

Title 15

**STREET AND SIDEWALK USE**

This title is intended for those provisions of the Code which relate to the use, maintenance and construction of streets and sidewalks.

<b>Chapters:</b>		
Subtitle I Street Use Ordinance		
15.02	General Provisions	15-3
15.04	Use and Occupation Permits	15-7
15.06	Driveways	15-16
15.08	Areaways, Vents and Elevators	15-19
15.10	Marquees, Awnings, Canopies, and Decorative Elements	15-20
15.12	Signs, Banners and Street Clocks	15-21
15.14	Newsstands	15-22
15.16	Sidewalk Cafes	15-25
15.17	Vending	15-27
15.18	Dangerous Structures on Adjoining Property	15-30.1
15.20	Building Cleaning or Painting	15-31
15.22	Building Construction/Demolition	15-32
15.24	Scaffolds	15-36
15.26	Backfilling	15-37
15.28	Building and Equipment Moving	15-37
15.32	Franchise and Public Utility Permits and Regulations	15-40
15.35	Filming	15-46.2
15.36	Lifting Heavy Equipment	15-46.2
15.38	Impounding	15-46.3
15.40	Warning Lights and Barricades	15-48
15.42	Planting Trees and Shrubs	15-49
15.44	Excavations and Fills	15-50
15.46	Debris in Public Places	15-56
15.48	Miscellaneous Acts	15-57
15.52	Crowd Control Events	15-60
15.54	Monorail Guideways	15-65

Statutory Reference: For statutory provisions authorizing first-class cities to regulate and control the use of streets and sidewalks, see RCW 35.22.280(7).

Severability: If any portion of this subtitle shall be declared invalid, it shall not thereby affect the validity of the remaining portions. (Ord. 90047 § 5, 1961.)

Subtitle II Miscellaneous Street Use Regulations		
15.60	Classification of Roads and Streets	15-67
15.62	Vacation of Streets, Alleys and Public Places	15-67
15.64	Skybridge Permits	15-70
Subtitle III Maintenance and Construction		
15.70	Sidewalk Construction	15-73
15.72	Sidewalk Maintenance	15-74
15.76	Inspection of Certain Structures in Public Places	15-75
Subtitle IV Enforcement		
15.90	Enforcement	15-76
15.91	Citations	15-78.1
	Appendix I to Title 15--Description of Park Drives and Boulevards	15-79
	Appendix II to Title 15--Corresponding Maps of Park Drives and Boulevards	15-83

**Subtitle I.**

**Street Use Ordinance**

**Chapter 15.02**

**GENERAL PROVISIONS**

**Sections:**

- 15.02.010 Title.
- 15.02.015 Chapter headings and captions.
- 15.02.020 Exercise of police powers.
- 15.02.025 Disclaimer of City liability.
- 15.02.027 First Amendment rights; personal freedoms.
- 15.02.030 Right to prosecute civil action.
- 15.02.035 "May"--"Shall."
- 15.02.040 Definitions--General principles.
- 15.02.042 Definitions A through C.
- 15.02.044 Definitions D through M.
- 15.02.046 Definitions N through S.
- 15.02.048 Definitions--Use.
- 15.02.050 Safety Code, Building Code, and Washington Clear Air Act Compliance.
- 15.02.060 Scope of authorization.
- 15.02.070 Nearest equivalent.
- 15.02.080 Assemblies and gatherings.
- 15.02.085 Public fora.
- 15.02.090 Appeals to Municipal Court.
- 15.02.100 Effect of ordinance.
- 15.02.110 Authority cumulative.

Cases: Seattle has authority to charge fees for permission to occupy a portion of a public street for private use. The proof was inadequate to establish the existence and use of the areaways. **Seattle v. Samis Land Co**, 55 Wn.App. 554, 779 P.2d 277 (1989).

**15.02.010 Title.**

This subtitle shall constitute the "Street Use Ordinance" of the City and may be referred to as such.  
(Ord. 90047 § 1, 1961.)

#### **15.02.015 Chapter headings and captions.**

Chapter headings, tables of contents, and captions of sections are for convenient reference only and do not modify or limit the text of a section. An ordinance number and section in parenthesis following a section in the codification of this title refers to the enacting ordinance.  
(Ord. 117569 § 1(part), 1995.)

#### **15.02.020 Exercise of police power.**

This subtitle is an exercise of police power of the City for the public safety, health and welfare, and its provisions shall be liberally construed for the accomplishment of that purpose.  
(Ord. 90047 § 2, 1961.)

#### **15.02.025 Disclaimer of City liability.**

A. Issuance of any permit pursuant to the Street Use Ordinance<sup>1</sup> does not constitute the creation of a duty by the City to any person or to indemnify any person for any wrongful acts of a permit holder against any person or the public or to otherwise shift responsibility from the licensee to the City.

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

C. It is expressly the purpose of this subtitle 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 subtitle.

D. It is the specific intent of this subtitle to place the obligation of complying with its requirements upon the permit holder or applicant for permit within its scope, and no provision of nor term used in this subtitle is intended to impose any duty whatsoever upon the City or any of its officers or employees, for whom the implementation or enforcement of this subtitle shall be discretionary and not mandatory.

E. Nothing contained in this subtitle is intended to be nor shall be construed to create or form the basis for any liability on the part of the City, or its officers, employees or agents, for any injury or damage resulting from the failure of a permit holder or applicant for permit to comply with the provisions of this subtitle, or by reason or in consequence of any act or omission in connection with the implementation or enforcement of this subtitle on the part of the City by its officers, employees or agents.  
(Ord. 109969 § 3, 1981.)

1. Editor's Note: The Street Use Ordinance is codified in Chapters 15.02 through 15.54 of this Code.

#### **15.02.027 First Amendment rights; personal freedoms.**

This ordinance shall be interpreted in a manner consistent with the First and Fourteenth Amendments to the United States Constitution and Article I, Sections 3, 4, 5, and 11 of the Washington Constitution. (Ord. 117569 § 1(part), 1995.)

**15.02.030 Right to prosecute civil action.**

Nothing in this subtitle shall be construed to curtail or abridge the right of anyone to prosecute a civil action for damages by reason of injury to person or property resulting from the negligent use by any other person of any public place or the space above or beneath the same, nor shall the issuance of a permit under this subtitle be construed as relieving the persons accepting the same, or anyone, from liability over to the City, nor from any damages accruing to or suffered by anyone, caused by the occupation, obstruction of or encroachment on, any public place. (Ord. 90047 § 4, 1961.)

**15.02.035 "May"--"Shall."**

Unless the context clearly indicates otherwise, the word "may" or "is authorized to" means that the City or its official has discretion to take an action or decline to do so. The word "shall" expresses an intention that an action be taken or a requirement be met, but, if the sentence is negative, "shall" is prohibitory; for example, Sections 15.42.010-15.42.040. (Ord. 117569 § 1(part), 1995.)

**15.02.040 Definitions--General principles.**

The words and phrases identified in Sections 15.02.042 through 15.02.048 shall be construed in accordance with their respective definitions or explanations, except where the same shall be clearly contrary to or inconsistent with the context of this title or the section in which used.

Words in the present tense shall include the future tense, words in the masculine gender shall include the feminine and neuter genders, and words in the singular shall include the plural and plural words shall include the singular. (Ord. 117569 § 2(part), 1995; Ord. 109271 § 4, 1980; Ord. 108020 § 1, 1979; Ord. 106583 § 10, 1977; Ord. 102645 § 1, 1973; Ord. 99674 § 1, 1971; Ord. 98197 § 2, 1969; Ord. 91749 § 1, 1963; Ord. 90047 § 6, 1961.)

**15.02.042 Definitions A through C.**

- A. "Adjacent property" means and includes the property abutting the margin of and contiguous to the public places.
- B. "Appendix I" and "Appendix II" mean, respectively, the description of park drives and boulevards and the map at the end of this title.
- C. "Areaway" means a space below the level of the sidewalk, covered or uncovered, affording room, access or light to a building. An "areaway" is sometimes called a "light well."

D. "Authorizing official" means the Director of Transportation, the Director of Planning and Development, the Superintendent of Parks and Recreation, or the Seattle Center Director, identified in Section 15.04.015, as the case may be.

