliance with *City* policies, ordinances and other applicable laws and regulations.

C. The permit *applicant* may be required to post a performance bond in an amount which will:

1. Guarantee the use will comply with standards and conditions prescribed by the *City*; and
2. Guarantee *restoration* of the *City property* to a condition consistent with the *special use permit* and the *City's* own use of its property. [Ord. 11-0330 § 1 (Exh. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.30.030).]

D. *Special use permits* are temporary in nature and shall expire 6 months from date of issuance.

E. The *applicant* may apply for an extension to the *special use permit*. Permit extensions shall be submitted within 21 calendar days of *permit* expiration. Upon written *application* for an extension, payment of any fees, and being found to comply with the conditions and requirements of the original *permit*, the *permit* may be extended. *Permits* shall be limited to one 6-month extension only. Additional *permit* extensions are permitted for special circumstances pursuant to Section 12.35.040.F3.

**12.40.050 Liability.**

The permit *applicant* shall be solely responsible for the adequate operation and *maintenance* of any *work* constructed by the *permittee* and shall assume liability for all injuries to persons or property resulting from activities pursuant to the *special use permit*. [Ord. 11-0330 § 1 (Exh. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.30.040).]

**12.40.060 Additional requirements.**

A. Survey. When considered necessary by the *city manager* to adequately determine the limits of the *City property*, improvements on *City property*, and/or area of use, the permit *applicant* shall cause the *City property* to be surveyed by a Washington State licensed land surveyor. Such survey shall be recorded in accordance with the Survey Recording Act. The cost of such survey shall be paid by the permit *applicant*. [Ord. 11-0330 § 1 (Exh. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.30.050).]

**12.40.080 Interpretation.**

Permits issued pursuant to this chapter shall not be construed to convey any vested right of ownership interest in any *City property*. [Ord. 11-0330 § 1 (Exh. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.30.070).]

**12.40.090 Enforcement.**

The *city manager* is authorized to enforce the provisions of this chapter, pursuant to Chapter 1.20 KMC. [Ord. 11-0330 § 1 (Exh. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.30.080).]

**12.40.100 Severability.**

*Repealed by Ord. 11-0330.* [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.30.090).]

**12.40.110 Permit – Fees.**

A. The *permittee* shall pay the fees at the rates imposed by the city council by resolution.

B. The fees shall be collected in accordance with administrative procedures developed by the *department*.

## Chapter 12.45

### COMPLETE STREETS POLICY

#### Sections:

- 12.45.010 Vision.
- 12.45.020 Policy.
- 12.45.030 Design guidance.
- 12.45.040 Exceptions.
- 12.45.050 Implementation.
- 12.45.060 Performance measures.

#### 12.45.010 Vision.

The *City*'s vision is to provide a safe, balanced, and efficient multi-modal transportation system that serves local and regional circulation needs and accommodates all users. To meet this vision, the *City* shall provide a transportation system that allows users of all ages, abilities and financial resources to safely, effectively, and efficiently use the public *right-of-way* to drive, access public transit, bicycle, walk or use any other legal mode of travel. The *City* recognizes the public health and environmental benefits of encouraging active transportation modes through a safe, welcoming, connected network of modal choices. The *City*'s Resolution No. 14-235 adopting target zero as a city goal is a core component of this vision, seeking to have zero pedestrian or cyclist deaths or serious injuries as the result of a collision with a motorized vehicle by the year 2025. [Ord. 16-0427 § 1.]

#### 12.45.020 Policy.

The term "complete streets" is a guiding principle for the consideration of all modes of travel within the public *right-of-way*. This chapter constitutes the *City*'s "complete streets" policy. Through the adoption of a layered network approach to complete streets (as described in the Transportation Element of the Comprehensive Plan), the *City* recognizes that it can be a challenge for a single roadway to meet the demands of all modes at one time. Safety is a primary concern for the *City*, and the target zero resolution guides the pursuit of increased safety for pedestrians and cyclists, which can require the separation of some uses on certain *roads*. In addition to safety, pedestrian and bicycle comfort is of high importance and policies and plans shall consider comfort for pedestrians and bicyclists where practical. A *City*-wide network (as described in the comprehensive plan transportation element) which accommodates users of all modes of transportation (including air/seaplane and freight) and users of all abilities on appropriate networks of *roads*, paths and trails balances the principles of complete streets with the realities of promoting a transportation system that is fiscally, economically and environmentally sustainable within existing and future constraints.

Using a toolbox of diverse techniques, the *City* will plan, design, construct, operate and maintain a transportation network that meets these goals. Recently developed projects and those in future years will incorporate traditional and modern tools to create a safe, effective and efficient transportation network, such as, but not limited to:

Traditional	Modern
<i>Sidewalks</i>	Shared use paths
Paved shoulders	Bike lanes (buffered) and sharrows
Street trees and planting strips	Narrow vehicle lanes
<i>Curbs</i> with ramps	Transit priority lanes
Crosswalks	Enhanced pavement markings and symbols
Pedestrian signals	Countdown and lead pedestrian signals
Signage	Bulb-outs

Traditional	Modern
Transit stops and facilities	Rectangular rapid-flash beacon enhanced crosswalks
Speed bumps	Bike parking
Raised medians	Street furniture and temporary installations
Street lighting	Textured and colored pavements
	Focused LED street lighting and pedestrian-level lighting
	Traffic circles and roundabouts
	Chicanes

The *City* will emphasize the layered network approach to complete streets in the review of private *development* plans, transportation system improvements, and the *City's* six-year transportation improvement plan (TIP). This approach shall include new construction, reconstruction, and rehabilitation/overlay projects, except as noted in KMC 12.45.040, Exceptions. A context-sensitive approach to each project will consider neighborhood character, underserved/underutilized modal choices, and school transportation routes (including busing, walking and vehicle circulation around schools), in addition to safety and fiscal considerations. Projects must meet the requirements of the current system and the needs of the updated future network (as described in the Comprehensive Plan), specifically as it applies to nonmotorized modal choices. Consideration will be given to accommodation of future transportation technologies, such as driverless cars, and the impact these may have on other modes of travel in the layered network. [Ord. 16-0427 § 2.]

#### 12.45.030 Design guidance.

The *department* maintains design criteria, standards and guidelines based upon recognized best practices in *street* design, construction and operation. These criteria, standards and guidelines include, but are not limited to, the latest editions of the American Association of State Highway Transportation Offices (AASHTO) policies for vehicular and bicycle facilities, National Association of City Transportation Officials (NACTO) Urban Bikeway and Street Design Guides, publications and recommended practices from the Institute of Transportation Engineers (ITE), the WSDOT Design Manual, the Manual on Uniform Traffic Control Devices (MUTCD), and the Public Rights-of-Way Accessibility Guidelines (PROWAG).

The *City* has adopted *Road Standards* and a street planning toolkit (Transportation Element), which include a number of complete streets principles, to guide all public and private transportation projects in the *City*. These documents emphasize consideration of multiple modes of travel, especially pedestrian and bicyclists, through the use of a number of the techniques described in KMC 12.45.020, Policy. The *Road Standards* include provisions for flexibility and the adoption of new techniques and tools with the approval of the *city manager*. New techniques and future developments in design which enhance the safety of all transportation users may be incorporated into future versions of the *Road Standards*. [Ord. 16-0427 § 3.]

#### 12.45.040 Exceptions.

Exceptions to the policies of this chapter must be approved by the *city manager*. The circumstances under which the *city manager* may consider exceptions to a complete streets approach to enhancement of the layered network are as follows:

A. *City projects* may exclude those elements of the policies of this chapter that would require the accommodation of *road* uses that are prohibited by law, grants, or other agencies, or that would otherwise pose a public safety risk unacceptable to the *City*;

B. *Maintenance* activities, such as mowing, snowplowing, sweeping, spot repair, joint or crack sealing, surface treatments, minor pavement marking changes, or pothole filling, do not require that elements of the policies of this chapter be applied beyond the scope of that *maintenance* activity;



C. *City projects* may exclude elements of the policies of this chapter when the accommodation of a specific use or mode is expected to:

1. Require more space than is physically available (topographic or *right-of-way*, where acquisition of additional *right-of-way* isn't possible or would significantly increase project costs), or
2. Be located where both current and future demand is demonstrated as being absent, including a lack of current or planned transit routes, or
3. Significantly increase project costs and equivalent alternatives for those travel modes that are documented to exist within close proximity, or
4. Be incompatible with the layered network (comprehensive plan transportation element), or
5. Have an adverse impact on disadvantaged communities, or
6. Have adverse impacts on environmental resources such as streams, wetlands, ditches, floodplains or historic structures or sites above and beyond the impacts of currently existing infrastructure. [Ord. 16-0427 § 4.]

#### **12.45.050 Implementation.**

The *City* recognizes that many other agencies have a direct or regional interest in the *City's* transportation network. Because transportation frequently crosses city borders, it is crucial for an effective network to ensure compatibility for all modes across jurisdictional lines with neighboring cities. The *City* fosters partnerships with adjacent cities, local transit providers, King and Snohomish Counties, *WSDOT* and Northshore School District to implement complete streets principles in *city projects* involving these entities. *WSDOT* maintains a regionally significant *highway* passing through the *City* and shares in the *City's* dedication to complete streets and a layered network approach.

The *City* has developed and continues to update a six-year TIP based on the Comprehensive Plan. The comprehensive plan identifies both pedestrian and bicycle priority networks, in addition to vehicular transportation network improvements. The TIP and Comprehensive Plan shall guide the development of *city projects*. *City projects* will be constructed using a combination of *City* funds and/or grant funding. The *City* will stay informed of, and will apply for, grant funding programs, especially those with a focus on complete streets and nonmotorized travel improvements. Funding agency partnerships, such as those mentioned above, are key to implementation of complete streets projects within the layered network. Low-cost *city projects* which can be achieved within existing pavement widths using temporary installations, signing and striping are continually identified and implemented by the *City*. [Ord. 16-0427 § 5.]

#### **12.45.060 Performance measures.**

The *city manager* shall report annually to the city council on *city projects* that were completed in the last year, that are planned for the coming year, and that further the vision of this complete streets ordinance. The report shall identify yearly progress in advancing the lineal feet and connectivity of the bicycle and pedestrian network. [Ord. 16-0427 § 6.]

## Chapter 12.50

### ROAD STANDARDS

#### Sections:

- 12.50.010 Adoption.
- 12.50.020 Terms.
- 12.50.030 Applicability.
- 12.50.040 Developments.
- 12.50.050 References.
- 12.50.060 Variances.
- 12.50.070 Appeals from decisions on variances.
- 12.50.150 Interpretation.
- 12.50.160 Penalties.
- 12.50.170 Severability.

#### **12.50.010 Adoption.**

A. The City of Kenmore 2021 Road Standards, along with all companion documents referenced in Section 1.03 of the *Road Standards*\*, are approved, adopted and incorporated herein as the City of Kenmore standards for *road* design and construction.

B. Consistent with the council's direction and intent in adopting the *Road Standards*, the *city engineer* is hereby authorized to develop public rules and make administrative changes to the *Road Standards* to better implement the *Road Standards* and as needed to stay current with changing design, environmental, and construction technology and methods. The following are examples of administrative changes:

1. De minimus changes
2. Revisions to the documents in the appendices
3. Revisions to comply with the Kenmore Municipal Code
4. Revisions related to changes to the referenced companion documents
5. Revisions to comply with state and federal law

[Ord. 21-0531 § 1 (Att. A); Ord. 16-0428 § 2 (Att. A); Ord. 15-0410 § 1 (Att. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.42.010).]

\*Code reviser's note: The *Road Standards* and the companion documents are on file in the office of the city clerk.

#### **12.50.020 Terms.**

Terms are defined in Section 1.01 of the *Road Standards*. [Ord. 21-0531 § 1 (Att. A); Ord. 15-0410 § 1 (Att. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.42.020).]

#### **12.50.030 Applicability.**

A. The *Road Standards* shall apply to all *work* relating to::

1. Privately owned roads,
2. The *right-of-way* for public and private *development*, and
3. *City projects*.

B. The *Road Standards* shall apply during emergency replacement of existing *facilities* .

C. Design detail, construction workmanship, and materials shall be in accordance with the *Road Standards* and the latest edition of the companion documents referenced in Section 1.03 of the *Road Standards*. Design and construction shall meet the applicable standards, policies, and codes, including the *Road Standards*, this code, the *City* comprehensive or master plans, as well as project specific *City*-approved geotechnical reports, traffic impact studies, drainage reports, and/or other studies, as determined by the *city engineer*.

D. *City maintenance* activities are exempted from the *Road Standards* at the discretion of the *city engineer*. [Ord. 21-0531 § 1 (Att. A); Ord. 15-0410 § 1 (Att. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.42.030).]

#### **12.50.040 Developments.**

Any land *development* which is required by operation of any *City* ordinance or adopted standard to improve *roads* within, abutting, or serving the *development* shall do so in accordance with the *Road Standards*. [Ord. 21-0531 § 1 (Att. A); Ord. 15-0410 § 1 (Att. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.42.040).]

#### **12.50.050 References.**

The *Road Standards* implement and are intended to be consistent with the references listed in Section 1.03 of the *Road Standards*. [Ord. 21-0531 § 1 (Att. A); Ord. 15-0410 § 1 (Att. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.42.050).]

#### **12.50.060 Variances.**

A. A variance is required for any design or construction deviation from the *Road Standards* and shall be a Type 1 decision per Chapter 19.25 KMC.

B. A variance from the *Road Standards* may be granted by the *city engineer* upon evidence that the variance is in the public interest and that the requirements for safety, function, fire protection, transit needs, appearance and maintainability are fully met. The need for a variance is not assumed by the *City* to be evidence of an impractical or undesirable standard, and variances that meet these requirements are encouraged to keep the *City* at the forefront of innovative design and construction.

C. Variance requests for subdivisions shall be proposed at preliminary plat stage and prior to any public hearing. All variance requests must be reviewed by the *city engineer* prior to approval of the engineering plans for construction. Variances may be approved during construction at the *city engineer's* discretion. Variances from the *Road Standards* which do not meet the International Fire Code, as adopted by the *City*, will require approval by the *City's* fire marshal.

D. Applications for Road Variances.

1. *Applications* for proposed variances shall be written, including graphics, studies and drawings as needed to support the request, and shall include a specific description of the proposed alternative along with supporting documentation. Documentation may include, but is not limited to, a record of successful use by other agencies, or evidence of meeting criteria for quality/safety such as AASHTO and WSDOT standards.
2. The *applicant* shall indicate those sections of the *Road Standards* or this Code which are proposed for deviation.
3. Variance requests shall be on forms prescribed by the *City* and shall be accompanied by the variance review fee imposed by the city council by resolution.

E. Variances to the *Road Standards* may also be granted by the city council through a development agreement per Chapter 18.110 KMC.

F. *City projects* need not file for a formal variance request provided that all deviations from the *Road Standards* are documented and approved by the *city engineer*.

G. Road Variance Fee: The *permittee* shall pay the fees at the rates imposed by the city council by resolution. The fees shall be collected in accordance with administrative procedures developed by the *department*. [Ord. 21-0531 § 1 (Att. A); Ord. 15-0410 § 1 (Att. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.42.060).]

**12.50.070 Appeals from decisions on variances.**

The *city engineer* shall hear administrative appeals as set forth in Section 1.04 of the *Road Standards*. The decision on appeal shall be final. [Ord. 21-0531 § 1 (Att. A); Ord. 15-0410 § 1 (Att. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.42.062).]

**12.50.150 Interpretation.**

The *city engineer* is authorized to interpret the *Road Standards*, provide guidelines for their implementation, promulgate rules, and to resolve conflicts or inconsistencies that may arise in their interpretation or application. Any interpretation made by the *city engineer* shall be final. [Ord. 21-0531 § 1 (Att. A); Ord. 15-0410 § 1 (Att. A); Ord. 00-0096 § 8.]

**12.50.160 Penalties.**

Failure to comply with the *Road Standards* may result in denial of plan or permit approval, revocation of prior approvals, legal action for forfeiture of financial guarantee, code enforcement, and/or other penalties as provided by law. [Ord. 21-0531 § 1 (Att. A); Ord. 15-0410 § 1 (Att. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.42.070).]

**12.50.170 Severability.**

If any part of the *Road Standards* is found invalid, all other parts shall remain in effect. [Ord. 21-0531 § 1 (Att. A); Ord. 15-0410 § 1 (Att. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.42.080).]



## Chapter 12.55

### UTILITIES ON CITY RIGHT-OF-WAY

#### Sections:

12.55.005	General Provisions.
12.55.010	Purpose.
12.55.020	Utility permit – Required.
12.55.030	Utility permit – Application.
12.55.040	Utility permit –Fees.
12.55.050	<i>Repealed</i>
12.55.060	Utility permit – Application – Review - Form.
12.55.065	Utility Permit – Expiration/Extension.
12.55.070	Emergencies.
12.55.080	Policy on accommodation of utilities.
12.55.090	Coordination of right-of-way construction.
12.55.100	Performance guarantee required.
12.55.110	<i>Repealed.</i>
12.55.115	Insurance and Indemnification
12.55.120	Job Start Notification.
12.55.130	Enforcement.
12.55.135	<i>Repealed.</i>
12.55.140	<i>Repealed.</i>
12.55.145	Working hours and road closures.
12.55.150	Utility locates.
12.55.155	Aesthetic and scenic considerations.
12.55.160	Adjustments and relocations.
12.55.165	Facility security and safety.
12.55.170	Abandonment.
12.55.175	Right-of-way vacations.

#### **12.55.005 General Provisions**

A. The requirements of this chapter shall apply to the installation, *replacement*, adjustment, relocation, repair, and *maintenance* of all above and below ground *facilities* within the *right-of-way*. The requirements of this chapter shall also apply to all traffic control devices placed within the *right-of-way* by *utilities* in conjunction with any *work*.

B. All *utilities* with *facilities* within the *right-of-way*, shall comply with the requirements of this chapter and with all applicable federal, state, and local laws, codes, rules and regulations.

C. If a direct conflict exists between the requirements of this chapter and the requirements established in an effective *franchise* and/or *utility* permit, then the terms of the *utility* permit shall control first followed by the *franchise* agreement and lastly by this chapter. The city manager shall make any final decisions on whether a conflict exists.

D. Compliance with this chapter does not relieve the *utility* or its representatives from the responsibility of meeting other applicable codes, standards or regulations and does not preclude the need for obtaining any pertinent federal, state, or other local permits. Identification of and compliance with other required permits and applicable regulations is the sole responsibility of the *utility* or its representative.

E. It shall be the responsibility of any *utility* installing, relocating, adjusting, repairing, maintaining, or contracting for any of those activities to comply with the requirements of this chapter. The *utility* shall be responsible for the design, construction, operation, and *maintenance* of their *facilities* and for public safety during the installation, operation, and *maintenance* of their *facilities*. This responsibility shall include, in addition to ensuring the integrity

of the proposed *facility*, provisions for public safety during the course of construction, *maintenance*, and operation for the life of the *facility*.

F. All *facility* design, construction, repair, *maintenance*, relocations, and removals shall comply with the most recently adopted *Road Standards*, the municipal code, and other codes and regulation applicable to the type of *facility*. The methods of installation and materials used shall conform to Federal, State, *City* and industry codes and standards.

G. Definitions:

1. “Abandonment” means action by a *utility* to cease operation and/or *maintenance* of a *facility* in the *right-of-way*.
2. “Appurtenance” means equipment and/or accessories which are a necessary part of an operating system or subsystem.
3. “Construction” means the construction, *maintenance*, alteration, *replacement*, or repair of any *facility*.
4. “Job start” means the date and time the *utility* begins *work* within the *right-of-way* on an approved permit.
5. “Relocation” means removal of an existing *facility* and installation of that *facility* in an alternate location.
6. “Replacement” means removal of an existing element of a system or subsystem with a like or improved element of the system or subsystem in the same location in the *right-of-way*.
7. “Third-party utility” means a *utility* that has attached its *facility* to another facility owned by a different *utility*.

**12.55.010 Purpose.**

The purpose of this chapter is to regulate *facilities* within the public *right-of-way* and the granting of *right-of-way utility permits*, and to ensure that *utility* construction *work* undertaken pursuant to such permits is consistent with the *applicant’s franchise* with the *City* (if applicable), the *Road Standards*, , the critical areas code, the *City* comprehensive plan, sound engineering and design standards, health and sanitation regulations, and *City* safety standards. [Ord. 11-0330 § 1 (Exh. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.44.010).]

**12.55.020 Utility permit – Required.**

A. All *construction* performed by *utilities* or by their representatives within the *right-of-way* shall be required to obtain a *right-of-way utility permit* issued by the *City*. *Construction* undertaken as a direct result of a *city project* and where the *utility* has entered into a contract agreement with the *City* for said *construction* shall be exempt from this requirement.

B. *Right-of-way utility permits* for the construction of *facilities* within the *right-or-way* shall be applied for and given in the name of the *utility*, or the *utility’s* representative if authorized by the *City*. The *utility* shall be responsible for all *work* done under the *permit*, including but not limited to, paving, patching, grading, and any other necessary repair or *restoration* to the *right-of-way* and any impacted private property. The *utility* shall be responsible for all *work* performed by the *utility*, its *contractors* or by other third parties.

C. Any *work* performed on private property or within a critical area may require additional *permits*, reviews, and/or approvals by the *City* or other agencies. *Utilities* shall be responsible for determining and obtaining all required permits/approvals prior to starting *work*.

D. An annual permit for all *facility maintenance* activities within the *right-of-way* which do not include ground disturbances may be approved for *utilities* with a *franchise* in lieu of a *right-of-way utility permit* to maintain each *facility*.

1. If an annual permit is not on file, *utilities* will be required to submit for a *right-of-way utility permit* for each and all *maintenance* activities within the *right-of-way* for every *facility*.
2. Failure to obtain a permit shall be subject to a fine as set forth in KMC 12.55.130 for each instance *maintenance* activities are performed in the *right-of-way* without a permit.

3. The *city manager* shall have the discretion to determine what activities qualify under an annual permit and has the authority to adopt rules identifying the activities and criteria for said permit.

**12.55.030 Utility permit – Application.**

A. *Applications* for all *right-of-way utility permits* shall be submitted, in writing, to the *City* on forms provided by the *department*. The *application* shall contain the information deemed necessary by the *department*, including, but not limited to, plans and specifications.

B. *Applications* for which no *permit* is issued within 12 months following the date of *application* submittal shall expire, and the plans and other data submitted for permit review may be returned to the *applicant* or destroyed in accordance with State law.

C. *Applications* may be canceled for inactivity, if an *applicant* fails to respond to the *department's* written request for revisions, corrections, actions or additional information within 90 days of the date of request. The *city manager* may extend the response period beyond 90 days if within the original 90-day time period the *applicant* provides and subsequently adheres to an approved schedule with specific target dates for submitting the full revisions, corrections or other information needed by the *department*.

D. The *city manager* may extend the life of an *application* for any of the following reasons:

1. Compliance with the State Environmental Policy Act is in progress; or
2. Any other *City* review is in progress; provided, that the *applicant* has submitted a complete response to *City* requests, or the *city manager* determines that unique or unusual circumstances exist that warrant additional time for such response, and the *city manager* determines that the review is proceeding in a timely manner toward final *City* decision; or
3. Litigation against the *City* or *applicant* is in progress, the outcome of which may affect the validity, or the provisions of any permit issued pursuant to such application.
4. At the sole discretion of the *city manager* when there have been newly adopted codes, fees, ordinances, standards, or laws which directly affect the application. [Ord. 11-0330 § 1 (Exh. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.44.030).]

**12.55.040 Utility permit –Fees.**

A. Each *application* requires fees, imposed by the city council by resolution, payable to the *City* for the administrative costs and expenses of processing the *application* and for other functions necessary for the approval and use of the *permit*. These fees shall be equal to the administrative costs of approving the *permit*, including but not limited to preparing the *permit*, review, processing, coordinating review with other departments, preparing environmental documents, inspection, etc. Additional fees shall be imposed as noted below. All fees shall be paid as required in accordance with the most current fee schedule established by the city council. Fees shall be collected in accordance with the administrative procedures developed by the *department*.

B. *Application fee*: This fee will be billed at the rate in effect at the time the application is received and covers all administrative costs necessary to receive, process, coordinate, and invoice for each *application* received. The fee shall cover up to 3 submittals (the original submittal and 2 revisions). Subsequent revisions may be subject to a new *application* fee in effect at the time the revision is received.

C. *Review fee*: This fee will be billed at the hourly rate in effect at the time of the review and covers all costs necessary in the review of a *permit*.

D. *Inspection fee*: This fee will be billed at the hourly rate in effect at the time of the inspection and covers all costs necessary in the inspection and approval of *work* for all approved *applications*.

E. *Accelerated job start fee*: At the request of the *utility*, a *job start* request with less than the required notice may be approved. If approved, a fee shall be charged for each request and each permit. Any *work* performed after submission of a *job start* request but before written confirmation by the *City* shall be subject to an accelerated job

start fee. Any *work* performed without written confirmation of a *job start* on an approved *permit* shall be subject to a job start fee.

F. After hours work fee: *Work* on an approved permit performed within the *right-of-way* outside of regular work hours shall be subject to a fee of one and a half times the inspection fee. Regular work hours are 7:00am to 4:00pm, Monday thru Friday. *Work* performed on an approved permit on Saturday or Sunday or between the hours of 4:00pm to 7:00am Monday thru Friday will be subject to a 4-hour minimum charge. With the exception of an emergency, no *work* will be allowed on *City* observed holidays unless approved by the *city manager*.

H: Permit extension fee: Each extension of an active *permit* approved by the *City*.

[Ord. 11-0330 § 1 (Exh. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 02-0139 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.44.040).]

#### **12.55.050 Inspection fee.**

*Repealed* [Ord. 11-0330 § 1 (Exh. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 02-0139 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.44.045).]

#### **12.55.060 Utility permit – Application – Review - Form.**

A. The *department* shall review *right-of-way utility permit applications* and shall determine whether the proposed *work* is consistent with the *applicant's franchise* with the *City* (if applicable), the KMC, and the *Road Standards*.

B. The *department* shall review and evaluate *applications* in respect to the hazard and risk of the proposed construction, location of the proposed construction in relation to other *facilities* in the *right-of-way* and the adequacy of the engineering and design of the proposed *facility* as it relates to the safety and operation of the *right-of-way*.

C. The *utility* shall submit traffic control plans as needed for review. The *department* shall review the plans for compliance with the most recent Manual on Uniform Traffic Control Devices, site safety, the *Road Standards* and applicability to existing site conditions.

D. The *department* shall determine if the *application* meets the requirements identified in this section. If the *application* meets the requirements the *department* may issue the utility permit, subject to conditions consistent with KMC 12.55.060.E, and if the *work* does not conflict with a *city project* as determined by the *city manager*. If the *application* is not consistent with the requirements identified in this section, the *department* may deny the utility permit.

E. The *right-of-way utility permit* granted shall be in a form approved by and be made subject to all terms and conditions imposed by the *department* and shall also include conditions of approval consistent with the requirements of Chapter 12.05 KMC, General Provisions. [Ord. 11-0330 § 1 (Exh. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.44.050).]

#### **12.55.065 Utility permit – Expiration/Extension.**

A. *Right-of-way utility permits* shall expire 6 months from the date of issuance. Permits may be extended an additional 6 months from the date of expiration at the discretion of the *city manager* as long as no changes have been made to the originally approved plans and no new development standards have been adopted. Permits that have been expired longer than 6 months will require a new permit application, review, and associated fees. At the *city manager's* discretion, permits may be extended beyond the 6-month extension period if one of the following circumstances applies:

1. Compliance with the State Environmental Policy Act is in progress;
2. Any other *City* review is in progress; provided, that the *applicant* has submitted a complete response to *City* requests, or the *city manager* determines that unique or unusual circumstances exist that warrant additional time for such response, and the *city manager* determines that the review is proceeding in a timely manner toward final *City* decision;
3. Litigation against the *City* or *applicant* is in progress, the outcome of which may affect the validity, or the provisions of any permit issued pursuant to such application;



4. At the sole discretion of the *city manager* when there have been newly adopted codes, fees, ordinances, standards, or laws which directly affect the application; or

5. At the sole discretion of the *city manager* that an extension would be in the interest of the public's welfare.

B. Annual *maintenance* permits shall expire at midnight on the 31<sup>st</sup> day of December of the issuing year.

C. 30 days after the expiration of a *permit* (or extensions as applicable), *work* that is not completed as required by the *permit* will be considered delinquent and *restoration* of the *right-of-way* may be completed by the *City*. Any cost associated with completing the permitted *work* shall be charged to and paid by the *applicant*. If no *work* has been performed under the *permit*, the *permit* shall be closed and the *applicant* will need to submit a new application.

#### **12.55.070 Emergencies .**

*Work* may be performed before a *permit* is issued in emergency situations. In these situations, the *City* will require the *utility* to submit for a *right-of-way utility permit* within 1 business day after *work* is performed or in the case of an extended emergency situation, as soon thereafter as practical. Emergency situations occur when:

A. The *utility* has determined, with *City* concurrence, that emergency work is necessary to address a public health or safety hazard;

B. The *city manager* has determined that the proposed *work* is necessary to address actual or imminent damage to the *right-of-way*, *facilities*, *City property*, or to address health or safety hazards to the public; or

C. When an outage has occurred due to forces outside of the *utility's* control. [Ord. 11-0330 § 1 (Exh. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.44.055).]

#### **12.55.080 Policy on accommodation of utilities.**

Standards of Installation: The *Road Standards* establishes the *City* standards for *facility* location, installation, *maintenance*, and *relocations* with the *right-of-way*. For installations on bridges, *facilities* shall be located so as to not impact existing operations above and below the bridge. [Ord. 11-0330 § 1 (Exh. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.44.060).]

#### **12.55.090 Coordination of right-of-way construction.**

A. The *applicant*, at the time of submitting an *application* for a *right-of-way utility permit*, shall notify all other public and private *utility* entities known to be using or proposing to use the same *right-of-way* of the *applicant's* proposed construction and the proposed timing of such construction. Any such entity so notified may, within seven days of such notification, request a delay in the commencement of such proposed construction for the purpose of coordinating other *right-of-way* construction with that proposed by the *applicant*.

B. The *City* shall coordinate the approval of *right-of-way utility permits* with *city projects* and may delay the commencement date for the *applicant's* construction for 180 days or less, except in the case of emergencies, if it finds that such delay will reduce the inconvenience to *road* users from construction activities, if it finds that such delay will not create undue economic hardship on the *applicant*, or if it finds that such delay will allow the *City* to install conduit for future *facility* installations.

C. The *utility* shall coordinate with *WSDOT* on all *utility work* within the SR 522 *right-of-way* or if the work impacts a traffic signal within one *City* block of SR 522.

D. At the *city manager's* discretion, the *utility* shall coordinate with Northshore School District on all *work* that will occur along any identified school walk routes, school bus routes, or student pick up/drop off locations.

E. The *utility* shall coordinate with King County Metro and Sound Transit on all *right-of-way utility permits* issued along bus routes.

F. The *City* shall review all *right-of-way utility permit applications* for underground projects 1,000 feet or longer to determine, within 15 business days, whether the installation of conduit may be needed for the future installation of fiber optic cable to connect *City* or other public *facilities*.

G. Failure to coordinate with the respective agencies identified in this Section may result in a suspension or revocation of the approved permit. [Ord. 11-0330 § 1 (Exh. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.44.070).]

**12.55.100 Performance guarantee required.**

Performance guarantees may be required for *utilities* for *work* in the *right-of-way*, at the discretion of the *city manager*. Prior to final approval of all *right-of-way utility permits*, the *department* shall determine the amount of the performance guarantee necessary to assure compliance with the approved construction plans, applicable State and local health and sanitation regulations, *City* standards, and to assure proper *restoration* of the *right-of-way* and the health and safety of the users of the *right-of-way*. If required, the *applicant* shall submit the financial guarantee consistent with the provisions of KMC Title 21. [Ord. 11-0330 § 1 (Exh. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.44.080).]

**12.55.110 Construction permit – Form.**

*Repealed*

**12.55.115 Insurance and Indemnification.**

*Utilities* without a *franchise* with the *City* shall be required to provide insurance and indemnification to the *City*. Insurance and indemnification requirements shall be consistent with the requirements of KMC 12.35.110. Coverage term of insurance shall be for a minimum of 6 months and shall cover all *work* performed within that coverage period.

**12.55.120 Job start notification.**

The *permittee* shall give written notice of the date of commencement of construction to the *City* per the *department* administrative policies. Additional notifications shall be given to the district fire marshal and Northshore Utility District for *work* that may interrupt water supply and to Northshore School District where *work* may impact school district activities. Failure to give such notice is grounds for the revocation or suspension of the permit. [Ord. 11-0330 § 1 (Exh. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.44.100).]

**12.55.130 Enforcement.**

The *city manager* is authorized to enforce the provisions of this chapter, the ordinances codified in it, and any rules and regulations adopted hereunder pursuant to the following:

- A. Activities performed in the *right-of-way* without a *permit* shall be fined \$1,000 per day per each occurrence;
- B. Lane/road closures that occur outside of the permitted closure hours or without prior approval from the *city manager* shall be fined \$500 per day, per permit for each day a violation occurs. Repeat occurrences may result in revocation of the permit.
- C. Where a *relocation* is required for a *city project* per KMC 12.55.160, daily penalties shall be determined by the *City* and shall include the daily financial impacts to the *city project* including but not limited to the total daily impact cost to the *contractor*, daily engineering and daily inspection services needed as determined by the *City*, and *City* staff cost (including overhead) as a result of a *utility's* failure to meet the *City's relocation* requirements.
- D. *Facility relocation* required for a *utility driven relocation* shall be fined \$500 per day per each individual location as a result of not relocating as required by this chapter. [Ord. 11-0330 § 1 (Exh. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.44.110).]

**12.55.135 Productivity and customer service report.**

*Repealed by Ord. 11-0330. [Ord. 03-0180 §§ 1, 2 (KCC 14.44.115).]*

**12.55.140 Severability.**

*Repealed by Ord. 11-0330. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.44.120).]*

**12.55.145 Working hours and road closures.**

Working hours shall comply with Chapter 8.05 KMC unless otherwise approved by the *city manager*. Road closures, partial or otherwise, shall not be permitted unless otherwise approved by the *city manager*.

**12.55.150 Utility locates.**

All *utilities* shall be responsible, **at no expense to the City**, for locating their own *facilities* whether above ground or underground and whether active or abandoned. All underground *facilities* shall be located both horizontally and vertically in relation to the existing finished road elevation. Vertical locates shall be performed within 60 calendar days of notice by the *City* unless otherwise approved by the *city manager*. If vertical locates are not performed by the time prescribed by the *City*, the *City* shall assume the *facilities* are in conflict and will require *relocation* per KMC 12.55.160.

**12.55.155 Aesthetic and scenic considerations.**

A. *Facility* installations shall be designed and constructed to minimize the adverse effect on existing *right-of-way*, manmade or natural amenities. Special efforts shall be taken to minimize any potential negative impact on areas of scenic beauty such as viewpoints, recreation areas, public parks, and historic sites.

B. Overhead *facilities* shall be permitted in areas of scenic beauty only when underground locations are not technically feasible, unreasonably costly, or less desirable from the standpoint of aesthetics.

C. Overhead *facilities* shall take into consideration existing trees and future growth. *Facilities* shall be located to avoid or minimize branch trimming, root pruning, or other damage to existing trees.

D. Areas of scenic beauty shall be determined by the *city manager*.

**12.55.160 Adjustments and relocations.**

A. *Utilities* shall be responsible, at no expense to the *City*, to repair, remove or relocate all existing *facilities* within the *right-of-way* if such installation, repair, removal, or *relocation* is required by the *City* for any purpose, including, but not limited to, conflicts with a *city project*, *City maintenance* and operation, public safety, scenic beauty, *utility-* driven *relocations* or replacements.

B. *Utility-driven relocations*: In the event of a pole *relocation* or replacement, all *utilities* using the original pole shall transfer to the new pole within 30 calendar days of the notification to relocate. The *utility* pole owner shall be responsible for the coordination of and providing notice to any *third-party utilities* for the transfer of their respective *facilities*. The *City* may provide the 30-day relocation notice at the *city manager's* discretion. Failure to relocate *facilities* as required by this section shall be enforced by the *department* by issuance of daily fines per KMC 12.55.130.D.