E. "Awning" means a protective covering attached to the wall of a building.

F. "Banner" means any fabric or sign material hanging over or stretched across any public place.

G. "Canopy" means a protective covering located at an entrance to a building. (Ord. 121276 § 13, 2003; Ord. 118409 § 34, 1996; Ord. 117569 § 2(part), 1995; Ord. 109271 § 4, 1980; Ord. 108020 § 1, 1979; Ord. 106583 § 10, 1977; Ord. 102645 § 1, 1973; Ord. 99674 § 1, 1971; Ord. 98197 § 2, 1969; Ord. 91749 § 1, 1963; Ord. 90047 § 6, 1961.)

#### **15.02.044 Definitions D through M.**

A. "Director of Transportation" means the City Director of Transportation and his or her authorized representatives.

B. "Director of Construction and Land Use" means the Director of the Department of Planning and Development, and his or her authorized representatives.

C. "Driveway" means that portion of a public place which provides vehicular access to adjacent property through a depression in the constructed curb or, when there is no constructed curb, that area in front of such vehicular facility as is well defined or as is designated by authorized signs or markings.

D. "Marquee" means an approximately horizontal, rigid, nonretractable, noncollapsible structure, projecting from and supported by a building.

E. "Marquee sign" means a sign placed on, constructed in, or attached to a marquee. (Ord. 121276 § 14, 2003; Ord. 118409 § 35, 1996; Ord. 117569 § 2(part), 1995; Ord. 109271 § 4, 1980; Ord. 108020 § 1, 1979; Ord. 106583 § 10, 1977; Ord. 102645 § 1, 1973; Ord. 99674 § 1, 1971; Ord. 98197 § 2, 1969; Ord. 91749 § 1, 1963; Ord. 90047 § 6, 1961.)

#### **15.02.046 Definitions N through S.**

A. "Newsstand" means any stand, box, structure, rack or other device which is designed or used for the sale and/or distribution of newspapers, periodicals, magazines, or other publications, or any combination thereof.

B. "Park drive or boulevard" means a public place under the jurisdiction of the Department of Parks and Recreation described in Appendix I or shown in the map in Appendix II or administered by the Superintendent related to a park.

C. "Peak Period" means the peak traffic periods as defined in the current edition of the City of Seattle Traffic Control Manual for In-Street Work.

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D. "Public place" means and includes streets, avenues, ways, boulevards, drives, places, alleys, sidewalks, and planting (parking) strips, squares, triangles and right-of-way for public use and the space above or beneath its surface, whether or not opened or improved.

E. "Publisher" means the owner or distributor of a newspaper or other publication distributed through a newsstand.

F. "RCW" is an abbreviation for Revised Code of Washington.

G. "Shoreline street ends" means the land portions of those street segments that provide the public with visual or physical access to a body of water and its shoreline, or could provide such access if improved, that are listed on Exhibit A to Resolution 29370, a resolution adopting policies to guide the development of public access improvements to shoreline street ends.

H. "Sidewalk cafe" means a portion of sidewalk area in which are placed tables and chairs for the use of patrons while consuming food and/or beverages, including alcoholic beverages, served by a cafe, restaurant or tavern located on adjacent property.

I. "Sign" means any medium, including its structure and component parts, which is used or intended to be used out of doors to attract attention to the subject matter for advertising, identification or informative purposes.

J. "SMC" is an abbreviation for Seattle Municipal Code.

K. "Superintendent" or "Superintendent of Parks and Recreation" means the City Superintendent of Parks and Recreation and his or her authorized representatives.  
(Ord. 121925 § 6, 2005; Ord. 119673 § 2, 1999; Ord. 117569 § 2(part), 1995; Ord. 109271 § 4, 1980; Ord. 108020 § 1, 1979; Ord. 106583 § 10, 1977; Ord. 102645 § 1, 1973; Ord. 99674 § 1, 1971; Ord. 98197 § 2, 1969; Ord. 91749 § 1, 1963; Ord. 90047 § 6, 1961.)

#### **15.02.048 Definitions--Use.**

A. "Use" means the exercise of dominion or control over or occupation of all or part of a public place, or the right to do so. It includes constructing, storing, erecting, placing upon, or maintaining, operating any inanimate thing or object in, upon, over or under any public place. It includes but is not limited to any of the following in a public place:

- Any areaway, marquee, awning or canopy, clock, newsstand, sign, banner, billboard, sidewalk elevator or door, fuel opening, sidewalk cafe or other structure;
- Fencing, staging, scaffolding, an elevator or other structure or material, machinery or tools used or to be used in connection with the erection, alteration, demolition, repair or painting of any building, or an excavation in connection therewith;
- The moving of any building along or across any public place;

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- The storage or placement of any material, equipment, inanimate object, or thing, provided that "use" shall not include the placement of an inanimate object in such a location and for such a limited duration of time that, under the circumstances, no reasonable person could conclude that the public's right to use or enjoy the public place, in whole or in part, has been or potentially could be interfered with;
  - Raising or lowering any safes, machinery, or other heavy articles;
  - Kindling, making or having any fire on any public place;
  - Opening, excavating, or in any manner disturbing or breaking the surface or foundation of any permanent pavement, or altering the established grade of any street, or disturbing the surface of, digging up, cutting, excavating, or filling in any public place;
  - Constructing, reconstructing, repairing or removing any driveway, curb, or curb setback, sidewalk, or crosswalk, pavement, sewers, water mains, grading, street lighting, street utilities, or appurtenances thereto, except when permitted by ordinance, or doing any work in, or erecting any structure under, along, or over any public place;
  - Vending of any kind, whether a product of service, other than newsstands regulated under Chapter 15.14;
  - Use of sound amplifying equipment, other than aids for the disabled, in speaking at voice level;
  - Closing or altering the appearance of streets for filming, block parties, or street fairs;
  - Regular usage by trucks and other vehicles of an adjoining owner or occupant as an integral part of activities on adjoining property whenever the only practical access to the public place is through the adjoining property.

B. With respect to trees and plantings, "use" means planting, removing, injuring, destroying, topping or major pruning of any tree in any public place, cutting or pruning of any tree planted or maintained by the City, and removing, injuring or destroying any flower, plant or shrub in any public place. "Use" excludes cutting grass, trimming shrubs, planting flowers, seeding, weeding, edging, and other gardening activities for the care of planting strips commonly performed by or for an owner or occupant of property adjacent to a street; and it excludes berry-picking and recreational activities that may have an incidental adverse impact upon grass or shrubbery.

C. "Use" excludes temporary placement by a customer of garbage and recyclables for curbside/alley collection in compliance with SMC Section 21.36.080; removal of snow and ice; and sweeping sidewalks and removal of leaves and debris.

(Ord. 117569 § 2(part), 1995; Ord. 109271 § 4, 1980; Ord. 108020 § 1, 1979; Ord. 106583 § 10, 1977; Ord. 102645 § 1, 1973; Ord. 99674 § 1, 1971; Ord. 98197 § 2, 1969; Ord. 91749 § 1, 1963; Ord. 90047 § 6, 1961.)

**15.02.050 Safety Code, Building Code, and Washington Clean Air Act Compliance.**

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in public file.

All work to be done under the authority of this title shall be accomplished in compliance with the Seattle Building Code,<sup>1</sup> the Washington Industrial Safety and Health Act, and the Washington Clean Air Act and rules and regulations implementing them, and shall diligently proceed without undue delay or inconvenience to the public.

(Ord. 117569 § 3, 1995; Ord. 99650 § 1, 1971; Ord. 90047 § 15, 1961.)

1. Editor's Note: The Building Code is codified in Title 22 of this Code.

#### **15.02.060 Scope of authorization.**

A permit is an authorization to proceed under this ordinance with activities only in a public place. A permit under this ordinance is subject to compliance with other City ordinances, with applicable state laws and regulations, and with the laws and regulations of the United States. The issuance of a permit under this ordinance does not authorize the taking of an action that conflicts with another City ordinance or with other state or federal laws. An applicant is responsible for ascertaining and complying with other applicable laws.

A permit under this ordinance does not authorize the damaging of privately owned property lawfully within the public place unless the permit expressly states otherwise and identifies the property involved. An applicant has the responsibility for identifying the limits of the public place, for locating and protecting underground utilities pursuant to RCW Chapter 19.122, for avoiding unnecessary interference with surface and overhead uses, for preserving trees, and for preventing damage to such privately owned property. When a permit authorizes displacement of privately owned property, the permit holder shall first give notice to the owner, if known, and allow the owner an opportunity to remove it.

(Ord. 117569 § 1(part), 1995.)

#### **15.02.070 Nearest equivalent.**

When an activity combines elements which come within two (2) or more chapters of this title, the provisions of each chapter shall apply to each element to the extent practical; where two (2) provisions of this chapter are overlapping on a particular activity, the provision providing the greater protection to the public safety shall apply and duplicate forms and processing avoided.

In the event a use contains a single element that may be classified within two (2) or more chapters or categories within a chapter, the City official responsible for issuing the permit shall select the chapter or classification within a chapter, as the case may be, that is most descriptive of the proposed use.

(Ord. 117569 § 1(part) 1995.)

#### **15.02.080 Assemblies and gatherings.**

It is City policy to encourage the holding of public assemblies and other gatherings in parks and at the Seattle Center rather than in streets open for vehicular travel or sidewalks with substantial pedestrian traffic; and it is City policy to permit use of University Street between Fourth and Fifth Avenues (Victory Square) on weekdays only if the event can not reasonably be accommodated in Seattle's downtown parks and pedestrian ways.

(Ord. 117569 § 1(part), 1995.)

#### **15.02.085 Public fora.**

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The Director of Transportation and the Superintendent are authorized to designate by permit from time to time one (1) or more particular areas within a public place where citizens may place commemorative displays, monuments, or symbols, for up to ten (10) days in order to communicate a message to the public, and to establish the terms and conditions of their placement. Unless the permit expressly provides otherwise, the commemoration must be removed between the hours of 12:01 a.m. and six a.m. (6:00 a.m.) each day. An appropriate sign shall be placed near the commemoration identifying its sponsor and the location as a public forum.  
(Ord. 118409 § 36, 1996; Ord. 117569 § 1(part), 1995.)

#### **15.02.090 Appeals to Municipal Court.**

If an applicant asserts a right protected by the First Amendment of the United States Constitution and/or Article I, Sections 3, 4, and 5 of the Washington Constitution, and is aggrieved by an action of the City in denying a permit, and time be of the essence, the applicant may petition the presiding judge of the Seattle Municipal Court for a prompt review thereof. The matter shall be granted priority as a case involving constitutional liberties and shall be heard in the manner provided by the Municipal Court by rule, and the decision of the Municipal court shall be final subject only to judicial review.  
(Ord. 117569 § 1(part), 1995.)

#### **15.02.100 Effect of ordinance.**

This title prohibits an action or activity whenever it requires a permit for a "use" defined in Section 15.02.048, and:

- A. This title authorizes issuance of a permit for the type of activity, but the applicant fails to apply for and secure a permit;
- B. The applicant is granted a permit upon conditions or subject to restrictions and the applicant fails to comply therewith; or
- C. The City, by policy, does not issue permits for that type of use.

Issuance of permits under this title is discretionary; this title does not create any right to a street use permit.

(Ord. 117569 § 1(part), 1995.)

#### **15.02.110 Authority cumulative.**

The authority granted by this title to any City officer or employee is in addition to and supplemental of powers granted by other sections of the Seattle Municipal Code or City ordinances and does not limit any other authority granted to City officials by other ordinances or laws.

(Ord. 117569 § 1(part), 1995.)

### **Chapter 15.04**

#### **USE AND OCCUPATION PERMITS**

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**Sections:**

- 15.04.010 Permit--Required.
- 15.04.012 Nuisances.
- 15.04.015 Authorizing official.
- 15.04.017 Constitutional requirement.
- 15.04.020 Filing of application.
- 15.04.025 Form of application.
- 15.04.030 Processing of applications.
- 15.04.035 Approval; considerations.
- 15.04.037 Overview of indemnity deposit, accounts, escrow, insurance, and surety bond.
- 15.04.040 Indemnity deposit--Escrow--Surety bond.
- 15.04.042 Escrow.
- 15.04.044 Surety bond.
- 15.04.045 Liability insurance.
- 15.04.050 Account or bond for multiple permits.
- 15.04.060 Covenant for indemnity.
- 15.04.070 Permit--Duration--Revocation.
- 15.04.072 Authority to remove occupancy.
- 15.04.074 Permit--Fees.
- 15.04.090 Refund of permit fee.
- 15.04.100 Exception--Waiver--Fees; surety bond.
- 15.04.110 Construction--Changes.
- 15.04.112 Decisions--Review or reconsideration.

**15.04.010 Permit--Required.**

It is unlawful for anyone to make use, as defined in this title, of any public place without first securing a written permit from the Director of Transportation, the Director of Planning and Development, or the Superintendent of Parks, as authorized in Section 15.04.015, and without complying with all the provisions of this title; provided, that the requirements of obtaining a permit, and permit procedures do not apply to street maintenance work performed by the City, or street improvement work authorized by ordinance and administered by the Director of Transportation.

(Ord. 121276 § 37, 2003; Ord. 118409 § 37, 1996; Ord. 117569 § 4, 1995; Ord. 115994 § 1, 1991; Ord. 109754 § 1(part), 1981; Ord. 90047 § 7, 1961.)

**15.04.012 Nuisances.**

Any structure built, excavation made, and/or material placed in or on any public place by anyone without a permit therefor first having been obtained, as provided in this title may be deemed a public nuisance. In the discretion of the authorizing official identified in Section 15.04.015, such nuisances may be abated with or without action at law, and/or such other proceedings may be taken as are authorized by law and the ordinances of the City for the prevention, abatement and punishment of nuisances.

(Ord. 117569 § 83, 1995; Ord. 90047 § 29(part), 1961.)

**15.04.015 Authorizing official.**

A. The Director of Planning and Development may authorize the construction of a curb cut, a sidewalk cafe, or a structural building overhang, or reconstruction of an areaway in a public place under the Master Use Permit procedures of Chapter 23.76, particularly Section 23.76.006 B6, or removal of trees and vegetation located in an environmentally critical area under Chapter 25.09. An authorization for construction in a park drive, boulevard, or area under the jurisdiction of the Superintendent of Parks and Recreation identified

in Appendix I or shown on the map as Appendix II is dependent upon (a) a description of the encroachment or use in the application for the Master Use Permit or the accompanying materials; (b) its identification as park drive, boulevard, or property under the jurisdiction of the Superintendent of the area to be used; (c) the written concurrence of the Superintendent; (d) payment of applicable fees; and (e) if there is a modification, written concurrence of the Superintendent thereto. Continuation of such uses after completion of construction is subject to compliance with the terms and conditions of this title; inspection and administration by the Director of Transportation or the Superintendent, as the case may be; and payment of an annual fee, if applicable.

B. The Superintendent of Parks and Recreation may authorize the use and occupation of, and administer this title for, public places under the jurisdiction of the Department of Parks and Recreation, including park drives and boulevards. These areas are identified in Appendix I or shown on the map as Appendix II.

C. The Director of Transportation has authority to issue use and occupation of, and administer this title for, all other public places for uses other than those authorized to the Director of Planning and Development under Chapter 23.76. The Director of Transportation may delegate to the Director of the Seattle Center the administration of permits for streets within the Seattle Center, and to the Superintendent the administration of permits for sidewalks and planting strips adjacent to parks.

D. When a street, bridge, overpass or underpass crosses a park, park drive, or boulevard, the authorizing official shall be the Director of Transportation as to the surfaces or structures maintained by Seattle Transportation, and the Superintendent as to areas within the jurisdiction of the Department of Parks and Recreation.

E. In order to better coordinate the administration of this title for a particular event or project, any of the foregoing officials may delegate to another authorized official the issuance of any particular permit or its supervision. When the appropriate official to process an application is uncertain, the Director of Transportation may receive and forward the materials to the appropriate official.  
(Ord. 121276 § 15, 2003; Ord. 118409 § 38, 1996; Ord. 117569 § 5(part), 1995.)