C. *Facilities* shall be relocated as directed by the *City* that conflict with *city projects*, as determined by the *city engineer*. The *utility* shall relocate its *facilities* within 120 calendar days from written notice by the *City* to relocate. *Facilities* shall be relocated in the time frame required under this section. The 120 days shall not be extended for any reason unless provided for in any written agreement. Failure to relocate *facilities* as required by this section shall be enforced by the *department* by issuance of daily fines per KMC 12.55.130.C.

**12.55.165 Facility security and safety.**

Notwithstanding reinforcement or protection otherwise provided, a *utility* shall be responsible for the security and safety of any *facility* within the *right-of-way*. Where there are construction hazards or where heavy construction equipment will be used, the *utility* shall provide adequate temporary protection as determined by the *department*. Construction of *facilities* shall be performed in such a manner as to provide a safe passage within the *right-of-way*. In restoring the *right-of-way*, the *utility* shall give due consideration to the protection of previously placed *facilities* in the *right-of-way* without impacting the safe and efficient operation of the *right-of-way*.

**12.55.170 Abandonment.**

In general, all abandoned *facilities* shall be removed from the *right-of-way* once decommissioned. **All abandoned facilities shall be removed within 30 calendar days of abandonment.** The *city manager* may approve a request to

abandon *facilities* in place if deemed to be safe and consistent with the *City's* future use of the *right-of-way*. The *utility* shall submit a plan to the *City* to ensure the safe decommissioning of the *facility*. The *department* may hire consultants to review the submitted plan and the *utility* shall pay all costs of said review. All *facilities* abandoned in-place shall remain the property of the *utility* and shall be maintained and/or removed at the request of the *City*. If, at any time, the *City* requires removal of the abandoned *facility*, the *utility* shall do so in accordance with KMC 12.55.160.

**12.55.175 Right-of-way vacations.**

If at any time the *City*, in accordance with Chapter 12.95 KMC, vacates the *right-of-way* or any portion therein, the *City* will not be liable for any damages or loss to a *utility* by reason of such vacation. When a *right-of-way* is vacated, it ceases to be a *City right-of-way* and the *utility's* authority from the *City* to have its *facilities* within such *right-of-way* is extinguished. The *City* will use its best efforts to notify any *utility* that may have *facilities* within the *right-of-way* to be vacated to allow the *utility* an opportunity to negotiate an easement for its *facilities*.



## Chapter 12.58

### WIRELESS COMMUNICATION FACILITIES WITHIN CITY RIGHTS-OF-WAY

#### Sections:

- 12.58.010 Purpose.
- 12.58.020 *Repealed.*
- 12.58.030 Exemptions.
- 12.58.040 Grant of authority – Right-of-way use agreement required.
- 12.58.050 Grant of authority – Effective period.
- 12.58.060 Application – Contents.
- 12.58.070 Application review.
- 12.58.080 Application review and inspection fees.
- 12.58.090 Annual compensation for use of right-of-way.
- 12.58.100 Insurance requirements.
- 12.58.110 Liquidated damages.
- 12.58.120 Liability and indemnification.
- 12.58.130 *Repealed.*
- 12.58.140 Aesthetic and scenic considerations.
- 12.58.150 Adjustments and relocations.
- 12.55.165 Facility security and safety.
- 12.55.170 Abandonment.

#### **12.58.010 Purpose.**

The purpose of this chapter is to grant, through *right-of-way use agreements*, authority for the placement of *wireless communication facilities* within the *rights-of-way* and to establish standards for *right-of-way use agreements* which:

- A. Compensate the *City* for the value of the use of the *right-of-way* by *wireless communication providers*; and
- B. Reimburse the *City* for ongoing costs associated with those uses of the *right-of-way*; and
- C. Encourage competition by establishing consistent terms and conditions under which *wireless communication providers* may use valuable public property to serve the public; and
- D. Fully protect the public and the *City* from any harm that may flow from such private use of the *right-of-way*; and
- E. Protect and carry out the authority of the *City* over activities in the *right-of-way*, while recovering costs; and
- F. Allow the *City* to exercise its stewardship responsibilities with regard to the *right-of-way* in a manner consistent with all applicable *City* policies and codes, including but not limited to the zoning code, the *City* comprehensive plan, and the *Road Standards*; and
- G. Otherwise protect the public interests in the development and use of the *right-of-way* infrastructure and in preserving and improving the aesthetics of the community. [Ord. 16-0426 § 9 (Att. G); Ord. 03-0180 §§ 1, 2; (KCC 14.45.010).]

#### **12.58.020 Definitions.**

*Repealed*

#### **12.58.030 Exemptions.**

The following *wireless communication facilities* are not subject to the provisions of this chapter:

- A. *Facilities* located or constructed by the *City*;

B. *Facilities* located or constructed by emergency services within the *City* as approved by the *city manager*; or  
.[Ord. 16-0426 § 9 (Att. G); Ord. 05-0228 § 2; Ord. 03-0180 §§ 1, 2; (KCC 14.45.030).]

**12.58.040 Grant of authority – Right-of-way use agreement required.**

*Wireless communication facilities* shall only be located or constructed within the *right-of-way* after a *right-of-way use agreement* is approved by the *city manager*. Prior to approving the agreement, the *City* shall ensure that the proposed *facility* is located, designed and proposed to be constructed in a manner that complies with all applicable *City* policies and codes, including but not limited to the provisions of KMC Title 18, Zoning, the *City* comprehensive plan, the *Road Standards*, and per Chapter 12.55 KMC. Furthermore, the *right-of-way use agreement* shall only allow placement of *wireless communication facilities* on improved and maintained *rights-of-way*. [Ord. 16-0426 § 9 (Att. G); Ord. 03-0180 §§ 1, 2; (KCC 14.45.040).]

**12.58.050 Grant of authority – Effective period.**

The *right-of-way use agreement* constitutes authorization for the *applicant* to use the *right-of-way* at the location specified in the agreement for no more than 10 years. One request for an extension may be approved for up to two years at the discretion of the *city manager*. Failure to comply with the terms and conditions of the *right-of-way use agreement*, including payment of required annual compensation, is cause for revoking the agreement. The agreement holder shall remove *facilities* authorized by the agreement from the *right-of-way* upon termination or expiration of the agreement, unless renewed, or upon revocation of the agreement for cause. [Ord. 16-0426 § 9 (Att. G); Ord. 03-0180 §§ 1, 2; (KCC 14.45.050).]

**12.58.060 Application – Contents.**

A. The *City* shall not commence review of any *application* set forth in this chapter until the *applicant* has submitted the following:

1. An *application* form provided by the *City* and completed by the *applicant*;
2. The name of the *applicant* and a designated contact person;
3. Plans and specifications for any structures, antenna or other equipment to be placed in the *right-of-way* or, if applicable, on *abutting property*;
4. A vicinity map showing the specific location of *right-of-way* subject to the *application*;
5. When structures and equipment are to be located on *abutting properties*:
  - a. A site plan illustrating the relationship to property lines and other structures on the site;
  - b. Legal description of the site *abutting property*; and
  - c. Proof that the *abutting property* is a legally recognized lot pursuant to KMC Title 17;
6. A critical areas affidavit if required by Chapter 18.55 KMC; and
7. A completed environmental checklist, if required by Chapter 19.35 KMC.

B. The *applicant* shall attest by written oath to the accuracy of all information submitted for an *application*. [Ord. 16-0426 § 9 (Att. G); Ord. 03-0180 §§ 1, 2; (KCC 14.45.060).]

**12.58.070 Application review.**

A. The *department* shall coordinate review and inspection of the *application* for a *right-of-way use agreement* and, to the extent required, any zoning approvals, building permits and environmental review under the State Environmental Policy Act, as follows:

B. The *department* shall review and evaluate *applications* with respect to the hazard and risk of the proposed construction and location of the proposed construction in relation to other *facilities* in the *right-of-way*.

C. The *City* shall review and evaluate all *applications* to determine consistency with respect to the standards and requirements of Chapter 18.60 KMC and KMC Title 21. The *City* shall also be the lead agency for purposes of any environmental review required under Chapter 19.35 KMC. [Ord. 16-0426 § 9 (Att. G); Ord. 11-0329 § 6; Ord. 03-0180 §§ 1, 2; (KCC 14.45.070).]

**12.58.080 Application, review, and inspection fees.**

The *applicant* shall pay the fees imposed by the city council by resolution, payable to the *City* for the administrative costs and expenses of processing the *application* and for other functions necessary for the approval and use of permits and the agreement. These fees shall be equal to the administrative costs of approving the agreement, including but not limited to preparing the permit for construction, review, processing, coordinating review with other departments, preparing environmental documents, inspection, agreement preparation, legal review, etc. [Ord. 16-0426 § 9 (Att. G); Ord. 03-0180 §§ 1, 2; Ord. 02-0139 § 1; (KCC 14.45.080).]

**12.58.090 Annual compensation for use of right-of-way.**

A. In consideration for continuing use of the *rights-of-way*, the agreement holder shall annually pay compensation to the *City* in an amount approved by the city council by resolution.

B. For the purpose of this section, “replacement pole” means a new pole replacing an existing pole in the *right-of-way* with no increase in the total number of poles in the *right-of-way*. Replacement poles provide extra capacity to support attached *wireless communication facilities*.

C. Payments of required compensation shall be paid to the *City* and are due upon the signing of the agreement, prorated to the end of the year, and the first of January every year thereafter.

D. All use payments prescribed by subsection A of this section shall be automatically escalated annually for the change in the U.S. Department of Labor, Bureau of Labor Statistics Consumer Price Index for All Urban Consumers (“CPI-U”) for the Seattle Tacoma-Bremerton Statistical Metropolitan Area for the preceding calendar year. In the event the CPI-U (or a successor or substitute index) is no longer published, a reliable government or other non-partisan index of inflation selected by the county shall be used to calculate the adjusted amounts. [Ord. 16-0426 § 9 (Att. G); Ord. 03-0180 §§ 1, 2; Ord. 02-0139 § 1; (KCC 14.45.090).]

**12.58.100 Insurance requirements.**

A. For any *right-of-way use agreement*, the agreement holder must carry commercial general liability, automobile liability and stop gap or employers liability coverage, each in minimum limits of not less than \$2,000,000, in an amount approved by the *city manager*. All policies must provide endorsements naming the *City* as an additional named insured.

B. All policies shall be placed with insurers having a Bests’ rating of no less than A:VIII or, if not rated by Bests, with surpluses equivalent to or greater than Bests’ A:VIII rating. The agreement holder shall send copies of certificates, endorsements or other adequate evidence of compliance with this section to the *City* prior to the *City*’s execution of the agreement. [Ord. 16-0426 § 9 (Att. G); Ord. 03-0180 §§ 1, 2; (KCC 14.45.100).]

**12.58.110 Liquidated damages.**

All *right-of-way use agreements* may provide for liquidated damages to compensate the *City* for harm caused by violation of an agreement or this chapter, or any applicable law in an amount which is a reasonable forecast of just compensation for the harm caused by the violation but no less than \$250.00 per day for each day the violation occurs. [Ord. 16-0426 § 9 (Att. G); Ord. 03-0180 §§ 1, 2; (KCC 14.45.110).]

**12.58.120 Liability and indemnification.**

A. All *right-of-way use agreements* shall contain the following provision: the holder of agreement shall have no recourse whatsoever against the *City* or its officials, boards, commissions, agents, or employees for any loss, costs, expenses, or damages arising out of any provision or requirement of the agreement, or KMC Title 21 because of the enforcement of the agreement, or KMC Title 21 except if such loss, costs, expenses or damages are the result of the sole negligence or misconduct on the part of the *City* or its agents.

B. All *right-of-way use agreements* shall contain the following provision: to the extent permitted by law, the holder of the agreement shall, at its sole cost and expense, indemnify, hold harmless, and defend the *City* and its officers, boards, commissions, agents and employees, against any and all claims, including but not limited to third-party claims, suits, causes of action, proceedings and judgments for damages or equitable relief arising out of the construction, repair, *maintenance* or operation of its *wireless communication facilities*, or in any way arising out of the agreement holder's enjoyment or exercise of the *right-of-way use agreement* granted pursuant, or otherwise subject to KMC Title 21, regardless of whether the act or omission complained of is authorized, allowed or prohibited by KMC Title 21 or an agreement. This provision includes, but is not limited to, expenses for reasonable legal fees and for disbursements and liabilities assumed by the *City* as follows:

1. To persons or property, in any way arising out of or through the acts or omissions of the agreement, its officers, employees, or agents or to which the agreement holder's negligence shall in any way contribute;
2. Arising out of an agreement holder's failure to comply with the provisions of any federal, State or local statute, ordinance, rule, or regulation applicable to the agreement holder.

C. The *City* shall give the agreement holder 30 calendar days' written notice of the making of any claim or the commencement of any action, suit or other proceeding covered by KMC Title 21. In the event any such claim arises, the *City* or any other indemnified party shall tender the defense thereof to the permit and the agreement holder shall have the right to defend, settle, or compromise any claims arising hereunder and the *City* shall cooperate fully therein. [Ord. 16-0426 § 9 (Att. G); Ord. 03-0180 §§ 1, 2; (KCC 14.45.120).]

**12.58.130 Antenna and equipment cabinets/buildings abutting residential zones.**

*Repealed by Ord. 16-0426.* [Ord. 03-0180 §§ 1, 2; (KCC 14.45.130).]

**12.58.140 Aesthetic and scenic considerations.**

A. *Facility* installations shall be designed and constructed to minimize the adverse effect on existing *right-of-way*, manmade or natural amenities. Special efforts shall be taken to minimize any potential negative impact on areas of scenic beauty such as viewpoints, recreation areas, public parks, and historic sites. *Facility* designs shall be in accordance with Chapter 18.60 KMC.

B. Overhead *facilities* shall take into consideration existing trees and future growth. *Facilities* shall be located to avoid or minimize branch trimming, root pruning, or other damage to existing trees.

**12.58.150 Adjustments and relocations.**

A. The *utility* shall be responsible, at no expense to the *City*, to repair, remove or relocate all existing *facilities* within the *right-of-way* if such installation, repair, removal, or *relocation* is required by the *City* for any purpose, including, but not limited, conflicts with a *city project*, *City maintenance* and operation, public safety, pole *relocations* or replacements.

B. *Utility* driven relocations: In the event of a *relocation* or replacement, all *utilities* using the original structure shall transfer to the new structure within 120 calendar days of the new structure installation. The *utility* initiating the *relocation*/replacement shall be responsible for the coordination of and providing a minimum of 90 calendar day notice to any other third-party *Utilities* for the transfer of their respective *facilities*.

C. *Facilities* that conflict with *city projects* shall be relocated as directed by the *City*. *Facilities* shall be relocated in the time frame required by the *right-of-way use agreement*.

D. Failure to relocate *facilities* as required by this section shall be considered a breach of agreement and may result in termination of the agreement and shall be subject to enforcement and the penalties set for in KMC 12.55.130.

**12.58.165 Facility security and safety.**

Notwithstanding reinforcement or protection otherwise provided, a *utility* shall be responsible for the safety and security of any existing *facility* within the *right-of-way*. Where there are construction hazards or where heavy construction equipment will be used, the *utility* shall provide adequate temporary protection. Construction of *facilities* shall be performed in such a manner as to provide a safe passage within the *right-of-way*. In restoring the



*right-of-way*, the *utility* shall protect existing *facilities* in the *right-of-way* without impacting the safe and efficient operation of the *road*.

**12.58.170 Abandonment.**

All abandoned *facilities* shall be removed by the agreement holder from the *right-of-way* within 30 days of being decommissioned by the *utility*.

## Chapter 12.60

### PUBLIC AND PRIVATE UTILITIES ON REAL PROPERTY

#### Sections:

- 12.60.010 Purpose.
- 12.60.020 Permit – Required – Exceptions.
- 12.60.030 Permit – Issuance authority – Use.
- 12.60.040 Permit – Privilege limitations.
- 12.60.050 Permit – Compliance with applicable provisions.
- 12.60.060 Permit – Terms and conditions.
- 12.60.070 Permit – Application – Required information.
- 12.60.090 Permit – Review .
- 12.60.095 Grant of authority.
- 12.60.098 Grant of authority – Effective period.
- 12.60.100 Financial guarantee requirements.
- 12.60.110 Notice of proposed use and commencement – Departmental coordination of permit approval.
- 12.60.120 Notice to agencies of construction date.
- 12.60.130 Permit revocation.
- 12.60.140 Termination of privileges – Assessment.
- 12.60.150 Enforcement.
- 12.60.160 Rights reserved to City – Conformance and payment of cost required.
- 12.60.170 Rule and regulation promulgation.
- 12.60.180 Severability.
- 12.60.190 Application, review, and inspection fees.
- 12.60.200 Annual compensation for use of real property.

#### **12.60.010 Purpose.**

The purpose of this chapter shall be to authorize and regulate the issuance of permits for the accommodation of public and private *facilities*, and other related uses upon the *City*-owned real property which is not dedicated as *right-of-way* and to ensure that privileges authorized by the permits are consistent with public ownership of the property, the *City* comprehensive plan, the critical areas code, sound engineering and design standards, and health and sanitation regulations. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.46.010).]

#### **12.60.020 Permit – Required – Exceptions.**

All *work* performed upon, along, over, under or across any public place in the *City* shall require a *special use permit* to be issued by the *City*; provided, that *work* undertaken by the *City* or under contract to the *City* shall be exempted from this requirement. *Work* includes, but is not limited to, construction and *maintenance* of waterworks, gas pipes, telephone, telegraph and electric lines, sewers, cable television, *wireless* communications, petroleum products and any other such public and private *facilities*. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.46.020).]

#### **12.60.030 Permit – Issuance authority – Use.**

The *City* is authorized to issue revocable permits for all *work* and other related uses upon, along, over, under or across any public place in the *City*. The permits shall be used to authorize an act or series of acts on *City*-owned real property which is not dedicated as *right-of-way*. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.46.030).]

#### **12.60.040 Permit – Privilege limitations.**

The permits shall not be construed to convey any vested right in the property. The permits grant only a personal and revocable privilege and license to do one or more acts on the property without possessing any interest in the property. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.46.040).]

**12.60.050 Permit – Compliance with applicable provisions.**

The issuance of permits authorized in this chapter does not relieve or release the *permittee* from complying with other applicable statutes, ordinances, restrictions, regulations, rules or obligations in connection with the *permittee's* proposed use of the property. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.46.050).]

**12.60.060 Permit – Terms and conditions.**

The *permits* shall be subject to all terms, conditions and restrictions, imposed by the department responsible for the management of the property to be affected, deemed necessary to preserve all characteristics consistent with public ownership. The general and specific terms, conditions and restrictions of the *permits* will vary according to, but not limited to, the following:

- A. The property interest owned by the *City*;
- B. All federal, State or local restrictions placed on the use of the property;
- C. The purpose for acquiring the property;
- D. Plans for the future development of the property;
- E. The *applicant's* proposed use of the property; and
- F. The individual characteristics of the property. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.46.060).]

**12.60.070 Permit – Application – Required information.**

*Applications* for all *permits* shall be submitted, in writing, to the *City*. The *application* shall contain whatever information, including plans and specifications, the *City* shall require. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.46.070).]

**12.60.090 Permit – Review.**

- A. The *City* shall review *applications* for compliance with all City codes, plans, and *Road Standards*. *Work* within *City* parks shall be reviewed for consistency with the *City's* most current Parks, Recreation, and Open Space Plan.
- B. The department responsible for the management and maintenance of the property to be affected shall review and evaluate *applications* with respect to the hazard and risk of the proposed construction or use, location of the proposed construction or use in relation to other *facilities* and infrastructure using the property, the adequacy of the engineering and design of the proposed construction or use, and applicable Federal, State, County and local laws and regulations.
- C. If applicable, the district fire marshal and/or utility district shall review and evaluate *applications* for the construction of waterworks to determine consistency with standards for water mains and fire hydrants.
- D. The *City* shall review *applications* for compliance with critical area regulation issues and shall be responsible for assuring that any *application* meets the requirements of the critical areas code set out in Chapter 18.55 KMC and the administrative rules promulgated thereunder before the permit is issued.
- E. Additional permitting may be required by other agencies. The *applicant* shall be responsible for securing all necessary permits not issued by the *City*. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.46.090).]

**12.60.095 Grant of authority.**

*Facilities* shall only be located or constructed on real property after a use agreement is approved at the discretion of the *city manager*. Prior to approving the agreement, the *City* shall ensure that the proposed *facility* is located, designed and proposed to be constructed in a manner that complies with all applicable *City* policies and codes, including but not limited to the provisions of KMC Title 18, Zoning, the *City* comprehensive plan, and other sections of KMC as applicable.

**12.60.098 Grant of authority – Effective period.**

The use agreement constitutes authorization for the *applicant* to use the city property at the location specified in the agreement for no more than 10 years. Extensions may be approved at the discretion of the *city manager*. Failure to comply with the terms and conditions of the use agreement, including payment of required annual compensation, is cause for revoking of the use agreement. The agreement holder shall remove *facilities* authorized by the agreement from the *city property* upon the termination or expiration of the agreement, unless renewed, or upon revocation of the agreement for cause.

**12.60.100 Financial guarantee requirements.**

Prior to final approval of all permits, the *department* shall determine the amount of the performance guarantee necessary to assure compliance with approved construction plans, applicable State and local health and sanitation regulations, standards for water mains and fire hydrants, and to assure proper *restoration* of the property and the health and safety of the users of the property. The *applicant* shall submit the financial guarantee consistent with the provisions of KMC Title 21. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.46.100).]

**12.60.110 Notice of proposed use and commencement – Departmental coordination of permit approval.**

A. The *applicant*, at the time of submitting an *application* for a permit, shall notify all public and private *utility* entities known to be using or proposing to use the same public place of the *applicant's* proposed use and the proposed timing of any construction. Any such entity notified may, within seven days of such notification, request a delay in the commencement of any proposed construction for the purpose of coordinating other construction work on the property with that proposed by the *applicant*. The *City* may delay the commencement date for the *applicant's* construction work on the property for 90 days or less if it finds that such delay will reduce the inconvenience to the public from construction activities, and it finds that such delay will not create undue economic hardship on the *applicant*.

B. The *City* shall also coordinate the approval of *permits* with the department responsible for the management and maintenance of the property to be affected and may delay the commencement date for the *applicant's* construction work for 180 days or less upon making the findings described in subsection (A) of this section. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.46.110).]

**12.60.120 Notice to agencies of construction date.**

The *permittee* is required to give written notice of the date construction will begin to the following agencies: the *department* responsible for the management and maintenance of the property to be affected; Northshore Utility District for construction of waterworks; the fire marshal for construction of waterworks. Failure to give such notice is grounds for the revocation or suspension of the permit. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.46.120).]

**12.60.130 Permit revocation.**

Any permit issued by the authority of this chapter shall be revocable at any time that the *department* responsible for the management and maintenance of the property affected shall determine that the public health, safety, general welfare, or public use requires such revocation, and the right to revoke is expressly reserved to the *City*. At a reasonable time prior to action upon such revocation or proposed revocation, opportunity shall be afforded to the *permittee* to present for consideration action or actions alternative to the revocation of such permit. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.46.130).]

**12.60.140 Termination of privileges – Assessment.**

All privileges granted by the use agreement shall automatically terminate at such time as the *permittee* ceases to use the property and any *facilities* authorized by the agreement. The *permittee* may terminate the agreement by written notice to the *city manager*. Upon revocation, termination or abandonment of any agreement, the *permittee* shall remove at the *permittee's* expense all *facilities* placed on such property by the *permittee* and restore the premises to a condition which is equivalent in all respects to the condition existing prior to installation of the *facilities*, as noted in the agreement, or to a condition which is satisfactory to the *City*. If the *permittee* has not accomplished removal and *restoration* at the end of a 90-day period following the effective date of revocation, termination or *abandonment*, the *City* may accomplish all of the necessary work and charge all costs related to said work to the *permittee*. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.46.140).]



**12.60.150 Enforcement.**

In addition to other enforcement powers and not in limitation thereto, the *city manager* is authorized to enforce the provisions of this chapter, and any rules and regulations adopted thereunder pursuant to the enforcement and penalty provisions of Chapter 1.20 KMC. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.46.150).]

**12.60.160 Rights reserved to City – Conformance and payment of cost required.**

The *City* reserves the sole right to use, occupy and enjoy its property for such purposes as it desires and deems fit, including, but not limited, to constructing or installing structures and *facilities* on the property, or developing, improving, repairing, *maintaining* or altering the property. The *permittee* upon written notice will, at the *permittee's* own expense, remove, repair, relocate, change or reconstruct *facilities* to conform with the plans of *work* contemplated or ordered by the *City* according to a time schedule contained in the written notice. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.46.160).]

**12.60.170 Rule and regulation promulgation.**

The *city manager* may promulgate any rules and regulations necessary for the operation of this chapter. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.46.170).]

**12.60.180 Severability.**

If any provision of this chapter or its *application* to any person or circumstances is declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portion of this chapter. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.46.180).]

**12.60.190 Application, review, and inspection fees.**

Each *application* requires fees, imposed by the city council by resolution, payable to the *City* for the administrative costs and expenses of processing the *application* and for other functions necessary for the approval and use of permits and the agreement. These fees shall be equal to the administrative costs of approving the agreement, including, but not limited to, preparing the permit for construction, review, processing, coordinating review with other departments, preparing environmental documents, inspection, agreement preparation, legal review, etc.

**12.60.200 Annual compensation for use of real property.**

In consideration for continuing use of *City* real property, an agreement holder shall pay annual compensation for use of the property. The amount of the use payment shall be as adopted by the city council by resolution.

## Chapter 12.65

### SNOW EMERGENCY ROUTES

#### Sections:

- 12.65.010 Designation.
- 12.65.020 Publication.
- 12.65.030 Snow emergency – Declaration authority – News bulletin.
- 12.65.040 Coordination of snow removal activities with other jurisdictions.

#### **12.65.010 Designation.**

Certain arterial and collector *roads*, school bus routes, and other *roads*, to be identified and so designated by the *city manager*, are declared snow emergency routes. Such snow emergency routes shall be the first *streets* to be sanded and/or cleared of snow.

A list of *streets* which will remain open and available for school bus use during thawing conditions shall be supplied to each and every school district operating on *City streets* within the *City*. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.48.010).]

#### **12.65.020 Publication.**

The *city manager* shall issue a news bulletin to all *City* police, fire services and the school district, a listing of all such snow emergency routes. Such listing shall be issued annually prior to the second Monday in October. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.48.020).]

#### **12.65.030 Snow emergency – Declaration authority – News bulletin.**

A. The *city manager* is empowered to declare a snow emergency. The *city manager* shall establish guidelines for conditions which will warrant the declaring of a snow emergency.

B. When a snow emergency is declared, the *city manager* shall issue an emergency news bulletin through the *City's* electronic media and to the chief of the police and fire departments, so that there may be coordination for the deployment of personnel and equipment. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.48.030).]

#### **12.65.040 Coordination of snow removal activities with other jurisdictions.**

The *city manager* shall coordinate *City* snow removal activities with federal, State, county and other local jurisdictions located within or adjacent to the *City* for the purpose of continuity in clearing snow emergency routes. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.48.040).]

**Chapter 12.70**  
**SIDEWALKS, PLANTING STRIPS**  
**AND STREET TREES**

Sections:

- 12.70.010 Definitions.
- 12.70.020 Abutting property owner to maintain sidewalk in safe condition
- 12.70.030 Abutting property owner shall be responsible for expense of sidewalk maintenance and repair
- 12.70.040 Procedure for sidewalk construction or repair.
- 12.70.050 Right-of-way vegetation maintenance
- 12.70.060 Sidewalk – Snow, ice and trash removal required when.
- 12.70.070 Sidewalk – Violation of KMC 12.70.050 deemed misdemeanor.
- 12.70.080 Exemption from KMC 12.70.040 and 12.70.050 permitted when.
- 12.70.090 Right-of-way vegetation – Trimming limitations – Removal prohibited.
- 12.70.100 Right-of-way maintenance – Enforcement.

**12.70.010 Definitions.**

In addition to the definitions in Section 12.05 KMC, the following definitions shall apply to this Section:

A. “Hazardous tree” means any tree with any structural defect, disease, damage, or combinations of these which make it subject to a high probability of failure which might cause damage to persons or property. A “hazard tree” includes, but is not limited to, any isolated tree(s) that have a high probability of failure due to low wind-firmness in post-construction conditions as determined by a qualified tree protection professional.

B. “Planting strip” means that portion of the *right-of-way* which lies:

1. Between the *curb* line and the *sidewalk*; and
2. Between the *sidewalk* and the *right-of-way* line; or
3. Between the edge of pavement and the *right-of-way* line where *sidewalk* and/or *curb* are not present; or
4. Between the *curb* line and the *right-of-way* line where *sidewalk* is not present.

And may include, but not limited to, trees, shrubs, groundcover, fences, *facilities*, signs, hydrants, gravel, drainage infrastructure. [Ord. 17-0445 § 1; Ord. 16-0428 § 2 (Att. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.52.010).]

**12.70.020 Abutting property owner to maintain sidewalk in safe condition.**

It shall be the responsibility of the *owner* of property abutting upon a public *sidewalk* to maintain the *sidewalk* at all times in a safe condition, free of any and all obstructions or defects, see section 12.70.050.

**12.70.030 Abutting property owner shall be responsible for expense of maintenance and repair.**

The burden and expense of maintaining *sidewalks* along the side of any *street* or other public place shall be borne by and the responsibility of the *owner* of the property directly abutting thereon. The *abutting property owner* shall also be responsible for performing and paying for *sidewalk* repairs to the extent the need for repairs is caused by the actions or omissions of the *abutting property owner*.

**12.70.040 Procedure for sidewalk construction or repair..**

A. If the judgment of the *city engineer* or another department of public works official, public convenience or safety requires that a *sidewalk* be constructed or repaired along either side of any *street*, such fact shall be reported to the city council.

B. If upon receiving a report from the proper official, the city council deems the construction of the proposed *sidewalk* or repair of such *sidewalk* necessary or convenient for the public health, safety or welfare, the city council may then order such work to be done pursuant to the procedures established in Chapter 35.68, 35.69 or 35.70 RCW. The cost of such proposed *sidewalk* construction or *sidewalk* repair shall be borne by the *abutting property owner* in accordance with Chapter 35.68, 35.69 or 35.70 RCW.

C. Permit Required: Before commencing reconstruction or repair of a *sidewalk*, the *owner* must submit an application for a *right-of-way use permit, limited* (Type A). The application must include the plans for the reconstruction or repair, together with an estimate of the cost of the reconstruction or repair. The *city engineer* shall evaluate the cost of the reconstruction/repair. The *city engineer* may require the *owner* to provide additional information to evaluate the cost. If the *city engineer* determines that the cost of the reconstruction or repair will exceed 50 percent of the *abutting property* valuation, exclusive of improvements, the *owner* must modify the plans for the reconstruction or repair so that the cost does not exceed 50 percent of such valuation. The *owner* will not commence the reconstruction or repair until the *city engineer* has approved the modified plans. The *abutting property* valuation shall be the current valuation as determined by the King County Assessor's office website for said property.

#### **12.70.050 Right-of-way vegetation maintenance.**

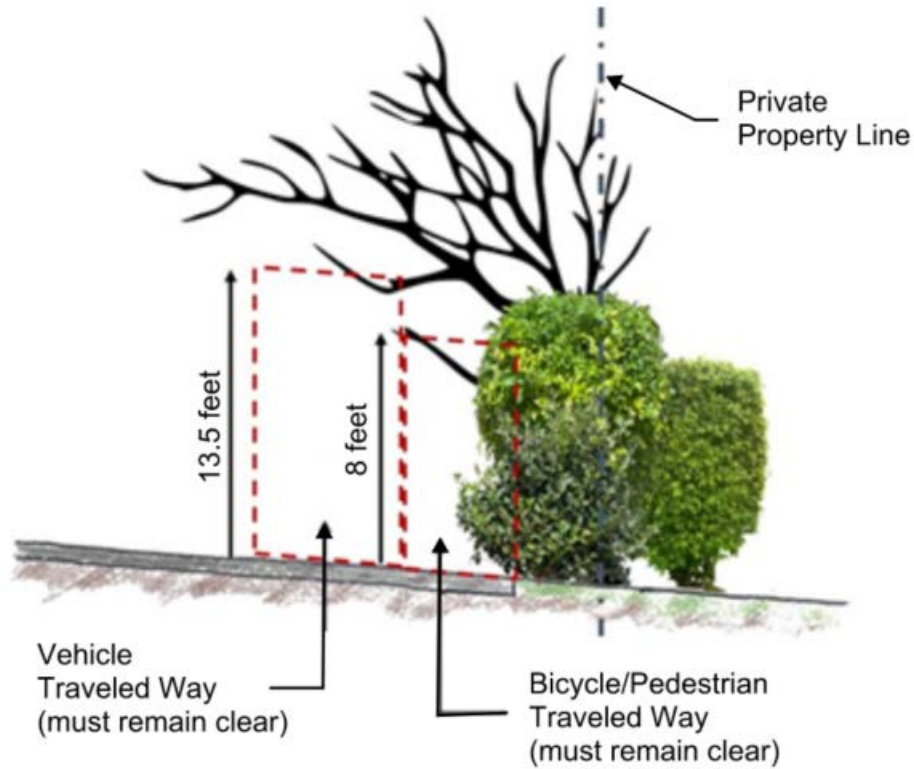
A. Maintenance of *planting strips*, *sidewalks*, and *unimproved right-of-way*, including *hazardous trees*, tree limbs and shrubbery that obstructs the *road* and/or *sidewalk* or blocks sight distance or signage, soil, gravel, weeds, grass, or other ground cover, will be the responsibility of the *abutting property owner*. Vegetation in *planting strips* will be *maintained* in a condition that does not impair the use of the *right-of-way* by the *City* or the traveling public. The use of the *right-of-way* includes, but is not limited to:

1. Motor vehicles on paved roadways;
2. Bicycles on paved surfaces or designated trails;
3. Pedestrians on *sidewalks*, designated paved walkways or other pedestrian paths as determined by the *city manager*; and
4. *City maintenance* and operations.

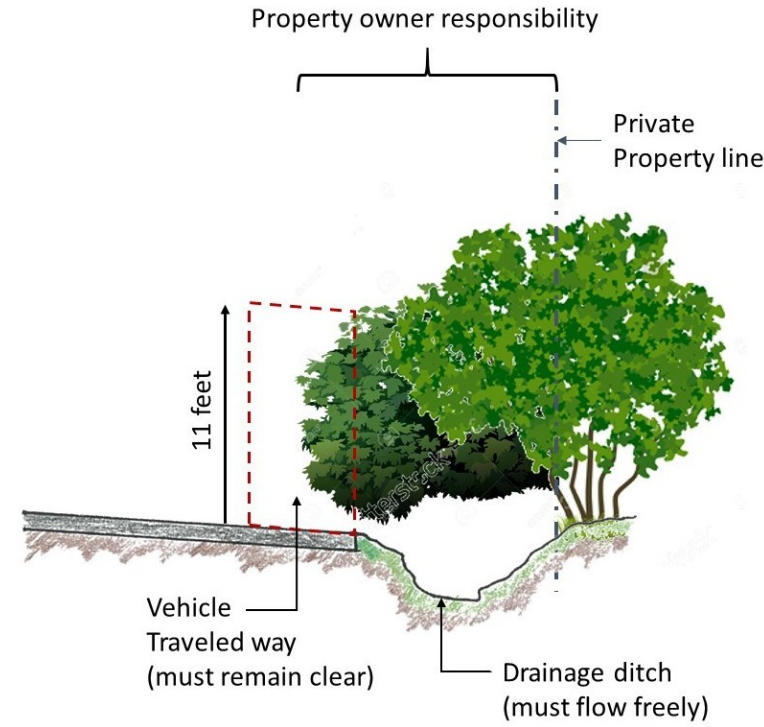
B. Vegetation shall not overhang *sidewalks*, walkways or bike lanes within eight feet, measured vertically from any point on the traveled way. Vegetation shall not overhang vehicle lanes within 13.5 feet, measured vertically from any point on the traveled way. Vegetation shall be trimmed as needed to prevent blockage of sight distance per the *Road Standards* or any roadway sign. The traveled way is defined as:

1. The traveled way for pedestrians shall be *sidewalks*, paved walkways separated by a *curb* from the vehicle traveled way, or paved walkways signed for pedestrians. Other pedestrian paths, as determined by the *city manager*, may also be defined as a pedestrian traveled way.
2. The traveled way for bicycles shall be defined by signage and pavement markings and shall be a paved area separated by pavement markings from the vehicle traveled way or a paved path as determined by the *city manager*.
3. The traveled way for vehicles will be defined by the edge stripe or edge of pavement where no stripe is present.