#### **15.04.017 Constitutional requirement.**

When required by the United States Constitution or the Washington Constitution or a federal or state statute enacted thereunder, the City official responsible for issuing a permit shall suspend the application of any particular section of this ordinance or waive compliance with a requirement, including payment of fees, the provision of an indemnity deposit or contract, and the furnishing of insurance (Sections 15.04.040--15.04.060). The official shall maintain a record open for public inspection disclosing the suspensions and waivers granted.  
(Ord. 117569 § 5(part), 1995.)

#### **15.04.020 Filing of application.**

An application for use of a public place in accordance with the procedures for issuance of a Master Use Permit under Chapter 23.76 or a permit under Chapter 25.09 shall be filed with the Director of Planning and Development.

An application for use of a park drive or boulevard as described in Appendix I or shown on the map in

Appendix II or administered by the Superintendent as contemplated by Section 15.04.015 shall be filed with the Superintendent.

All other applications for permits provided for by this title shall be filed with the Director of Transportation.

(Ord. 121276 § 37, 2003; Ord. 118409 § 39, 1996; Ord. 117569 § 6(part), 1995; Ord. 115994 § 2, 1991; Ord. 112522 § 18(part), 1985; Ord. 109754 § 1(part), 1981; Ord. 90047 § 8, 1961.)

#### **15.04.025 Form of application.**

Applications shall be on a form provided by the City and contain an accurate description of:

- A. The public place or portion thereof to be used;
- B. The use proposed to be made;
- C. The plans and specifications for any utility or structure proposed in or on the public place; and
- D. Any existing public improvements, utilities or structures in the area to be used and any trees that may be affected.
- E. If the proposed use is related to a Master Use Permit, the identification of the permit file and any special conditions affecting the proposed use.

When the proposed use involves an areaway, an opening, elevator or other use regulated by Chapter 15.08, a structural building overhang, or a retaining wall or permanent method of lateral support, the application shall also be accompanied by documentation showing the applicant to be the record owner of the premises served or showing the consent of the record owner of the premises to the proposed use.

(Ord. 117569 § 6(part), 1995; Ord. 115994 § 2, 1991; Ord. 112522 § 18(part), 1985; Ord. 109754 § 1(part), 1981; Ord. 90047 § 8, 1961.)

#### **15.04.030 Processing of applications.**

- A. The authorizing official identified in Section 15.04.015 shall examine each application for a permit for compliance with this title.
- B. The authorizing official in his or her discretion may require additional information or material, including when deemed appropriate, a map, construction plans, or a survey of the site; inspect the premises; solicit comment from other abutters and/or the public; and/or post or require posting of notice at the site inviting comment to the department or giving notice of a request for the review or reconsideration of a decision pursuant to Section 15.04.112.
- C. Any application for a use that requires a permit under the Seattle Building and Construction Codes in SMC Title 22 and has not been filed with the Director of Planning and Development shall be transmitted to the Director for review. The Director of Planning and Development shall respond with his or her

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findings and comments.

D. If the authorizing official determines that engineering or other studies should be made before approving a permit, the applicant shall make the studies, or authorize the City to make the studies at the applicant's cost or expense or from the applicant's indemnity deposit.

(Ord. 121276 § 37, 2003; Ord. 120837 § 1, 2002; Ord. 117569 § 7(part), 1995; Ord. 115994 § 3, 1991; Ord. 109754 § 2, 1981; Ord. 91749 § 2, 1963; Ord. 90047 § 9, 1961.)

#### **15.04.035 Approval; considerations.**

A. If the application conforms to the requirements of this title and the proposed use is consistent with the rights of the public, the authorizing official may approve the application, fix the duration and the terms or conditions of the permit, and when required, upon the applicant's furnishing of a deposit or surety bond, insurance, covenant and indemnification and payment of all required fees, issue the permit. The original permit shall remain in the custody of the City and a copy shall be given to the permittee and be posted or available at the site.

B. Factors for consideration in evaluating an application for a permit include but are not limited to the rights of the applicant (both constitutional liberties and abutter's property rights); the site and its terrain; the public and private benefits of the proposed use; the impact of the proposed use on the following:

- The paramount purpose of streets for travel and transportation;
- Utilities; authorized secondary street uses; and any usage being made by the public of the site;
- Fire access and public safety;
- Uses under permit; street trees; and other proposed or past uses of the site;
- Rights of light, air, and access and lateral support of abutting properties and on access or easements of properties dependent upon the public place for access;
- The environment;
- Drainage, surface and underground; springs and watercourses; and the stability of soils; and
- Where applicable, City land use, transportation, open space, shoreline, and beautification policies and approved neighborhood land use plans.

In addition, where these situations occur, factors for consideration include:

- As to public places under the jurisdiction of the Department of Parks and Recreation, their character as a park drive or boulevard, or as open space;
- As to shoreline street ends, their purpose to provide the public with visual or physical access to the water and the shoreline;

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- As to submerged streets, the Harbor Code, Title 16;
  - As to environmentally critical areas, the requirements of Chapter 25.09; and
  - As to streets in the process of being vacated, the use upon vacation.  
(Ord. 119673 § 2, 1999; Ord. 117569 § 7(part), 1995; Ord. 115994 § 3, 1991; Ord. 109754 § 2, 1981; Ord. 91749 § 2, 1963; Ord. 90047 § 9, 1961.)

**15.04.037 Overview of indemnity deposit, accounts, escrow, insurance, and surety bond.**

A. Sections 15.04.040 through 15.04.060 are coordinated elements of a package of protections intended to assist the City in collection of expenses charged under this ordinance and costs associated with a use under permit; to assure performance of the requirements of this ordinance and the covenants or conditions in a permit; to place on the user the risks associated with the use and provide a degree of financial responsibility in the event of an accident or injury; and, when their use is completed, to have public place restored to at least as good a condition as before the use began; and thereby further compliance and protect the public treasury. The City's acceptance of an indemnity deposit, an escrow account, a surety bond, or insurance or the establishment of a subaccount in the City Treasury in favor of a permittee do not limit a permittee's liability to the amount thereof.

B. Sections 15.04.040 through 15.04.060 relate to each other as follows:

1. A deposit with the City under Section 15.04.040 provides a source of funds, held by the City, to pay probable City expenditures arising from a proposed use and/or restoration of the public place after the use, the time of City employees for inspection and Code enforcement, and ancillary City expenses. Annual fees are billed separately.
2. An escrow account maintained under Section 15.04.042 may be an alternative to a deposit under Section 15.04.040 for amounts at or over One Thousand Dollars (\$1,000) and/or to providing a surety bond under Section 15.04.044 in an amount up to Ten Thousand Dollars (\$10,000), or a supplement to either or both of them. It differs from a deposit in that the stakeholder, rather than the City, is a public depository; interest on the deposit accrues to the account, rather than to the City; and withdrawals from the account are governed by the escrow agreement rather than by City rules on guaranty deposits.
3. A subaccount under Section 15.04.050 establishes a balance with the City in favor of the applicant or permittee against which a City department may deduct fees and charges as they occur, including annual fees and deposits for particular permits.
4. A surety bond under Section 15.04.044 provides a promise by a licensed surety company, within the limits and according to the terms of the bond, to perform work or pay the City's expenses to perform the work in the event of the permittee's default. A surety bond is not a substitute for providing the City public liability insurance for any tortious injury.
5. Liability insurance under Section 15.04.045 protects the City as an additional insured from

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public liability as a result of an accident, injury, or damage arising from the use of a public place, and assists in making permittees financially responsible for meeting liabilities that may arise from their use of public places.

6. The covenant for indemnity under Section 15.04.060 holds the City harmless from any and all claims, actions, or damages. It applies independently of the foregoing and authorizes a tender of defense by the City to the permittee in event of a claim or lawsuit arising from the use.

7. Section 15.04.017 empowers an authorized official, when required to do so by a constitutional provision or state law, to waive compliance with any of these sections.

C. The amount set by an authorizing official for an indemnity deposit, an escrow account or a surety bond, and the correctness of a charge or deduction shown on the City's account statement or made from an escrow account shall be subject to review or reconsideration pursuant to SMC Section 15.04.112. (Ord. 118369 § 4, 1996; Ord. 117569 § 5(part), 1995.)