C. Drainage ditches shall be kept free of debris and maintained in a condition that allows the free flow of water and provides for adequate access for *City maintenance* and inspections. Aesthetic *maintenance* of drainage ditch vegetation, assuming adequate access and free flow of water is maintained, is the responsibility and at the discretion of the *abutting property owner*.



D. Within *unimproved right-of-way*, *abutting property owners* shall be responsible for trimming vegetation that overhangs onto their respective property and for removing *hazardous trees*. The *abutting property owner's* responsibility shall extend to the center of the *unimproved right-of-way*.

E. All slopes adjacent to *abutting properties* shall be maintained by the *owner*. *Maintenance* shall be consistent with the requirements for *planting strips* and shall include erosion control and vegetation stabilization.

F. Certain *planting strips*, *sidewalks*, *unimproved right-of-way* and other *right-of-way* areas may be *maintained* by the *City* at the *city manager's* discretion. [Ord. 17-0445 § 4, 2017; Ord. 16-0428 § 2 (Att. A); Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.52.040).]

**12.70.060 Sidewalk – Snow, ice and trash removal required when.**

It is unlawful for any person, firm or corporation owning *abutting property* within the *City* to permit the accumulation of snow, ice, vegetative debris, trash or any other material on an existing *sidewalk* which impedes the normal flow of pedestrian traffic. In the event the property is owned by a person not a resident of the *City*, a reasonable period of time shall be provided for the *owner* or the *owner's* agent to remove the material. If such removal is not accomplished within a reasonable period of time, the *city manager* may have the *sidewalk* cleaned and the cost thereof shall be billed to the *property owner*. The determination of reasonable period of time shall be at the sole discretion of the *city manager*. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.52.050).]

**12.70.070 Sidewalk – Violation of KMC 12.70.050 deemed misdemeanor.**

Each day any *sidewalk*, or driveway portion thereof, is permitted to remain in a hazardous condition as specified in KMC 12.70.050 shall be considered and shall constitute a separate violation. Violation of KMC 12.70.050 shall constitute a misdemeanor and shall be punishable as provided by law. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.52.060).]

**12.70.080 Exemption from KMC 12.70.030 and 12.70.050 permitted when.**

Property that abuts the *right-of-way* which is substantially higher or lower in elevation than the *road*, which does not have reasonable access to that section of the *right-of-way*, and where that portion of *right-of-way* is not continuous to abutted *right-of-way* that is accessible may apply for an exemption from the provisions of KMC 12.70.30 and

12.70.050. Exemptions may be granted by the *city engineer* based upon standards which shall be established by the *department*. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.52.070).]

**12.70.090 Right of way vegetation – Trimming limitations – Removal prohibited.**

A. Notwithstanding any provision of *franchise* agreements, vegetation within the public *right-of-way* shall not be removed or cut back so as to generally damage the aesthetic quality or survivability of the vegetation. Such trimming, when required by *utility* companies to safeguard their *facilities*, shall be done in a manner that preserves the general appearance of the vegetation. The same provisions shall be applicable to others in that trees, shrubs and other plantings shall not be removed or otherwise trimmed so as to damage the general appearance of the planting areas.

B. Judicious trimming is permitted in such areas that will provide proper sight distance for intersections and driveways and such traffic warning or regulatory signs that are in place. [Ord. 03-0180 §§ 1, 2; Ord. 02-0141 § 1; Ord. 98-0024 §§ 1, 2 (KCC 14.52.080).]

**12.70.100 Right-of-way maintenance - Enforcement**

A. Should the *city engineer* find that such *right-of-way* is not being properly maintained consistent with KMC 12.70.050 through 12.70.090, the *city engineer* may, but is not required to, notify the *abutting property owner* to comply with the provisions of this chapter. The notice will be prepared per KMC 1.20.070 as amended below and include:

1. All references to “code enforcement officer” shall mean *city manager*;

2. Instruction to the *abutting property owner* to trim or remove the vegetation and specify a reasonable time for the trimming or removal of said vegetation.

2. A statement that if the *owner* fails to trim or remove the vegetation within the time frame provided, the *City* will begin enforcement proceedings per chapter 1.20 KMC or if determined by the *city engineer* to be a public safety hazard, *interferes with Americans with Disabilities Act (ADA) accessibility*, an environmental hazard, or impedes *City maintenance* and operations, that the *City* will perform the *maintenance* pursuant to subsection B of this section; and

3. A statement that in the case of a public safety hazard, *interference with ADA accessibility*, an environmental hazard, or impeding *City maintenance* and operations, that any cost incurred by the *City* may be assessed against the *property owner* for failure to comply with this provision.

B. If, by determination of the *city engineer*, the vegetation is a public safety hazard, environmental hazard, or impedes *City maintenance* and operations and the *abutting property owner* fails to complete the required *maintenance* within the time period stated in the notice, the *City* will perform the required *maintenance* and the cost may, at the discretion of the *city engineer*, be assessed against the *abutting property owner*. After completion, the *city engineer* will determine the cost to be charged to the *owner* and the time and manner of payment thereof; provided, that the cost will not exceed 50 percent of the valuation of the *abutting property*, exclusive of improvements. The cost will include all direct invoiced costs for materials and equipment as well as \$75.00 per hour per person of labor performed by the *City* in completing the *maintenance* requirements. If contracting services are necessary to complete the *maintenance*, the full cost of the contract services shall be included in the cost charged to the *property owner*. The *abutting property* valuation shall be as determined by the most current assessment of King County Assessor’s office for said property. The *city engineer* will give notice of the cost to the *owner*. The notice shall:

1. State the cost to be charged to the *owner* and the time and manner of payment thereof;

2. Include documentation to support the charges;

3. Advise the *owner* that the cost cannot exceed 50 percent of the valuation of the property, exclusive of improvements;

4. State that the *city engineer* will hear protests to the determination of cost, time, and manner of payment if received within 30 calendar days of date of delivery of the notice.

C. In the event payment is not received by the *City* within the time frame stated in the notice, the *city engineer* may place a lien upon the property or submit the charges to a licensed collection agency. Any lien will be collected in the manner as provided by law for collection of local improvements assessments.

D. The *owner* may appeal the *city engineer's* determination of cost, time, and manner of payment for 12.70.050 through KMC 12.70.090 by filing a notice of appeal with the *city manager* within 14 calendar days after delivery of the *city engineer's* determination. The *city manager* will give notice of receipt of the appeal and a deadline for response. After the protest consideration, the *city manager* will issue a decision, which will be the *City's* final decision on the *owner's* responsibility for *maintenance*. Additional time to submit an appeal may be granted at the *city engineer's* discretion.

E. All notices will be mailed to the owner of the *abutting property*, to the property tax address on file on the King County Tax Assessor's website, if the *City* determines that the *abutting property* is not *owner-occupied*, or to any address noted on any communication from the *abutting property owner*.



**Chapter 12.75**

**INTEGRATED TRANSPORTATION PROGRAM**

**(Repealed by Ord. 16-0420)**

## Chapter 12.80

### INTEGRATED TRANSPORTATION PROGRAM

#### Sections:

- 12.80.010 Definitions.
- 12.80.020 Components of the integrated transportation program.
- 12.80.030 Level of service standards.
- 12.80.040 Concurrency requirements.
- 12.80.050 Transportation impact fees.
- 12.80.060 Safe site access.
- 12.80.070 Procedures for development review.
- 12.80.080 Administrative rules.
- 12.80.090 Appeals.
- 12.80.100 Relation to other permit authority.
- 12.80.110 Exceptions.

#### **12.80.010 Definitions.**

A. “Concurrency” means transportation improvements or strategies to accommodate the impacts of a *development* are made concurrent with the *development*, so that the level of service on a city transportation *road* does not decline below the levels of service adopted in this chapter. “Concurrent with the *development*” means that improvements or strategies are in place at the time of the *development*, or that a financial commitment is in place to complete the improvements or strategies within six years.

B. “Mobility unit” means one PM peak hour person trip end. Each person trip has two trip ends, one each at the origin and destination.

C. “Transportation improvement program” means the annual program of capital transportation projects programmed by the *City* to be implemented during a six-year period.

[Ord. 16-0420 § 2 (Exh. 1).]

#### **12.80.020 Components of the integrated transportation program.**

There are four components of the *City’s* integrated transportation program, the goal of which is to operate the program safely and efficiently for all modes of travel. These components are as follows:

A. Level of service (LOS) standards to evaluate the performance of the *City’s* multimodal transportation system and to ensure that the system is built over time to maintain LOS standards (KMC 12.80.030).

B. *Concurrency* requirements defining an adequate transportation system (KMC 12.80.040).

C. Transportation impact fees to require new growth and development to pay a proportionate share of the cost of new multimodal transportation improvements to serve the new growth and costs (Chapter 20.47 KMC).

D. Safe site access to facilitate safe and efficient operation of the transportation system through site-access improvements (KMC 12.80.060). [Ord. 16-0420 § 2 (Exh. 1).]

#### **12.80.030 Level of service standards.**

Level of service standards are established for different modes of travel within the *City*:

##### A. Roadway Level of Service Standards.

1. The level of service for roadways shall be as described in the most recent Transportation Research Board Highway Capacity Manual. The LOS shall be amended on a date selected by the *city manager* whenever the LOS in the Highway Capacity Manual is amended by the Transportation Research Board. The *city manager* may select and apply alternative LOSs, to be effective on a date selected by the *city manager*.

2. Roadway LOS shall be by functional classification of roadway:

- a. Major arterials – LOS “E” or better;
- b. Minor arterials and collectors – LOS “D” or better; and
- c. Local *roads* – LOS “C” or better.

3. Roadway LOS shall be measured at intersections of classified roadways, except as provided in subsection (A)(4) of this section.

4. Roadway LOS shall be measured at the corridor level on SR 522 and 68th Avenue (south of SR 522)/Juanita Drive/Simonds Road.

5. When a lower classification of roadway intersects with a higher classification of roadway (for example, when a local *road* connects with a minor arterial), the LOS for the higher classification shall apply.

B. Pedestrian Level of Service Standards.

1. The *City* has designated a yellow LOS for pedestrian access where indicated in the pedestrian priority network (all as defined in the transportation element of the comprehensive plan) as the minimum standard to achieve.
2. Outside of the pedestrian priority network, the *City* has not established an LOS.

C. Bicycle Level of Service Standards.

1. The *City* has designated a yellow LOS for bicycle infrastructure where indicated in the bicycle priority network (all as defined in the transportation element of the comprehensive plan) as the minimum standard to achieve.
2. Outside of the bicycle priority network, the *City* has not established an LOS.

D. Transit Level of Service Standards.

1. The transportation element of the comprehensive plan contains guidance for providing quality transit service, amenities, and access to an identified transit priority network. While the *City* does not control transit service, it has established the following level of service standards for transit stop amenities and pedestrian access to transit:
  - a. The *City* has designated a yellow LOS for transit stop amenities and pedestrian access to transit (as defined in the transportation element of the comprehensive plan) as the minimum standard to achieve.
  - b. Outside of the transportation priority network, the *City* has not established an LOS. [Ord. 16-0420 § 2 (Exh. 1).]

**12.80.040 Concurrency requirements.**

A. Transportation *concurrency* shall be determined using the *City* owned and maintained *mobility unit* spreadsheet. This spreadsheet compares the amount of transportation capital projects constructed or programmed in the next six years (*mobility unit* capacity) to the amount of *mobility units* that would be generated by new *development* (*mobility unit* demand). If the *City*’s *mobility unit* capacity is larger than the *mobility units* that would be generated by new *development*, then the transportation system will be deemed to be concurrent.

1. *Mobility unit* capacity shall be determined annually.

B. The *city manager* may approve a reduction in estimated *mobility units* based on the types of land uses that are to be developed or expected travel characteristics of the *development*.

1. The calculation of *mobility unit* reductions as described in this section shall be based upon sound and recognized technical information and analytical processes that represent current engineering practice. In all cases, the *city manager* shall have final approval of all such data, information and technical procedures used to calculate *mobility unit* reductions. [Ord. 16-0420 § 2 (Exh. 1).]

**12.80.050 Transportation impact fees.**

A. Transportation impact fees shall be assessed and collected as described in Chapter 20.47 KMC.

B. *Mobility units* calculated for *concurrency* requirements (KMC 12.80.040) shall also be used to calculate transportation impact fees. [Ord. 16-0420 § 2 (Exh. 1).]

**12.80.060 Safe site access.**

A. *Developments* shall provide for safe site access to facilitate safe and efficient operation of the multimodal transportation system, in accordance with the *Road Standards* adopted in Chapter 12.50 KMC.

B. For the purposes of this chapter, the developer shall achieve “safe site access” by mitigating either or both of the following when the *development* is complete and able to generate traffic:

1. A roadway intersection that provides access to a proposed *development* and that will function at a level of service worse than specified in KMC 12.80.030; or
2. A roadway intersection or approach lane where the *city manager* determines that a hazard to safety could reasonably result.

C. The developer shall provide improvements which bring the site access into compliance with the level of service and within a time schedule as may be required by the *city manager*. Approval to construct the *development* shall not be granted until the developer has satisfied the *concurrency* definition and its elements, as set forth in KMC 12.80.010(A). [Ord. 16-0420 § 2 (Exh. 1).]

**12.80.070 Procedures for development review.**

Following the submission of an *application*, the *city manager* shall calculate the transportation impact fee to be paid under Chapter 20.47 KMC and shall determine whether necessary transportation improvements are provided for as set forth in KMC 12.80.010(A) and that any required site access improvements are provided. [Ord. 16-0420 § 2 (Exh. 1).]

**12.80.080 Administrative rules.**

For transportation impact fees, transportation *concurrency*, and safe site access, the *city manager* may adopt such administrative rules and procedures as are necessary to implement this chapter. [Ord. 16-0420 § 2 (Exh. 1).]

**12.80.090 Appeals.**

A. The *city manager*’s final decision on impact fees and/or transportation *concurrency* may be appealed to the hearing examiner using the procedures set forth in Chapter 19.30 KMC. The appeal shall be submitted within 21 calendar days of the date of issuance of the *City*’s written decision.

B. Along with the information required by KMC 19.30.080(B), the *applicant* must show that either:

1. The *City* committed a technical error; or
2. Alternative data or a mitigation plan submitted to the *City* was inadequately considered. [Ord. 16-0420 § 2 (Exh. 1).]

**12.80.100 Relation to other permit authority.**

The procedures set forth in this chapter do not limit the authority of the *City* to deny or to approve with conditions the following:

A. Any zone reclassification request, based on its expected impacts on the multimodal transportation system;

B. Any proposed *development* or zone reclassification, if the *City* determines that a hazard to safety would result from direct traffic impacts of the *development* or reclassification, without roadway or intersection improvements, regardless of level of service standards; or

C. Any proposed *development* subject to review under the Washington State Environmental Policy Act. [Ord. 16-0420 § 2 (Exh. 1).]

**12.80.110 Exceptions.**

Except for KMC 12.80.030 and 12.80.050, the *city manager* may grant an exception to or deviation from the requirements of this chapter. Any exception or deviation shall be in writing and supported by a finding that extraordinary conditions exist which make full compliance infeasible or would be an unreasonable hardship. The *city manager* shall make the final determination on what is infeasible or an unreasonable hardship. [Ord. 16-0420 § 2 (Exh. 1).]



## Chapter 12.85

### STATE ROUTE 522 ACCESS MANAGEMENT PROGRAM

#### Sections:

- 12.85.010 Purpose.
- 12.85.020 Applicability.
- 12.85.030 Definitions.
- 12.85.040 Application process and procedures.
- 12.85.050 Permit application submittal process.
- 12.85.060 Fees and surety bond.
- 12.85.070 Permit application – Review and conditions.
- 12.85.080 Construction requirements.
- 12.85.090 Changes in property site use.
- 12.85.100 Permit modification and revocation – Closure of permitted connections.
- 12.85.110 Access control classification.

#### **12.85.010 Purpose.**

SR 522 is a State route in the *City* with a functional classification of principal arterial. The purpose of this chapter is to implement an access management program consistent with Chapter 47.50 RCW and Chapters 468-51 and 468-52 WAC; to protect and preserve the functional integrity of SR 522 by providing for adequate safety and transportation capacity; to protect the public health, safety, and welfare; and to promote the safe and efficient movement of people and goods.

The access management program, which coordinates land use planning and building permit decisions by the *City* and investments in the *State highway system*, will control the proliferation of connections and other access approaches to and from SR 522. Without such a program, the health, safety, and welfare of *City* residents and users of SR 522 are at risk due to the fact that uncontrolled access is a significant contributing factor to the congestion and functional deterioration of an arterial. The access management program further will enhance the development of an effective transportation system and increase the traffic-carrying capacity of SR 522, thereby reducing traffic accidents, personal injury, and property damage or loss; mitigating environmental degradation; promoting sound economic growth and the growth management goals of the State; reducing *highway maintenance* costs and the necessity for costly traffic operations measures; lengthening the effective life of the transportation infrastructure, thus preserving the public investment in such infrastructure; and shortening response time for emergency vehicles. [Ord. 06-0247 § 1.]

#### **12.85.020 Applicability.**

A. Connections. New connections or alterations to existing connections to SR 522 require a *connection permit*. The use of a new connection at the location specified in the *permit* is not authorized until the *applicant* constructs or modifies the connection in accordance with *permit* requirements.

B. Change in Use. Where a parcel of property is already developed, but where the type of use for that property is changed, and where such change in use shall cause an increase of 10 peak hour trips generated from that property onto SR 522, then such change in use shall require a *connection permit* for its continued use of existing SR 522 connection(s). The *connection permit* may require modifications to the existing connection(s).

C. Permit Modification. If a *property owner* or *applicant* holding a valid *connection permit* wishes to alter the *permit* conditions, the *permit* holder must apply for a *permit* modification. The *city manager* shall have authority to approve or deny the modification *application*.

D. Construction Cost. The cost of construction or alteration of a connection shall be borne by the *permittee*.

E. Unpermitted Connection. An unpermitted connection to SR 522 that occurs after approval of the ordinance codified in this chapter by the city council is subject to closure by the *City*. The *City* may install barriers across the connection or remove the connection. The *city manager* will provide reasonable notice of the *City's* impending action to the *owner* of property served by the connection. Cost of removal shall be paid for by the *property owner*.