#### **15.04.040 Indemnity deposit -- Escrow -- Surety bond.**

A. If the authorizing official determines that there is a substantial risk of injury, damage, or expense to the City or probable City expenditures arising from an applicant's proposed use of any public place, the authorizing official may require the applicant to make an indemnity deposit with the City Director of Executive Administration in an amount based on the official's estimate of the injury, damage or expense to the City and/or cost of restoration of the public place if a mishap or accident were to occur. The funds shall be deposited to the credit of the Guaranty Deposit Fund.

B. The indemnity deposit shall be used to pay the cost of restoring the public place, or removing any earth or other debris, of replacing or repairing any utility interrupted or damaged or of any trees in the public place, of completing any work left unfinished, of resetting any traffic control devices, of the expenses of engineering and other studies authorized by Section 15.04.035, and any other expense that the City may sustain in conjunction with the permitted work, plus a City administrative charge equal to fifteen percent (15%) of the amounts expended for the City's expenses for services such as inspections, surveys, preparing plans, letting contracts, and contract administration or supervision. The balance of the cash indemnity deposit, if any, after all deductions shall be returned to the applicant. If the indemnity deposit be insufficient, the applicant shall be liable for the deficiency.

C. The authorizing official may authorize the filing of a surety bond in accordance with Section 15.04.044 in lieu of making all or part of an indemnity deposit and may suspend its application or waive compliance when required by Section 15.02.027. (Ord. 120794 § 205, 2002; Ord. 117569 § 8(part), 1995; Ord. 116368, § 217, 1992; Ord. 115994 § 4, 1991; Ord. 108020 § 2, 1979; Ord. 95823 § 1, 1967; Ord. 90047 § 10, 1961.)

#### **15.04.042 Escrow.**

An authorizing official may accept the establishment of an escrow account in a qualified public depository as defined in RCW 39.58 that is eligible to receive City moneys (a) as a substitute for making all or part of an indemnity deposit required by Section 15.04.040 if the amount involved equals or exceeds One

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Thousand Dollars (\$1,000.00) and the terms of the escrow authorize the deduction and payment to the City of charges identified in Section 15.04.040; and/or (b) as a substitute for filing a surety bond required by Section 15.04.044 if the amount involved is Ten Thousand Dollars (\$10,000.00) or less, and, in the event of the applicant's default, the authorizing official anticipates that the City could reasonably complete the work needed to protect the public and restore the public place for the amount placed in the escrow account. Interest accruing in the escrow account shall be added to the principal account and the balance after deductions returned to the applicant.

(Ord. 117569 § 8(part), 1995; Ord. 116368, § 217, 1992; Ord. 115994 § 4, 1991; Ord. 108020 § 2, 1979; Ord. 95823 § 1, 1967; Ord. 90047 § 10, 1961.)

#### **15.04.044 Surety bond.**

A. If required by the authorizing official, the applicant shall file with the City Clerk or such official's functional successor, in lieu of, or in addition to the indemnity deposit, a surety bond approved as to surety and as to form by the City Attorney. The bond shall assume all the requirements provided in Section 15.04.060 in relation to an indemnity deposit, shall run for the full period of the permit, and shall be in an amount to be fixed by the authorizing official, and conditioned that such applicant shall faithfully comply with all the terms of the permit and all the provisions of this title and all other ordinances of the City, and, to the extent permitted by RCW Chapter 19.72, indemnify and save the City free and harmless from any and all claims, actions or damages of every kind and description which may accrue to, or be suffered by, any person by reason of the use of any public place, as provided for in the application.

B. If the application shall be to construct, reconstruct, repair, maintain, or remove any pavement, sewer, water main, storm drain, grading, street lighting, or appurtenance thereto, the applicant shall file with the City Director of Executive Administration or such official's functional successor a surety bond approved as to surety and as to form by the City Attorney. The bond shall be conditioned that the applicant shall faithfully complete all portions of the work according to the City's Standard Plans and Specifications, the special plans approved by the authorizing official, and the terms of the permit. The bond shall run for the full period of the permit plus one (1) year after City acceptance of the permitted work. The authorizing official shall set the amount of the bond.

C. If an applicant shall be periodically using public places, the authorizing official may require the applicant to post a surety bond in an amount the authorizing official deems sufficient to cover the accumulated cost or risk involved at any certain time in a calendar year for the number of permits outstanding. The bond shall be in force during the period of all outstanding permits, but in no case for less than one (1) year. The bond shall be subject to approval by the City Attorney as to surety and as to form. The bond shall be conditioned to assume all of the requirements of this title in relation to a cash indemnity deposit.

D. If at any time any applicant shall apply for a permit to use a public place or to modify an issued permit, and in the opinion of the authorizing official the aggregate amount of bonds needed for the additional work or risk involved in the proposed use, together with that involved under other permits outstanding to the applicant, exceed the amount of the then posted surety bond, the authorizing official may require the applicant, prior to issuing the permit, to post an additional or separate surety bond in an amount the authorizing official deems sufficient to cover the additional risk or work involved. The bond shall remain in force during the period of all outstanding permits, but in no case for less than one (1) year from and after the date of the permit. Also, the authorizing official may require any permittee to post a surety bond in the calendar year following the

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period of a permit when the extent of possible damage to a public place has not been completely determined.

E. Registered side sewer contractors who post a one (1) year bond under the provisions of subsection C or D shall not be required to post an additional surety bond specifically covering work under separate side sewer ordinances. An authorizing official may waive the requirement of surety bond under subsection C upon finding that the bond posted under Section 21.16.060 C is adequate to fully protect the City. The surety bond shall contain all the requirements of side sewer ordinances in the same manner as required bonds posted pursuant to the side sewer ordinances and Section 21.16.060 C.

F. Sections 15.02.027 and 15.04.017 may apply when constitutional freedoms or statutory rights are exercised.

(Ord. 120794 § 206, 2002; Ord. 117569 §§ 8(part), 9(part), 1995; Ord. 116368 §§ 217, 218, 1992; Ord. 115994 §§ 4, 5, 1991; Ord. 108020 § 2, 1979; Ord. 95823 §§ 1, 2, 1967; Ord. 90047 §§ 10, 11, 1961.)

#### **15.04.045 Liability insurance.**

An applicant for a permit shall maintain in full force and effect during the full period of the permit, public liability insurance in an amount sufficient to cover potential claims for any bodily injury, death, or disability and for property damage, which may arise from or be related to the use allowed by the permit. The insurance policy shall name the City as an additional insured; apply as primary insurance regardless of any insurance which the City may carry; and obligate the insurance company to give notice to both the authorizing official and the City's Risk Manager at least thirty (30) days before any cancellation of the policy. The authorizing official may establish the amount of such insurance, subject to review or reconsideration pursuant to SMC Section 15.04.112, and unless constitutional liberties prohibit it, may require that the insurance be provided prior to issuance of the permit.

(Ord. 118369 § 5, 1996; Ord. 117569 § 8(part), 1995; Ord. 116368 § 217, 1992; Ord. 115994 § 4, 1991; Ord. 108020 § 2, 1979; Ord. 95823 § 1, 1967; Ord. 90047 § 10, 1961.)

#### **15.04.050 Account or bond for multiple permits.**

In the alternative to making an indemnity deposit for each permit under Section 15.04.040, an applicant who anticipates seeking two (2) or more permits from the same department, may establish with the City a subaccount by depositing with the City Director of Executive Administration, to the credit of the Guaranty Deposit Fund, a minimum sum of at least Five Hundred Dollars (\$500) or the amount fixed for the permit being sought, whichever is greater. On notice from the City, the applicant shall replenish such sum from time to time, whenever the subaccount balance shall have been reduced to the sum of Three Hundred Dollars (\$300) or less. (Ord. 120794 § 207, 2002; Ord. 117569 § 9(part), 1995; Ord. 116368 § 218, 1992; Ord. 115994 § 5, 1991; Ord. 95823 § 2, 1967; Ord. 90047 § 11, 1961.)