F. Permit Fee. The *City* in this chapter has established a schedule of fees for *connection permits*. The fee shall be nonrefundable.

G. Joint-Use Connection. The *city manager* may issue a *permit* subject to any conditions necessary to carry out the provisions of this chapter, including, but not limited to, requiring the use of a joint-use connection.

H. Nonconforming Access Permit. The *city manager* may issue a nonconforming access *permit* after finding that to deny an access *permit* would leave the property without a reasonable means of access to the public *road*. Every nonconforming access *permit* shall specify limits on the maximum vehicular use of the connection and shall be conditioned on the availability of future alternative means of access for which access *permits* can be obtained. [Ord. 06-0247 § 1.]

#### **12.85.030 Definitions.**

Terms within this chapter are defined in the *Road Standards*. The following additional definitions shall apply to this chapter unless the context clearly indicates otherwise:

A. “Average weekday vehicle trip ends (AWDVTE)” means the estimated total of all trips entering plus all trips leaving the *applicant’s* site, based on the final stage of proposed *development*.

B. “Conforming connection” means a connection that meets current *City* criteria pertaining to location, spacing, and design.

C. “Connection” means approaches, driveways, turnouts, or other means of providing for the right of access to or from a controlled access *road*.

D. “Connection category” means a permit category of all State *highway* connections, in accordance with the type of property served and the estimated traffic generated by the *applicant’s* site, based on rates accepted by the *City*.

E. “Connection permit” means a written authorization of the *City* for a specifically designed connection, at a specific location, for a specific type and intensity of property use, and specific volume of traffic for the proposed connection, based on the final stage of proposed *development* of the *applicant’s* property.

F. “ITE” means the Institute of Transportation Engineers.

F. “Joint use driveway” means a single access point that serves as a connection to more than one property or *development*, including those in different ownerships or in which access rights are provided in the legal descriptions.

G. “Median” means the portion of a divided *highway* or divided connection separating vehicular traffic traveling in opposite directions; not including speed change lanes, storage lanes for left turning or U-turning vehicles, or two-way left-turn lanes.

H. “Reasonable access” means an access connection that is suitable for the existing and/or proposed property use and does not adversely affect the safety, operations, or *maintenance* of the *road*.

I. “State highway system” means all *roads* designated as State routes in compliance with Chapter 47.17 RCW.

[Ord. 06-0247 § 1.]

#### **12.85.040 Application process and procedures.**

A. Early Consultation. To expedite the overall *permit* review process, the *applicant* is strongly encouraged to consult with the *City* prior to submitting an *application* pursuant to this chapter. The purpose of the consultation is to obtain a conceptual review of the *development* site plan and proposed access connections to SR 522 with respect to location, quantity, spacing, and design standards. Such consultation will assist the *applicant* in minimizing problems and delays during the permit *application* process and could eliminate the need for costly changes to site plans when a proposed connection would not be allowed and identified as such early in the planning phase.

B. Connection Categories. All *connections*, public or private, shall be determined by the *City* to be in one of the following categories:

1. “Category I – minimum connection” provides *connection* to SR 522 for up to 10 single-family residences, a duplex, or a small multifamily complex of up to 10 dwelling units, which use a common *connection*. The category shall also apply to permanent *connections* to agricultural and forest lands, including field entrances; *connections* for the operation, *maintenance*, and repair of *facilities*; and *connections* serving other low-volume traffic generators expected to have an AWDVTE of 100 or less.
2. “Category II – minor connection” provides *connection* to SR 522 for medium volume traffic generators expected to have an AWDVTE of 1,500 or less, but not included in Category I.
3. “Category III – major connection” provides *connection* to SR 522 for high volume traffic generators expected to have an AWDVTE exceeding 1,500.
4. “Category IV – temporary connection” provides a temporary, time limited *connection* to SR 522 for a specific property, for a specific use, with a specific traffic volume. Such uses include, but are not limited to, temporary construction and temporary emergency access. The *City* reserves the right to remove any temporary *connection* at its sole discretion and at the expense of the *property owner/applicant* after the expiration of the *permit*. Further, a temporary *connection permit* does not bind the *City*, in any way, to the future issuance of a permanent *connection permit* at the temporary *connection* location.
5. “Nonconforming connection” designation may be issued for Category I through IV *permits* after an analysis and determination by the *City* that a *connection* cannot be made that conforms to *City* standards and a finding that the denial of a *connection* would leave the property without a reasonable means of access to the public *road* system. In such instances, the *permit* shall be noted as nonconforming and contain specific restrictions and provisions, including limits on the maximum vehicular use of the *connection*, the future availability of alternate means of *reasonable access* for which a *conforming connection permit* could be obtained, the removal of the nonconforming *connection* at the time the conforming access is available, and other conditions as necessary to carry out the provisions of this section.
6. “Variance connection” means a special nonconforming *permit*, issued for a location not normally permitted by *City* standards, after an engineering study demonstrates that the *connection* will not adversely affect the safety, *maintenance*, or operation of SR 522. This *permit* will remain valid until modified or revoked by the *City*.
7. “Median opening” includes openings requested for both new *connections* and existing *connections*. Openings may consist of either 1) a full opening in a continuous *median* for the specific purpose of allowing vehicles to make a left turn maneuver into or out of a property abutting the *highway*, to facilitate U-turns, or to allow for a vehicle to totally cross the *road*, or 2) a directional opening allowing for left turn maneuvers into the property and U-turn maneuvers, but not allowing for left turns or cross movements out of the property. [Ord. 06-0247 § 1.]

#### **12.85.050 Permit application submittal process.**

A. Driveway Connections That Are Part of a Land Use Application. If the *connection permit* is being requested as part of an underlying *development*, the issuance or denial of the *connection permit* shall be made in accordance with the type of decision applicable to the underlying land use *application(s)*.

B. Driveway Connections That Are Not Related to a Land Use Application. If the *connection permit* is being requested without relation to an underlying land use *application*, the *applicant* shall file for a *connection permit* with the *City*. The issuance or denial of the *connection permit* shall be made administratively by the *city manager*, subject to appeal pursuant to subsection (E) of this section.

C. Submittal Requirements for Connection Permits. If the new *development* will generate more than 10 peak hour trips or is a change in use, each *application* for a *connection permit*, whether accompanying an underlying land use *application* or not, shall include a traffic impact study, as described below, the *connection permit application*, and additional information as required by the *city manager*.

1. Traffic Impact Study. The traffic impact study, prepared by a *professional engineer*, shall contain information as noted in the *Road Standards* plus the following:

- a. An analysis of existing conditions including approved, but not yet built, *development* and applied for, but not yet approved, *development*.
- b. Trip generation, modal split, distribution, assignment, and level of service analysis for intersections, adjacent to or within 250 feet of any proposed access, during peak hours and time periods as required by the *city manager*.
- c. An analysis of three years of background growth, unless otherwise determined by the *city manager*.
- d. A traffic signal warrant analysis of the projected impact of the proposed *development* upon the affected transportation corridor or intersection as required by the *city manager*.
- e. Any additional information required by subsection (C)(2)(j)(5) of this section.

The traffic impact study shall be based on traffic counts obtained within the 12 months preceding the date the *application* is deemed complete. The traffic impact study levels of service and traffic operations analysis shall be consistent with the latest Highway Capacity Manual's methodology. The *city manager* reserves the right to require an *applicant* to provide additional data and/or analysis as part of the traffic impact study, where the *city manager* determines that additional information or analysis is required to implement the standards and requirements contained in this chapter. The *city manager* may waive the requirement for a traffic impact study, or limit the scope of analysis and required elements of a traffic impact study, where the *city manager* determines that the potential transportation impacts on the SR 522 corridor or any of its intersections have been adequately analyzed in prior research or reports and are not projected to cause a reduction in the operating level of SR 522.

2. Connection Permit Application and Information. The *applicant* shall submit a *connection permit application* and shall provide information as required by the *city manager*. A complete *application* shall also consist of the *connection* information specified in this section.

- a. All *connection* and roadway design documents for Category II and III *permits* shall bear the seal and signature of a *professional engineer*.
- b. The *applicant* shall provide the following information, unless the *city manager* determines that specific information will not be necessary. Additional information required of Category II, III, and IV *permit applications* is specified in this chapter. In all cases it would be prudent, prior to submittal of the *application*, for the *applicant* to inquire of the *City* whether the *application* needs additional information. The *city manager* reserves the right to request clarification or additional information during the *application* review process. Failure to provide the requested information within the time limits specified in the request shall result in termination of the *permit application*.
- c. Provide the current complete names, mailing addresses, and telephone numbers of the *property owner(s)*, the developer(s), the *applicant*, and the transportation and legal consultants representing the *applicant* (if any). If the *property owner* requests to have a representative sign the *application*, a notarized letter of authorization from the *applicant* shall be provided with the *application*. When the *owner* or *applicant* is a company, corporation, or other public agency, the name, address, and telephone number of the responsible officer shall be furnished. The names of all individuals signing the *application* and their titles shall be typed or printed directly below the signature.
- d. The ultimate planned property uses shall be indicated in sufficient detail to determine the appropriate *permit* classification. Estimated AWDVTE to be generated by the *development*, based on the planned property use, consistent with the latest trip generation information published by the ITE, Washington, D.C., shall be included as appropriate. If local or special trip generation rates are used instead of the ITE rates, the latest and best information shall be used and all documentation for the rate determination shall be submitted with the *application*. For residential *developments* with 10 or fewer units, 10 trips per day per unit may be assumed.

e. The *application* shall include a plan to scale showing critical dimensions, location of the property, existing conditions, and character and extent of the proposal. The location of existing and proposed on-site *development* with respect to the existing and proposed driveway location(s) and SR 522 shall be shown. Minimum information on the plan shall include:

- (1) Street names.
- (2) Pavement type.
- (3) Cross section.
- (4) Posted speed limit.
- (5) The existence and location of any existing and/or future proposed public or private *roads* abutting or entering the property; the horizontal and vertical curvature of the *road(s)*, noting the location of existing and proposed *connections* and any other pertinent information.

f. Property Information.

- (1) Show the location of all existing and proposed buildings, and other structures, such as gasoline pumps, lights, trees, etc., with respect to the existing and proposed property and *right-of-way* lines.
- (2) Show any adjacent properties that are owned or controlled by the *applicant*, or in which the *applicant* has a financial interest, and an indication of whether the properties will be accessed by means of the proposed *connection(s)*.
- (3) Provide proof of legal ownership or legal easement.
- (4) Include a boundary survey, which may be waived for Category I *connections*, at the discretion of the *city manager*.
- (5) Any existing or proposed parcels segregated from the *applicant's* property for separate *development* shall be clearly designated on the plan.

g. Connection Location Information.

- (1) *Connection* location by *WSDOT* milepost and *highway* engineer's station, if available.
- (2) Location of the SR 522 centerline with respect to existing and proposed property lines.
- (3) Distance of proposed public or private access *connection* to intersecting *roads*.
- (4) Existing or proposed *median* openings (crossovers) and *connections* on all sides of SR 522 and other *roads* within 660 feet of the proposed *connection* location.
- (5) Location of existing or proposed public or private retaining walls, fences, poles, *sidewalks*, bike paths, drainage structures and easements, traffic control devices, fire hydrants, *facilities*, or other physical features, such as trees, landscaping, green belts, and wetlands that could affect driveway location.

h. Connection Design Information.

- (1) Proposed *connection* and approach improvements, including the driveway profile approaching SR 522, and the driveway width, radii, and angle to the *road*.
- (2) Existing and proposed grading.
- (3) Drainage calculations and other pertinent data.



(4) Driveway, auxiliary lanes and crossover pavement design, including subgrade, base, surface materials, and thicknesses.

(5) Specific requirements for design information on individual Category I *permit applications* may be modified or waived, at the discretion of the *city engineer*.

i. Joint Driveway Use.

(1) If the driveway is to serve more than one property, the plan shall detail information for all properties using the *connection* and the *application* shall include copies of legally enforceable agreements of concurrence for all *property owners* on *joint use driveways*.

(2) *Joint use driveways* serving adjoining properties are required where feasible.

j. Additional Information for Category II and Category III Permits. The *city manager* may require the following additional information for each phase of the *development*. Prior to the submittal of the *application*, the *applicant* shall coordinate with the *city engineer* on the level of detail and the analysis techniques to be used.

(1) Circulation Plans. All parking, interior drives, and internal traffic circulation plans.

(2) Connection Users. All internal and external adjacent parcels which will use the requested *connection*. All existing and proposed connecting roadways and potential means of alternate access through the final build-out stage of *development* shall be shown on the plans submitted with the *application*.

(3) Traffic Control Devices and Illumination. Proposed traffic control devices and lighting locations.

(4) Sight Distance. Analysis of horizontal and vertical sight distance on SR 522 with respect to the proposed *connection*.

(5) Traffic Data and Analysis. Traffic data submitted by the *applicant* shall be signed and sealed by a qualified *professional engineer*. The *city manager* may require the following traffic study information:

(a) Turning Movements. Vehicle turning movements for present and future traffic conditions.

(b) Volume and Type. Amount and type of traffic that will be generated by the proposed *development* including a breakdown of anticipated peak hour traffic and an analysis of the impact on the level of service on the State highway.

(c) Parking and Circulation. Analysis of off-*street* parking and traffic circulation, including distances to secondary access points on the *connection* roadway and their impact on the operation of the State highway.

(d) Traffic Signal Data. If a traffic signal is requested, the following studies may be required: traffic signal warrants; phasing and timing analysis; signal progression analysis; signalization, signing, and lighting plans in compliance with *WSDOT* standards. A separate *WSDOT* traffic signal permit is required.

(e) Off-Site Improvements. A traffic analysis to determine the need for off-site related roadway and geometric improvements and mitigation requirements.

(f) Traffic Control Plan. A traffic control plan conforming to current standards set forth in the "Manual on Uniform Traffic Control Devices," documenting how the *permit* holder will provide for safe and efficient movement on the *State highway system* during the construction of the *connection*.

(6) Median Openings: New or modified *median* openings proposed as part of a new driveway *connection* shall be reviewed as part of the *permit application* review process. Request for the construction of new or modified *median* openings to serve existing permitted *connections* shall require a reevaluation of the location, quantity, design of existing *connections*, and traffic at the existing *connections*. The *property owner* must file a new *connection permit application*, for the proper *connection category*, showing the proposed new or modified *median* opening location and design and its relationship to the existing or modified driveway *connections*. Nothing contained herein shall be construed to prohibit the *City* from closing an existing *median* opening where operational or safety reasons require the action. The *City* shall notify affected *property owner*, *permit* holders and tenants in writing 30 days in advance of the closure of a *median* opening unless immediate closure is needed for safety or operational reasons.

(7) *WSDOT* review: a *WSDOT permit* or project review may be required by *WSDOT*. *Applicant* is responsible for contacting and coordinating with *WSDOT* on all *work* on SR 522.

3. Additional Information for Category IV *permits*. Category IV *permit applications* shall contain the specific dates that the *connection* is to be open and must contain assurances acceptable to the *City* that the shoulder, *curbing*, *sidewalks*, *bikeways*, *ditch*, *right-of-way*, and any other amenities will be restored to their original condition at the *permit holder's* expense upon closure of the temporary *connection*.

D. Variance Connection. The access standards above may be modified by the *city engineer* on the *connection permit* upon a showing by the *applicant* of the following:

1. Topography, *right-of-way*, existing construction or physical conditions, or other geographic conditions make it technically infeasible to meet current standards and an equivalent alternative, which can accomplish the same access management purpose, is available.
2. A minor change to a standard is required to address a specific design or construction problem which, if not enacted, will result in an unusual hardship.
3. An alternative standard is proposed which is equal to or superior to the current standards.
4. *Application* of standards to the *development* would be grossly disproportional to the impacts created to the public.

E. Appeals. The *applicant* may appeal the decision of the *city engineer* under the following conditions:

1. For driveway *connections* that are part of land use *application* review, the appeal of a conditioning or denial of a *connection permit* shall be in accordance with the procedures for an appeal of the underlying land use *application*.
2. For all other driveway *connection permit applications*, the appeal of a conditioning or denial of a *connection permit* shall be to the *city manager*. [Ord. 06-0247 § 1.]

#### **12.85.060 Fees and surety bond.**

A. Each *application* requires fees, imposed by the city council by resolution, payable to the *City* for the administrative costs and expenses of processing the *application* and for other functions necessary for the approval and use of the *permits*. B. Surety Bond. Prior to the beginning of construction of any *connection*, the *City* may require the *permit* holder to provide a surety bond as specified in WAC 468-34-020(3). [Ord. 06-0247 § 1.]

#### **12.85.070 Permit application – Review and conditions.**

A. Application Review, Processing, and Approval. *Applications* for all SR522 *connection permits* shall be submitted, in writing, to the *City*. The *application* process and documentation shall be in accordance with the administrative procedures developed by the *City* and shall contain whatever information, including plans and specifications, which the *City* shall require.

B. Permit Conditions. The *permit* requirements and provisions shall be binding on the *permit* holder, the *permit* holder's successors, heirs and assigns, the *permit application* signatories, and all future *owners* and occupants of the property. All long-term provisions exceeding the term of any bond shall be recorded onto the property title.

C. Nonconforming Connection Permits. The City may issue a nonconforming connection permit requiring a legally enforceable joint-use driveway when determined to be in the best interest of the City for restoring or maintaining the operational efficiency and safety of SR 522. All nonconforming connection *permits* shall specify conditions or limits including:

1. Traffic Volume. The *permit* shall specify maximum vehicular usage of the *connection*.
2. Future Alternate Access. The *permit* shall specify that a *conforming connection* be constructed when future alternate means of access become available, and that the nonconforming *connection* be removed.
3. Users. The *permit* shall specify the properties to be served by the *connection*, and any other conditions as necessary to carry out the provisions of managing the access to SR 522.

[Ord. 06-0247 § 1.]

#### **12.85.080 Construction requirements.**

A. Disruption of Traffic. All construction and/or *maintenance* within the SR 522 *right-of-way* shall conform to the provisions of the *connection permit*, the current "Manual on Uniform Traffic Control Devices (MUTCD)"; *WSDOT's* current "Design Manual," and *WSDOT's* current "Standard Specifications for Road, Bridge, and Municipal Construction." The *City* may require or restrict hours of construction to minimize disruption of traffic. If construction activity within the SR 522 *right-of-way* causes undue disruption of traffic or creates safety hazards, or if the construction activity is not in compliance with the traffic control specifications in the *permit*, the *city manager* shall advise the *permit* holder or the *permit* holder's *contractor* of the need for immediate corrective action and may order immediate suspension of all or part of the *work* if deemed necessary. Failure to comply with this provision may result in *permit* modification or revocation.