#### **15.04.060 Covenant for indemnity.**

A. If the application is for a permit to use or occupy a public place with an areaway, fuel opening, sidewalk elevator or door, a bulkhead, steps, retaining wall, rockery, structure, or an extension or appurtenance to a structure or any facility with an anticipated continued occupancy of a public place of more than one year, the owner of the adjacent property, and any existing lessee, sublessee, tenant and subtenant using or occupying the part of the premises served or connected to the permitted use shall, in the manner provided by law for the

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execution of deeds, execute and deliver to the City upon a form to be supplied by the authorizing official, an agreement in writing, signed and acknowledged by such owners and by any such existing lessee, sublessee, tenant and subtenant, and containing an accurate legal description of the premises and a covenant on the part of such owner, lessee, sublessee, tenant and subtenant, for themselves and their heirs, executors, administrators, successors, assigns, lessees, sublessees, tenants and subtenants, forever to hold and save the City free and harmless from any and all claims, actions or damages which may accrue to, or be suffered by, any person by reason of the use of such public place, or of the construction, existence, maintenance or use of the use permitted; provided, no indemnification is required on account of injury to persons or damage to property caused by or resulting from the sole negligence of the City, its agents or employees. If the application is for a permit to construct and maintain an areaway, such agreement shall also contain a covenant on the part of the persons or corporations executing the same, for themselves and their heirs, executors, administrators, successors, assigns, lessees, sublessees, tenants and subtenants, assuming the duty of inspecting and maintaining all services, instrumentalities and facilities installed in the areaway to be constructed or occupied under authority of such permit, and assuming all liability for, and saving and holding the City harmless from any and all loss, damage or injury that may result to his or her own person or property, or the person or property of another, by reason of such services, instrumentalities or facilities. All agreements shall be a covenant running with the land.

B. In addition such agreement shall contain a provision that the permit is wholly of a temporary nature, that it vests no permanent right whatsoever, that upon thirty (30) days' notice, posted on the premises, or by publication in the official newspaper of the City, or without such notice, in case the permitted use shall become dangerous or such structures shall become insecure or unsafe, or shall not be constructed, maintained or used in accordance with the provisions of this title, the same may be revoked and the structures and obstructions ordered removed. Every such agreement after it has been received and after the same has been recorded with the King County Department of Records and Elections, shall be retained by the City Clerk in the files and records of the Clerk's office.

C. The authorizing official may waive execution of the signature on an agreement by a tenant or subtenant on a month-to-month lease or on a tenancy at will. If the application be by a condominium or cooperative apartment, the authorizing official may accept an agreement by the condominium or apartment association together with documentation showing its authority to execute the agreement in lieu of execution of the agreement by all unit or apartment owners.  
(Ord. 117569 § 10, 1995; Ord. 117242 § 18, 1994; Ord. 90047 § 12, 1961.)

#### **15.04.070 Permit--Duration--Revocation.**

All use authorizations approved under the provisions of this title or Seattle Municipal Code Chapter 23.76, Procedures for Master Use Permits and Council Land Use Decisions or as to public places under the jurisdiction of the Department of Parks and Recreation under Chapter 18.12, shall be of a temporary nature and shall vest no permanent right, and may in any case be revoked upon thirty (30) days notice; or without notice, in case any such use or occupation shall become dangerous or any structure or obstruction permitted shall become insecure or unsafe, or shall not be constructed, maintained, or used in accordance with the provisions of this title.

(Ord. 117569 § 11(part), 1995; Ord. 115994 § 6, 1991; Ord. 115942 § 2, 1991; Ord. 112522 § 20(part), 1985; Ord. 110951 § 1, 1982; Ord. 101351 § 1, 1972; Ord. 100603 § 1, 1972; Ord. 90047 § 13, 1961.)

Cases: Ordinance 90047, as amended, which authorizes the City to levy street use permit fees which are commensurate with the cost of administration and "the use thereby granted," allows the City to utilize a fee schedule based on the type of use and the square

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December 2005 code update file  
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footage of the area used. **Baxter-Wyckoff Co. v. Seattle**, 67 Wn.2d 555, 408 P.2d 1012(1965).

**15.04.072 Authority to remove occupancy.**

If any structure or obstruction, or use or occupancy, is not discontinued on notice from the City to do so, the Director of Transportation or the Superintendent with respect to public places under jurisdiction of the Department of Parks and Recreation may forthwith prohibit its further use and remove such structure or obstruction from the public place, or make such repairs upon such structure or obstruction as may be necessary to render the same secure and safe, at the expense of the permittee or the permittee's successor or user or person responsible for said use. The City may collect such expense in the manner provided by law.

(Ord. 118409 § 40, 1996; Ord. 117569 § 11(part), 1995; Ord. 115994 § 6, 1991; Ord. 115942 § 2, 1991; Ord. 112522 § 20(part), 1985; Ord. 110951 § 1, 1982; Ord. 101351 § 1, 1972; Ord. 100603 § 1, 1972; Ord. 90047 § 13, 1961.)

**15.04.074 Permit--Fees.**

A. From time to time the Director of Transportation shall prepare and recommend for adoption by the City Council a schedule of fees applicable to all such permits for public places under the jurisdiction of Seattle Transportation. The Director of the Office of Economic Development shall prepare and recommend for adoption by the City Council a schedule of fees applicable to master filming permits. The Superintendent shall prepare and recommend a schedule of fees applicable to permits for use of public places under the jurisdiction of the Department of Parks and Recreation, and the Director of Planning and Development shall recommend a schedule of fees applicable to permits required by Section 15.44.020. The fee schedule, when adopted by ordinance, shall govern the amount of the fee for permits heretofore or hereafter issued. The amount of the fee shall be commensurate with the cost of administration, inspection and policing involved in the issuance and continuance of such permits and with the use and occupation thereby granted. Fees for use of the public right of way may take into consideration the undesirability of the use or occupation relative to the rights of the public, such as the City policy of discouraging encroachments inconsistent with the public right of access to the shorelines or right-of-way and may be included in the schedule of fees for use of public places under the jurisdiction of Seattle Transportation. Fees for use of park drives and boulevards may take into consideration City policy of discouraging encroachments inconsistent with their park-like character and may be included in the schedule of fees for use of facilities of the Department of Parks and Recreation.

B. The fee shall be collected as a condition to the issuance or continuance of any such permit or use except when such permit is issued as a component of a master filming permit pursuant to SMC Section 15.35.010. In order to effectuate collection of such fees the Director of Transportation, the Director of the Office of Economic Development as to master filming permits, or the Superintendent as to public places under the jurisdiction of the Department of Parks and Recreation, shall promptly notify holders of outstanding permits issued to pay the applicable fee or the permit will be revoked.

The rate in the schedule for master filming permits shall identify which, if any, of the factors identified in SMC Section 15.35.020 are taken into consideration in setting the rate and which are to be determined with respect to particular applications.

C. Upon petition by a public agency for a vacation of street area, street use fees for such street area shall be suspended if the Director of Transportation finds that such public agency, as a current practice, would convey to, or permits use by, the City of a portion of the public agency's property for street or other public

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purpose without charge; provided, should the street vacation petition be denied, street use fees shall be payable for the full period of use.

D. Except as provided in Subsection E of this Section, when a use requiring a permit is made of a public place without first obtaining the permit, the fee shall be double the amount provided in the schedule of fees. The double fee shall apply only to the first tenure of the permit.

E. When a use of a public place for which a Master Filming Permit may be obtained under Seattle Municipal Code Ch. 15.35 is made without first obtaining such a permit or the required component permits, the fee shall be \$500.

F. Fees for the use of public places under the jurisdiction of the Department of Parks and Recreation shall be deposited in the Park and Recreation Fund; all other fees under the jurisdiction of Seattle Transportation shall be deposited in the Transportation Fund.  
(Ord. 121334 § 3, 2003; Ord. 121317 § 6, 2003; Ord. 120822 § 1, 2002; Ord. 119673 § 4, 1999; Ord. 118409 § 41, 1996; Ord. 118238 § 3, 1996; Ord. 117569 § 11(part), 1995; Ord. 115994 § 6, 1991; Ord. 115942 § 2, 1991; Ord. 112522 § 20(part), 1985; Ord. 110951 § 1, 1982; Ord. 101351 § 1, 1972; Ord. 100603 § 1, 1972; Ord. 90047 § 13, 1961.)

#### **15.04.090 Refund of permit fee.**

Whenever the fee paid for any use or occupation permit shall be erroneous for any reason, and application is made for refund, the authorizing official shall certify the facts justifying such refund, the amount thereof, and his or her approval of such refund, and upon presentation of such certificate to the City Director of Executive Administration, a warrant shall be drawn and paid in the amount of such refund. The necessary appropriations are hereby made and authorized. If the appropriate fund is solvent at the time payment is ordered, the Director of Executive Administration may elect to make payment by check.  
(Ord. 120794 § 208, 2002; Ord. 120114 § 35, 2000; Ord. 117569 § 12, 1995; Ord. 116368 § 219, 1992; Ord. 84706 § 1, 1955.)

#### **15.04.100 Exception--Waiver--Fees; surety bond.**

The authorizing official may grant an exception from payment of fees, making an indemnity deposit or posting a surety bond or providing liability insurance to the United States of America and for developing a use that is for the use of the public, e.g., a street park, or plantings in a traffic circle.

An authorizing official may waive the making of an indemnity deposit and/or the posting of a surety bond for a use by the State of Washington or a local government.  
(Ord. 117569 § 5(part), 1995.)

#### **15.04.110 Construction--Changes.**

Construction of a structure or improvement shall be in accord with the permit and plans accompanying the application cited by the permit unless the authorizing official first grants permission for a change.

If a proposed change is substantial and objections or adverse comments are received before issuance of

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the permit, the authorizing official shall give notice to the persons making the objection or comments about the proposed amendment, or require the applicant to do so, and allow them an opportunity to comment thereon before permitting the change.

(Ord. 117569 § 5(part), 1995.)

#### **15.04.112 Decisions--Review or reconsideration.**

A person aggrieved by any of the following Transportation Department decisions may timely request the Director to review the decision, or if the decision be that of the Director, to reconsider the decision:

- A. The closure of any street or alley or portion thereof pursuant to SMC Section 11.16.125;
- B. The revision, pursuant to SMC Section 11.16.120 F, of the boundaries of a residential parking zone;
- C. The issuance or revocation, pursuant to SMC Section 11.16.315 B, of permits for parking in a residential parking zone;
- D. The approval or denial, pursuant to SMC Section 15.04.010, of a street use permit;
- E. The determination, pursuant to SMC Section 15.04.040, of the amount of any cash indemnity deposit, or surety bond in lieu thereof or in addition thereto, that is required of an applicant for a street use permit;
- F. The determination, pursuant to SMC Section 15.04.045, of the amount of public liability insurance coverage that is required of an applicant for a street use permit;
- G. The determination, pursuant to SMC Section 15.04.044, of the amount of any surety bond that is required of an applicant for a street use permit;
- H. The revocation, pursuant to SMC Section 15.04.070, of any street use permit;
- I. The approval or denial, pursuant to SMC Section 15.08.080, of a request to construct a street elevator;
- J. The approval or denial, pursuant to SMC Section 15.10.020, of a request for exception to minimum height requirement applicable to marquees, awnings and canopies;
- K. The approval or denial, pursuant to SMC Section 15.10.030, of a request for exception to vertical depth requirement applicable to marquees;
- L. The approval or denial, pursuant to SMC Section 15.12.030, of a request for a permit to hang a banner;
- M. The approval or denial, pursuant to SMC Sections 15.14.040 and 15.14.050, of a request for a permit for a newsstand location not generally permitted by ordinance, or the replacement of a newsstand

pursuant to Section 15.14.080;

N. Conditions imposed regarding a permit to move a building or equipment; the assessment and allocation, pursuant to Section 15.28.050, of the costs of relocating wires or cables; and the amount of City costs assessed pursuant to Section 15.28.070;

O. The determination of the cost of removal of a handbill, sign or poster pursuant to Section 15.48.120;

P. An order to paint or repaint a pole pursuant to Section 15.32.100;

Q. Any of the actions relating to an excavation or fill identified in Section 15.44.140;

R. A Stop Order of the Director of Transportation pursuant to Sections 15.50.023 or 15.50.025; and

S. The issuance or denial, pursuant to SMC Chapter 16.60, of a permit to use or occupy any part of a waterway or any part of the land portion of a waterway.

An aggrieved person may request review or reconsideration by filing a request for review or reconsideration with the Director within ten (10) days of the date of the decision. The request shall identify the decision for which review or reconsideration is requested, the objection(s) to the decision; and the specific alternative being proposed. The Director shall designate a review officer, who shall make a recommendation to the Director. The Director may, at his or her discretion, stay implementation of a decision pending review or reconsideration. The Director's decision on review or reconsideration shall be final.

(Ord. 118369 § 6, 1996.)

## **Chapter 15.06**

### **DRIVEWAYS**

#### **Sections:**

**15.06.010 Construction.**

**15.06.020 Removal of driveway and reconstruction of curb.**

**15.06.030 City's standards for construction.**

**15.06.040 Width requirements.**

**15.06.050 Curb setbacks.**

**15.06.060 Driveways by freeway access roads.**

**15.06.070 Revocation of permit or alteration of driveway.**

#### **15.06.010 Construction.**

A driveway must be constructed to provide vehicular access from a public place over and across a concrete curb and gutter and/or sidewalk to the adjacent property. The Director of Construction and Land Use has authority to issue a permit for construction of a driveway associated with a development proposal as contemplated by Section 23.76.006. All applications for other permits for driveways shall be submitted to the Director of Transportation for public places under the jurisdiction of the Transportation Department, and to the Superintendent of Parks for public places under the jurisdiction of the Department of Parks and Recreation.

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Temporary permission may be granted by the authorizing official to plank a curb and walk while gaining temporary access to property but the practice must be discontinued immediately upon notice from the City. (Ord. 118409 § 42, 1996; Ord. 117569 § 13, 1995; Ord. 90047 § 16(part), 1961.)

**15.06.020 Removal of driveway and reconstruction of curb.**

Within sixty (60) days after a driveway is no longer usable or needed to provide vehicular access onto private property, the owner of the adjacent property shall remove the driveway and restore the concrete curb and gutter and the sidewalk and planting strip. If such restoration work has not been completed by the sixtieth calendar day after receipt by such owner of the authorizing official's written order to perform such work by such deadline, the City may perform such restoration and bill the cost thereof to the property owner, together with fifteen percent (15%) of its costs to cover administrative expenses. (Ord. 117569 § 14, 1995; Ord. 115994 § 8, 1991; Ord. 90047 § 16(part), 1961.)

**15.06.030 City's standards for construction.**

All driveways constructed on public places where paved roadways and curbs exist shall be constructed according to the City's Standard Plans and Specifications. (Ord. 115994 § 9, 1991; Ord. 90047 § 16(part), 1961.)

**15.06.040 Width requirements.**

The minimum width of driveways for residential property shall be ten feet (10') at the concrete walk and fifteen feet (15') at the curb, and for commercial properties the minimum width shall be twelve feet (12') at the concrete walk. (Ord. 117569 § 15, 1995; Ord. 90047 § 16(part), 1961.)

**15.06.050 Curb setbacks.**

Curb setbacks may be allowed by the Director of Construction and Land Use after consulting with the Director of Transportation, or the Superintendent as to park drives and/or boulevards, on the basis of demonstrated need by the applicant therefor upon the following terms and conditions:

- A. Space for tree planting shall be reserved, with a minimum of ten feet (10') from the new curb location to the property line, unless existing trees in the area supply the need.
- B. Curb setbacks are not permitted on streets where parking is allowed in the existing curb lane.
- C. Curb setbacks must be able to provide for a minimum of a twelve foot (12') driving lane and an eight foot (8') parking lane in the public place adjacent to the new curb location. Exhibit 15.06.050 illustrates these requirements. (Ord. 118409 § 43, 1996; Ord. 117569 § 16, 1995; Ord. 109754 § 5, 1981; Ord. 101744 § 1, 1973; Ord. 90047 § 16-A, 1961.)