B. Traffic Signals and Other Traffic Control Devices.. The *permit* holder shall be responsible for coordinating with and securing any *WSDOT permits* needed for traffic signalization and regulatory signing and marking.

C. Connection Construction Inspection. For Category II and Category III *connections*, the *city manager* may require the *permit* holder, developer, or *owner* to provide inspection of construction and certification that *connection* construction is in accordance with *permit* provisions and appropriate *City* standards. [Ord. 06-0247 § 1.]

#### **12.85.090 Changes in property site use.**

The *connection permit* shall be issued to the *permit* holder for a particular type of land use generating specific projected traffic volumes at the final stage of proposed *development*. Any changes made in the use, intensity of *development*, type of traffic, or traffic flow of the property requires the *permit* holder, any assignee, or *property owner* to contact the *city manager* to determine whether further analysis is needed to determine if the change is significant and would require a new *permit* and modifications to the *connection*. An engineering study, signed and sealed by a *professional engineer*, may be required to document the extent of the change. If modification of the existing *connection* is required, based on a significant change as determined by the *city engineer*, the *permit* holder, his or her assignee, or the *property owner* shall obtain a new *permit* prior to the initiation of any on-site construction to the *connection* or to the property.

A. Significant Change. A significant change is one that would cause a change in the category of the *connection permit* or one that causes an operational, safety, or *maintenance* problem on SR 522 based on objective engineering criteria or available crash data. Such data shall be provided to the *property owner* and/or *permit* holder and tenant upon written request.

B. Notification. Failure to contact the *City* to determine the need for *connection* modifications or to apply for a new *permit* for such modifications prior to initiation of property improvements, land use changes or traffic flow alteration actions shall result in notification to the *property owner* and/or *permit* holder and tenant of intent to revoke the existing *permit* and closure of the *connection* to the property.

C. Costs. The *permit* holder shall be responsible for all costs associated with *connection* removal, *relocation*, or modification caused by increased or altered traffic flows necessitated by changes to the site, use, or to the nature of the business on the property. [Ord. 06-0247 § 1.]

**12.85.100 Permit modification and revocation – Closure of permitted connections.**

A. Revocation Criteria. All *connection permits* issued by the *City* remain valid until revoked. The *city manager* may initiate an action to revoke any *permit* if significant changes have occurred in the use, design, or traffic flow of the property or of SR 522, requiring the *relocation*, alteration, or closure of the *connection*; if the *connection* was not constructed at the location or to the design specified in the *permit*; if the *permit* provisions were not met; or if the *connection* causes a safety, *maintenance*, or operational problem on the *road*.

The *city manager* shall give written notice to the *permit* holder, the *permit* holder's successors or assigns, or the *property owner* with a copy to the occupant, for any *connection* found to be in noncompliance with the conditions of the *permit*. The notice shall identify the deficiencies and request that they be corrected within 30 calendar days of the date of the notice. The notice shall further advise that the *City's* determination of noncompliance or deficiencies shall become final and conclusive 30 calendar days following the date of the notice unless the violations are corrected or an appeal is filed by the *permit* holder, *permit* holder's successor or assigns, or the *property owner*.

B. Costs. The *permit* holder, *permit* holder's successor or assignee, or *property owner* shall be responsible for the costs of closure due to revocation of a *connection permit*, except when the closure is required by changes to SR 522.

C. Emergency Action. This chapter shall not restrict the *city engineer's* right to take immediate remedial action, including the closure of a *connection*, if there is an immediate and serious danger to the public health, safety, and welfare.

D. Appeals. All appeals must be received within 30 calendar days of the date of the notice. Appeals shall include all contact information and justification for why the *City's* decision is in error or extenuating circumstances that merit reconsideration. Appeals shall be reviewed by the *city manager*. Appeal decisions shall be final and may not be further appealed. [Ord. 06-0247 § 1.]

**12.85.110 Access control classification.**

A. *WSDOT* has created an access control classification system consisting of five classes, where Class One is the least restrictive. *WSDOT* has designated SR 522 as Class Four. On all access classes, property access shall be located and designed to minimize interference with transit operations and/or high occupancy vehicle (HOV) use on SR 522 where such operations/uses exist or where such operations/uses are proposed. In such cases, if *reasonable access* is available from the *City* street system, primary property access shall be provided from the *City* street system rather than from SR 522.

B. SR 522, with its Class Four designation, has the following functional characteristics and access control standards:

1. Functional Characteristics. SR 522 has the capacity for moderate travel speeds and moderate traffic volumes for medium and short travel distances providing for inter-City, intra-City, and inter-community travel needs. There is to be a reasonable balance between direct access and mobility needs. Existing level of development of the adjoining land is intensive. SR 522 is distinguished by existing or planned nonrestrictive *medians*. Restrictive *medians* may be used as operational conditions warrant to mitigate turning, weaving, and crossing conflicts. Minimum *connection* spacing standards should be applied if adjoining properties are redeveloped.

2. Access Control Design Standards. The public roadway intersection spacing and driveway *connection* spacing distances specified are minimums. Greater distances may be required by the *city engineer* to provide desirable traffic operational and safety characteristics. If greater distances are required, the *city engineer* will document the reasons, based on traffic engineering principles, for such greater distances. Nonconforming *permits* may be issued allowing for less than minimum spacing where no other *reasonable access* exists. A *variance connection permit* may be issued where it can be substantiated by a traffic analysis, to the satisfaction of the *city engineer*, that allowing less than the minimum spacing or more than the maximum number of *connections* would not adversely affect the desired function of SR 522 and would not adversely affect the safety, *maintenance* or operation of SR 522.

a. Public Roadway Intersections. In the *City*, where higher volumes are present or growth that will require signalization is expected in the foreseeable future, it is imperative that the location of any public access be planned carefully to ensure adequate signal progression. Where feasible, major intersecting roadways that may ultimately require signalization shall be planned with a minimum of one-half mile spacing. Addition of all new *connections*, public or private, that may require signalization will require an engineering analysis signed and sealed by a qualified *professional engineer*.

b. Private Direct Access.

(1) Regardless of the number of access points that exist prior to any *development*, no more than one access shall be provided to an individual parcel or to contiguous parcels under the same *owner*, unless it can be shown that additional access points are necessary for the functionality of the *development*, would not adversely affect the desired function, safety, or operations on SR 522, and would not cause an unreasonable risk to public health, safety, and welfare.

(2) The minimum distance to another public or private access *connection* shall be 250 feet. Nonconforming *connection permits* may be issued to provide access to parcels whose *highway* frontage, topography, or location would otherwise preclude issuance of a *conforming connection permit*.

(3) Variance *permits* may be allowed if conditions warrant. These conditions must be demonstrated to the satisfaction of the *city engineer* by a traffic analysis that is signed and sealed by a qualified *professional engineer*.

3. Corner Clearance. Corner clearances for *connections* shall meet or exceed the minimum *connection* spacing requirements. A single *connection* may be placed closer to the intersection in accordance with the following criteria:

a. If, due to property size, corner clearance standards cannot be met, and where *joint use driveways* meeting or exceeding the minimum corner clearance standards cannot be obtained, or is determined by the *city engineer* to be not feasible because of conflicting land use or conflicting traffic volumes or operational characteristics, then the following minimum corner clearance criteria may be used:

**Corner Clearance at Intersections**

With Restrictive Median		
Position	Access Allowed	Minimum (Feet)
Approaching intersection	Right in/right out	115
Approaching intersection	Right in only	75
Departing intersection	Right in/right out	230
Departing intersection	Right out only	100
Without Restrictive Median		
Position	Access Allowed	Minimum (Feet)
Approaching intersection	Full access	230
Approaching intersection	Right in only	100
Departing intersection	Full access	230
Departing intersection	Right out only	100



b. Additional Conditions.

(1) There shall be no more than one *connection* per *abutting property* on SR 522 regardless of minimum *connection* spacing unless it can be shown that additional access points are necessary for the functionality of the *development*, would not adversely affect the desired function, safety, or operations on SR 522, and would not cause an unreasonable risk to public health, safety, and welfare.

(2) When *joint use driveways* or alternate accesses meeting or exceeding the minimum corner clearance standards becomes available, the *permit* holder shall close the permitted *connection*, unless the *permit* holder shows to the *city engineer's* satisfaction that such closure is not feasible. [Ord. 06-0247 § 1.]

## Chapter 12.90

### TRANSPORTATION BENEFIT DISTRICT

#### Sections:

- 12.90.010 Transportation benefit district established.
- 12.90.020 Governing board.
- 12.90.030 Authority of the district.
- 12.90.040 Use of funds.
- 12.90.050 Revenue sources.
- 12.90.060 Dissolution of district.

#### **12.90.010 Transportation benefit district established.**

There is created a transportation benefit district to be known as the Kenmore transportation benefit district with geographical boundaries comprised of the corporate limits of the *City* as they currently exist or as they may exist following future annexations. [Ord. 12-0339 § 1.]

#### **12.90.020 Governing board.**

A. The governing board of the transportation benefit district shall be the Kenmore city council, which shall have the authority to exercise the statutory powers set forth in Chapter 36.73 RCW and this chapter.

B. The treasurer of the transportation benefit district shall be the *City* director of finance.

C. The board shall develop a material change policy to address major plan changes that affect project delivery or the ability to finance the plan, pursuant to the requirements set forth in RCW 36.73.160(1).

D. The board shall issue an annual report, pursuant to the requirements of RCW 36.73.160(2). [Ord. 16-0424 § 3; Ord. 12-0339 § 1.]

#### **12.90.030 Authority of the district.**

The board shall have and may exercise any powers provided by law to fulfill the purpose of the Kenmore transportation benefit district. [Ord. 12-0339 § 1.]

#### **12.90.040 Use of funds.**

The funds generated by the transportation benefit district may be used for any purpose allowed by law including to operate the district and to make transportation improvements that are consistent with existing State, regional, and local transportation plans and necessitated by existing or reasonably foreseeable congestion levels pursuant to Chapter 36.73 RCW. The transportation improvements funded by the district shall be made in an effort to preserve and maintain transportation infrastructure, improve public safety, or implement *city projects* identified in Kenmore's *transportation improvement program*. [Ord. 12-0339 § 1.]

#### **12.90.050 Revenue sources.**

The board shall have the authority to establish all fees and other revenue sources authorized by Chapter 36.73 RCW, consistent with RCW 36.73.065. [Ord. 12-0339 § 1.]

#### **12.90.060 Dissolution of district.**

The transportation benefit district shall be dissolved when all indebtedness of the district has been retired and when all of the district's anticipated responsibilities have been satisfied. [Ord. 12-0339 § 1.]

## Chapter 12.95

### RIGHT-OF-WAY VACATIONS

#### Sections:

<a href="#">12.95.010</a>	Purpose.
<a href="#">12.95.020</a>	Definitions.
<a href="#">12.95.030</a>	Applicability.
<a href="#">12.95.040</a>	Initiation of proceedings.
<a href="#">12.95.050</a>	Public petition for vacation.
<a href="#">12.95.060</a>	Council resolution for vacation.
<a href="#">12.95.070</a>	Date of public hearing.
<a href="#">12.95.080</a>	Public notification of hearing.
<a href="#">12.95.090</a>	Objection by property owners.
<a href="#">12.95.100</a>	Public hearing procedures.
<a href="#">12.95.110</a>	Criteria for granting street vacation.
<a href="#">12.95.120</a>	Limitations on vacations
<a href="#">12.95.130</a>	Right to reserve easements.
<a href="#">12.95.140</a>	Voluntary agreement between city and applicant.
<a href="#">12.95.150</a>	Final decision.
<a href="#">12.95.160</a>	Appraisal reviews.
<a href="#">12.95.170</a>	Fees and costs.
<a href="#">12.95.180</a>	Title to vacated street or alley.
<a href="#">12.95.190</a>	Vested rights not affected.
<a href="#">12.95.200</a>	City use of revenue.

#### **12.95.010 Purpose.**

This chapter establishes the procedures and criteria that the *City* will use to decide upon vacation of *roads*, alleys, or any part thereof. This chapter is intended to implement the authority granted to the *City* pursuant to Chapter 35.79 RCW and RCW 35A.47.020. In case of a conflict between this chapter and those statutes, the statutory provisions shall prevail.

#### **12.95.020 Definitions**

A. "Subject right-of-way" means the *road* or alley, or portions thereof, sought to be vacated.

#### **12.95.030 Applicability.**

This chapter applies to requests for the vacation of *roads*, alleys and public easements relating to said roads or alleys, or any part thereof. This chapter shall not apply to vacation or termination of other types of public easements.

#### **12.95.040 Initiation of proceedings.**

A vacation may be initiated by the city council or by *abutting property owners* pursuant to RCW 35.79.010.

#### **12.95.050 Petition for vacation.**

The *owners* of an interest in any real estate abutting upon any *road* or alley who may desire to vacate the *street* or alley, or any part thereof, may petition the city council. The petition shall be in a form prescribed by the *city engineer* and shall contain the following information:

A. Upon receiving a petition signed by owners of more than two-thirds of the property abutting upon the part of such *street* or ally sought to be vacated, petitioners shall submit a complete vacation *application* to the City. A vacation *application* shall contain the name, address, email and telephone number of a representative for the petitioners, with supporting documentation from each petitioner on forms provided by the *department*.

B. A legal description of the area to be vacated prepared by a licensed surveyor in the State of Washington.

- C. Site map showing all property lines and the *subject right-of-way* highlighted, scaled as required by the *department*.
- D. Verification of ownership and providing a legal description of the property owned by each petitioner.
- E. A copy of the King County assessor's map identifying all *property owners* and parcel ID numbers.
- F. A completed request for public *utility* review.
- G. The vacation *application* fee as established by resolution.
- H. An appraisal of each *abutting property* of the *subject property* prepared by a WSDOT approved appraiser.
- I. A signed agreement to pay the cost of an appraisal review as provided for in Section [12.95.170](#);
- J. The petition shall discuss the criteria set forth in KMC 12.95.110; and
- K. Any additional information or material that the *department* determines is reasonably necessary for the city council to consider the requested vacation.

**12.95.060 Council resolution for vacation.**

The city council may initiate, by resolution, vacation procedures. The resolution shall contain a legal description of the *subject right-of-way* and shall be filed with the city clerk.

**12.95.070 Date of public hearing.**

Upon receiving a petition signed by owners of more than two-thirds of the property abutting upon the part of such *street* or ally sought to be vacated and a complete *application*, the city council by resolution shall fix a time and date when the city council will hold a public hearing on the proposed vacation. If vacation is initiated by the city council, the resolution initiating the vacation shall fix a time and date on when the city council will hold a public hearing on the vacation. The hearing shall not be more than sixty days nor less than twenty days after the date of passage of such resolution. The two-thirds measure shall be determined pursuant to Section 12.95.090.

**12.95.080 Public notification of hearing.**

A. The *City* shall prepare a public notice containing the following information:

- 1. A statement that a petition to vacate the *subject right-of-way* has been filed with the city and will be considered by the city council or that the city council has initiated a street vacation of the *subject right-of-way*;
- 2. A statement of the time and place of the public hearing before the city council;
- 3. A location description in non-legal language along with a vicinity map that identifies the *subject right-of-way* proposed to be vacated;

B. At least twenty calendar days before the public hearing, the *City* shall distribute the public notice as follows:

- 1. In all cases where the proceeding is initiated by resolution of the city council, in addition to the notice required herein, there shall be given by mail at least fifteen days before the date fixed for the hearing, a similar notice to the owners or reputed owners of all lots, tracts or parcels of land or other property abutting upon any *street* or alley or any part thereof sought to be vacated, as shown on the rolls of the county treasurer, directed to the address thereon shown.
- 2. A copy will be published in the official newspaper of the *City*, except no vicinity map shall be required;
- 3. Posted in a conspicuous location at the three most public places within the *City*;

4. A copy will be posted on the *subject right-of-way* in the manner set out in subsection C of this section.

C. Public Notice Sign. The city clerk shall provide for and have public notice signs posted at least twenty calendar days before the public hearing as follows:

1. The posted notice shall be designed and constructed in accordance with the administrative procedures developed by the *department*. A copy of the public notice described in subsection A of this section and the vicinity map shall be attached to each sign.
2. One posted notice shall be located at each public access location and placed so that the sign(s) are conspicuously visible from an improved public *right-of-way* not subject to the vacation request. The *department* shall approve the location of each sign.
3. All posted notices shall be removed after the final public hearing.

**12.95.090 Objection by property owners.**

A. If fifty percent or more of the *abutting property owners* file written objections to a city council initiated vacation with the city clerk, prior to the time of the public hearing, then the *City* shall be prohibited from proceeding with the vacation. The calculation of each *abutted property's* percentage shall be based on the following:

1. Roads and alleys: the total length of each individual property linear footage abutting the *subject right-of-way* over the total perimeter length of the *subject right-of-way*.
2. Public easements: the square footage of the *subject right-of-way* on each individual property over the total area of the *subject right-of-way*.

**12.95.100 Public hearing procedures.**

A. The city council shall hold a public hearing on each street vacation pursuant to KMC 12.95.070 and 12.95.080.

B. The city council may continue the hearing if the city council determines that it needs more information on the vacation. If, during the hearing, the city council continues the hearing to a specific time and place on the vacation, no further notice of the hearing need be given.

C. The *department* shall provide an analysis of the requested vacation in relation to the provisions of this chapter and the applicable provisions of the comprehensive plan with a recommendation on the requested vacation.

D. Any interested person may participate in the public hearing in either or both of the following ways:

1. By submitting written comments to the city council by delivering the comments to the city clerk as noted in the public notice prior to the hearing; and
2. By appearing in person, or through a representative, at the hearing and making oral comments directly to the city council.

**12.95.110 Criteria for granting street vacation.**

A. The decision on a vacation *application* is a legislative determination. The city council may, at its discretion, vacate a *road* or alley or part thereof if it determines that vacation is in the public interest and that:

1. The *subject right-of-way* is not currently necessary for travel or other *road* purposes, nor likely to be in the future;
2. The vacation request takes into account existing *facilities* and other uses into consideration per KMC 12.95.130; and
3. No property is denied access to the public *right-of-way* as a result of the vacation.

B. The city council may consider any other fact or issue it deems relevant when deciding whether to vacate a *road*, alley.



C. If the City Council determines to grant the petition or any part thereof, the city shall be authorized to vacate such *street*, or alley, or any part thereof, and the ordinance may provide that it shall not become effective until the owners of property abutting upon the *street* or alley, or part thereof so vacated, shall compensate the City in an amount which does not exceed one-half the appraised value of the *subject right-of-way*. If the *street* or alley has been part of a dedicated public right-of-way for twenty-five years or more, or if the subject property or portions thereof were acquired at public expense, the city may require the owners of the property abutting the *street* or alley to compensate the city in an amount that does not exceed the full appraised value of the area vacated.

**12.95.120 Limitations on vacations.**

Vacations of *roads* abutting bodies of water shall be limited and follow the procedures set forth in RCW 35.79.035.

**12.95.130 Right to reserve easements.**

In vacating a *road* or alley governed by this chapter, the city council may retain an easement or the right to exercise and grant any easements in respect to the vacated land for construction, repair, and *maintenance* of for the following purposes: Construction, repair, and *maintenance* of public *facilities* and services.

**12.95.150 Final decision of vacation.**

A. Following the public hearing, the city council shall either:

1. Adopt an ordinance granting the vacation, subject to conditions the city council deems necessary; or
2. Adopt a motion denying the vacation.

B. The ordinance may be conditioned as follows:

1. Receipt of monetary compensation pursuant to RCW 35.79.030 and KMC 12.95.170.
2. Receipt of *utility* easements, if any, per KMC 12.95.130.
3. Other conditions deemed appropriate by the city council.

C. Within 14 calendar days of the city council's approval of the ordinance or from the date all conditions of the ordinance are met, whichever comes later, the ordinance shall be recorded by the city clerk in the office of the auditor of the county in which the vacated land is located.

**12.95.160 Appraisal reviews.**

The *city manager* is authorized to obtain appraisals from qualified, independent appraisal reviewers as part of the *application* review.

**12.95.170 Fees and costs.**

The *city manager* is authorized to collect fees for the following:

A. Application fee: The cost for reviewing, noticing, and preparing documentation for city council review shall be paid by the *applicant*. Fees shall be as determined by the city council by resolution;

B. Appraisal review cost: The cost for an appraisal review shall be paid by the *applicant*. Cost shall be the direct invoice cost for the appraisal review;

C. Subject right-of-way cost: The cost for the *subject right-of-way* shall be the full appraised value of the *subject right-of-way* area as determined by the *City's* appraisal reviewer, the calculation for each abutting property owner based upon percentage calculations pursuant to Section 12.95.090.

**12.95.180 Title to vacated street or alley.**

Title of *subject right-of-way* shall be pursuant to RCW 35.79.040.

**12.95.190 Vested rights not affected.**

No vested rights shall be affected by the provisions of this chapter.

**12.95.200 City use of revenue.**

One half of the revenue received by the *City* as compensation for the vacated *right-of-way* must be dedicated to the acquisition, improvement, development, or related *maintenance* of public open space or transportation capital projects within the *City*.

## City of Kenmore

## Title 12 Discussion

## Summary of Changes Made

Chapter	Purpose	Changes Made
12.05 General Provisions	This section covers the general intent of the title, definition of terms used, and general provisions for encroachments into the right of way	<ul style="list-style-type: none"> <li>- All definition within the title were consolidated into this section,</li> <li>- Terms were updated to be consistent within the title,</li> <li>- Encroachments were expanded to personal property.</li> </ul>
12.10 Official Street System	Establishes the city's street system	This section was updated to reflect current technology and practices
12.15 Load Restrictions on Streets	Establishes requirements for street closures and load restrictions	<ul style="list-style-type: none"> <li>- Chapter name changed,</li> <li>- Clarified access for school bus and emergency services during closures</li> </ul>
12.20 Load Limits on Bridges	Establishes load limits on bridges including enforcement	The west Sammamish River Bridge was deleted
12.35 Rights-Of-Way	Establishes permitted uses of the right-of-way and establishes requirements for obtaining a permit	<ul style="list-style-type: none"> <li>- Added clarification for unimproved right-of-way,</li> <li>- City projects exempted from obtaining a permit,</li> <li>- permit extensions/expiration were clarified,</li> <li>- permit fees were add and existing clarified,</li> <li>- Right-of-Way Use permit types were revised,</li> <li>- insurance/indemnification requirements added,</li> <li>- performance bonds were added.</li> </ul>
12.40 Permit System for City Property	Establishes requirements for the private use of city owned real property	<ul style="list-style-type: none"> <li>- Clarified uses that applied to special use permits,</li> <li>- clarified permit extensions,</li> <li>- added permit fees.</li> </ul>
12.45 Complete Streets Policy	Establishes the city's complete streets policy and framework	<ul style="list-style-type: none"> <li>- Removed table identifying types of complete street infrastructure,</li> <li>- added ADA guidelines</li> </ul>

**City of Kenmore                      Title 12 Discussion                      Summary of Changes Made**

Chapter	Purpose	Changes Made
12.50 Road Standards	Establishes the road standards as the design standards for the right-of-way	<ul style="list-style-type: none"> <li>- Added clarification to “minor administrative changes”,</li> <li>- moved definitions to 12.05,</li> <li>- clarified where road standards were applicable,</li> <li>- exempted city maintenance,</li> <li>- clarified variance approvals and fees</li> </ul>
12.55 Utilities on City Right-of-Way	Establishes requirements for permitting utilities within the right-of-way	A full rewrite of this chapter
12.58 Wireless Communication Facilities within City Right-of-Way	Establishes permitted uses for wireless infrastructure within the right-of-way	<ul style="list-style-type: none"> <li>- Clarified extensions,</li> <li>- simplified fee language,</li> <li>- added aesthetic/scenic requirements,</li> <li>- added adjustments/relocation of facilities,</li> <li>- added security and safety of facilities,</li> <li>- added abandonment of facilities</li> </ul>
12.60 Public and Private Utilities on Real Property	Establishes permitted uses for utilities on city owned real property	<ul style="list-style-type: none"> <li>- Removed references to Seattle King County Dept. of Health,</li> <li>- clarified review process,</li> <li>- clarified when facilities may be installed and agreement expiration,</li> <li>- added fees</li> </ul>
12.65 Snow Emergency Routes	Establishes the city’s snow emergency routes	<ul style="list-style-type: none"> <li>- Updated to electronic outreach,</li> <li>- added collector roads to possible emergency routes,</li> <li>- added noticing requirements to schools,</li> <li>- police and fire services.</li> </ul>

## City of Kenmore

## Title 12 Discussion

## Summary of Changes Made

Chapter	Purpose	Changes Made
12.70 Sidewalks, Planting Strips, and Street Trees	Establishes maintenance requirements for the right-of-way	<ul style="list-style-type: none"> <li>- Clarified “planting strip” definition,</li> <li>- revised sidewalk maintenance and code compliance,</li> <li>- expanded/clarified procedure for sidewalk repair,</li> <li>- clarified vegetation maintenance requirements,</li> <li>- added unimproved right-of-way,</li> <li>- added option for city manager to direct specific areas for city-maintained right-of-way,</li> <li>- added vegetation maintenance enforcement</li> </ul>
12.80 Integrated Transportation Program	Establishes the city’s level of service for intersections and the city’s policy for growth management	Removed exemptions for complying with LOS and impact fees
12.85 State Route 522 Access Management Program	Establishes access to and from SR522	<ul style="list-style-type: none"> <li>- Definition terms simplified and some moved to 12.05,</li> <li>- moved excess text from definitions to other area of 12.85.</li> <li>- simplified permit review,</li> <li>- added appeal process to permit revocation</li> </ul>
12.90 Transportation Benefit District	Establishes the Transportation Benefit District	No significant changes. Added one word to conform to the definitions
12.95 Right-of-Way Vacations	Establishes a policy for address the vacation of public streets and alleyways.	This is a new section to Title 12.



# Title 12 Update

**May 1, 2023**



# LAST TIME....

- Refresher on general changes made
- Review of:
  - Chapter 12.58 – Wireless Communication Facilities within City Rights-of-Way
  - Chapter 12.60 – Public and Private Utilities on Real Property
  - Chapter 12.65 – Snow Emergency Routes
  - Chapter 12.70 – Sidewalks, Planting Strips, and Street Trees

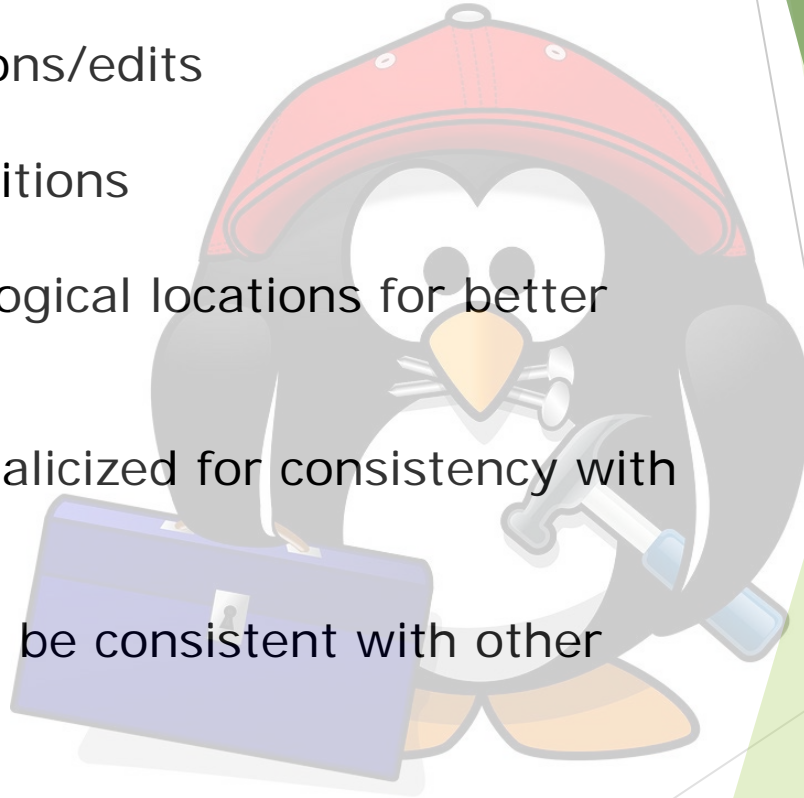
# Changes...

- ...from previous discussion
  - Chapter 12.55.150 – Utility Locates – added that utility locations are at the utility's expense.
  - Chapter 12.55.170 – Utility Abandonment
    - Added 30-day time limit to remove abandoned facilities
    - Revised text for clarity

change

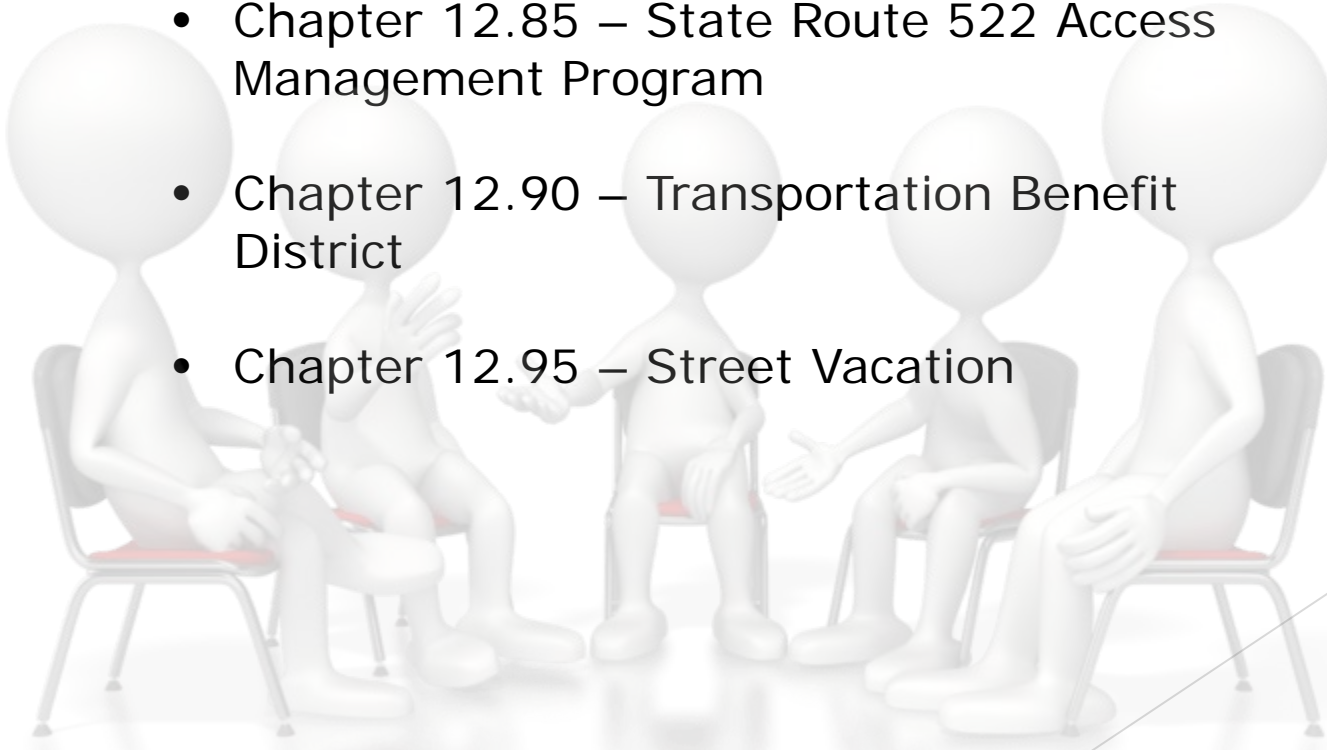
# GENERAL CHANGES MADE

- Grammatical corrections/edits
- Consolidation of definitions
- Text moved to more logical locations for better flow
- Defined terms were italicized for consistency with the rest of the KMC
- Renaming of terms to be consistent with other documents



# WHAT ARE WE DISCUSSING TONIGHT?

- Chapter 12.80 – Integrated Transportation Program
- Chapter 12.85 – State Route 522 Access Management Program
- Chapter 12.90 – Transportation Benefit District
- Chapter 12.95 – Street Vacation





# CHAPTER 12.80 INTEGRATED TRANSPORTATION PROGRAM

This section

- Establishes LOS
- Establishes concurrency program
- Establishes impact fees

What's changed:

- Removed exceptions for LOS (Comp Plan) and Impact Fees (KMC 20.47).

# QUESTIONS/COMMENTS ON 12.80



# CHAPTER 12.85

## STATE ROUTE 522 ACCESS MANAGEMENT PROGRAM

This section covers

- Access to and from SR522

What's changed:

- Added an administrative appeal process on permit decisions

# QUESTIONS/COMMENTS ON 12.85



# CHAPTER 12.90 TRANSPORTATION BENEFIT DISTRICT

This section covers

- Formation of a TBD

What's changed:

- No significant changes



# QUESTIONS/COMMENTS ON 12.90



# CHAPTER 12.95

## STREET VACATIONS

This section covers

- Vacation of public rights-of-way

NEW Section:

- 12.95.010-12.95.030
  - Discusses purpose, definitions specific to vacations, and applicability of this chapter.
  - RCW 35.79

# CHAPTER 12.95

## STREET VACATIONS

- 12.95.040 – Initiation of Proceedings
  - May be initiated by city council or by abutting property owner.
- 12.95.050 – Petition for Vacation
  - Establishes process for how an abutting property owner may start a petition
  - 67% of property owners necessary
- 12.95.060 – Council Resolution for Vacation
  - Council, by resolution, may initiate a vacation
- 12.95.070/080 – Public Hearings/Public Notification

# CHAPTER 12.95

## STREET VACATIONS

- 12.95.090 – Objection by Property Owner
  - Allows for objections by adjacent property owners
  - Over 50% of property owners cancels vacation
  - Establishes how percentage of property owners are determined
    - Roads/alleys – length of abutting land
    - Easements – SF encumbered on land
- 12.95.100 – Public Hearing Procedures
  - Establishes process for public hearings

# CHAPTER 12.95

## STREET VACATIONS

- 12.95.110 – Criteria for Granting Street Vacation
  - In the public interest
  - Not required for future use
  - Takes utilities into account
  - No property denied access to ROW
  - Any other issue deemed relevant
  - Vacation may be delayed until fees/cost of land paid
- 12.95.120 – Limitations on Vacations
  - Limits on roads abutting bodies of water
- 12.95.130 – Rights to Reserve Easements
  - Allows city to reserve rights for utilities



# CHAPTER 12.95

## STREET VACATIONS

- 12.95.140 – error in numbering, will revise on final
- 12.95.150 – Final Decision of Vacation
  - Provides options on how council makes decision
    - Adopt vacation as presented
    - Adopt motion denying vacation
    - Adopt conditions to vacation
      - Payment of fees/property costs
      - Receipt of easements
      - Other conditions deemed appropriate
- 12.95.160 – Appraisal Reviews
  - Allows city to hire an appraisal reviewer

# CHAPTER 12.95

## STREET VACATIONS

### 12.95.170 – Fees and Costs

- Establishes fees charged and cost of vacated ROW
  - Application fee (fee schedule)
  - Application review cost (direct invoice)
  - ROW cost (by appraisal)

### 12.95.180 – Title to Vacated Street or Alley

- Requires vacated ROW to be split per RCW

### 12.95.190 – Vested Rights not Affected

- Vested rights are protected

### 12.95.200 – City Use of Revenue

- Half to open space or transportation capital expenses
- Half unrestricted

# QUESTIONS/COMMENTS ON 12.95



# TITLE 12 RECAP

- Why update
  - Out of date (state law, city policies and standards)
  - New information needed
  - Out of date terminology
  - Reorganization and rephrasing (consistent with rest of KMC)
- Chapters discussed
  - 12.05-12.95
    - Covering ROW use, permitting, and regulations
    - Use of city owned property
  - Policy level changes

# WHAT'S NEXT

- **May 22nd:**
  - ▶ Adoption of Title 12 ordinance
  - ▶ Adoption of parking removal ordinance

Not Needed





**Final  
Thoughts**