GRAPHIC UNAVAILABLE: Exhibit 156.06.050--Curb Setback

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**15.06.060 Driveways by freeway access roads.**

The Director of Construction and Land Use shall refer to the Director of Transportation the relevant part of every application for a permit that involves constructing, reconstructing, repairing, or altering any driveway providing direct vehicular access to a street which serves as an approach or exit from a limited access facility where all or any portion of the driveway lies or would lie between the proximate margin of the limited access facility and a line projected at right angles to the centerline of the street from a point thereon which is four hundred feet (400') distant, measured along the centerline of the street, from the proximate margin of the limited access facility.

The Director of Transportation shall make a report and recommendation to the Director of Construction and Land Use as to the potential effect of the use of the proposed driveway upon the safe and efficient flow of traffic. The Director of Construction and Land Use shall issue a permit for the driveway work only upon a determination (a) that the design, standard of construction, operational use, location or number of locations of the proposed driveway or driveways will not unreasonably interfere with the safe and efficient flow of vehicular and pedestrian traffic upon the adjoining streets and sidewalks, giving particular consideration to the effect upon traffic flowing to and from the proximate limited access highway facility, and (b) that denial of the permit would totally deprive the property to be served of vehicular access. The Director of Construction and Land Use may attach such conditions to any such permit as may be reasonably required under the particular circumstances for the protection of public safety.

(Ord. 118409 § 44, 1996; Ord. 117569 § 17, 1995; Ord. 109754 § 11(part), 1981; Ord. 95776 § 2, 1967.)

**15.06.070 Revocation of permit or alteration of driveway.**

Where the safe and efficient flow of vehicular and pedestrian traffic requires it, the Director of Transportation may revoke any permit for a driveway to a street or other public place under its jurisdiction and order removal of the driveway or order the alteration of a driveway for which a permit has been issued. The Superintendent has a similar authority as to park drives and boulevards. The notice to remove or to make an alteration shall be in writing, be served upon the permittee, or the permittee's successor, and shall require compliance within one hundred eighty (180) days.

(Ord. 118409 § 45, 1996; Ord. 117569 § 18, 1995; Ord. 115994 § 53, 1991; Ord. 109754 § 11(part), 1981; Ord. 95776 § 3, 1967.)

**Chapter 15.08**

**AREAWAYS, VENTS AND ELEVATORS**

**Sections:**

- 15.08.005 Availability of permits.
- 15.08.010 Areaways--Structural standards.
- 15.08.050 Grade and extent of uncovered areaway.
- 15.08.060 Boiler and apparatus prohibited.
- 15.08.070 Ventilation opening in sidewalks.
- 15.08.080 Sidewalk elevators.
- 15.08.090 Metal guards attached to fuel openings and trapdoors.
- 15.08.100 Time of operation of sidewalk elevators.
- 15.08.110 Maintenance of existing elevators and trapdoors.
- 15.08.120 Elevators no longer in use.

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**15.08.005 Availability of permits.**

Areaways, ventilation openings, sidewalk elevators, fuel openings and trapdoors may only be constructed within the Pike Place Market Historical District (Chapter 25.24) and the Pioneer Square Historical District (Chapter 25.28), or, for public facilities that further travel or transportation or utility purposes.

Areaways, ventilation openings, sidewalk elevators, fuel openings and trapdoors appurtenant to structures that were under street or park use permit on January 1, 1990, may be reconstructed, altered or repaired under permit. Such use shall cease and the encroachment shall be removed from the public place whenever the appurtenant structure is demolished, destroyed, or reconstructed in a manner that it is no longer dependent upon continued use of the public place unless either the use is within the two (2) named historical districts or the appurtenant structure is a designated Landmark under Chapter 25.12 or on the state or federal register of historic places.  
(Ord. 117569 § 19, 1995.)

**15.08.010 Areaways--Structural standards.**

All areaway entrances, walls, sidewalks over areaways, guards and railings shall be constructed in accordance with the Seattle Building and Construction Code<sup>1</sup> and with the City Standard Plans and Specifications.  
(Ord. 117569 § 20, 1995; Ord. 115994 § 10, 1991; Ord. 108020 § 3(part), 1979; Ord. 106780 § 1(part), 1977; Ord. 90047 § 17(A), 1961.)

1. Editor's Note: The Seattle Building and Construction Code is codified in Title 22 of this Code.

**15.08.050 Grade and extent of uncovered areaway.**

No uncovered areaway shall be constructed in any public place unless the grade thereof exceeds twelve percent (12%); provided, however, that no such areaway shall extend out from the property line more than fifty-four inches (54"), nor to a point beyond seven feet (7') inside of the curblines, nor to within thirty-six inches (36") of any public place other than the one in which such areaway is located; and provided, that in case the grade exceeds ten percent (10%), an areaway may be constructed so that it does not extend more than thirty inches (30") from the property line.  
(Ord. 117569 § 21, 1995; Ord. 108020 § 3(part), 1979; Ord. 106780 § 1(part), 1977; Ord. 90047 § 17(E), 1961.)

**15.08.060 Boiler and apparatus prohibited.**

No boiler or other dangerous apparatus or any explosive shall be placed or allowed to remain in any areaway or space under any public place. No equipment necessary to a building's operation shall be placed in any areaway or space under any public place unless specifically authorized in the permit granting the use.  
(Ord. 117569 § 22, 1995; Ord. 108020 § 3(part), 1979; Ord. 106780 § 1(part), 1977; Ord. 90047 § 17(F), 1961.)

**15.08.070 Ventilation opening in sidewalks.**

Ventilation openings in sidewalks shall be allowed only for public utilities and to replace ventilation openings in place on January 1, 1990. Gratings shall comply with the Seattle Building and Construction Codes (SMC Title 22).  
(Ord. 117569 § 23, 1995; Ord. 108020 § 3(part), 1979; Ord. 106780 § 1(part), 1977; Ord. 90047 § 17(G),

1961.)

**15.08.080 Sidewalk elevators.**

Every sidewalk elevator shall be so constructed that when in use, the sides of opening will be closed by sheet metal guards, strengthened with an iron frame having a height equal to that of the elevator door. The maximum overall size of a sidewalk elevator shall not exceed five feet (5') by seven feet (7'), and where practicable it shall be placed seventeen inches (17") from the curb, and if of less width than the maximum, the lesser width shall be placed at right angles to the curb. No sidewalk elevator shall be constructed without approval of the Director of Transportation and a permit from the Director of Construction and Land Use to construct and operate the same.

(Ord. 118409 § 46, 1996; Ord. 115994 § 11, 1991; Ord. 108020 § 3(part), 1979; Ord. 106780 § 1(part), 1977; Ord. 90047 § 17(H), 1961.)

**15.08.090 Metal guards attached to fuel openings and trapdoors.**

A metal guard shall be attached to every fuel opening or trapdoor in a public place in such a manner as to raise and lower automatically with any such door.

(Ord. 108020 § 3(part), 1979; Ord. 106780 § 1(part), 1977; Ord. 90047 § 17(I), 1961.)

**15.08.100 Time of operation of sidewalk elevators.**

No sidewalk elevator, door, fuel opening, or oil or gasoline intake contiguous to any business property shall be operated between the hours of nine a.m. (9:00 a.m.) and six p.m. (6:00 p.m.), except in case of emergency, in which event operation shall not continue for a longer period than thirty (30) minutes. During the operation of a sidewalk elevator, a person shall be stationed on the sidewalk at the elevator opening to warn other persons of the danger.

(Ord. 108020 § 3(part), 1979; Ord. 106780 § 1(part), 1977; Ord. 90047 § 17(J), 1961.)

**15.08.110 Maintenance of existing elevators and trapdoors.**

All elevators, fuel openings and trapdoors shall have metal surfaces of sufficient strength to sustain a weight of two hundred fifty (250) pounds per square foot and such doors and their hinges shall be so constructed that their surfaces will lie flat with the surface of the sidewalk upon which they are constructed and will present no obstruction whatsoever to traffic, and shall be so roughened and maintained as to occasion no danger whatsoever to pedestrians.

(Ord. 117569 § 24, 1995; Ord. 108020 § 3(part), 1979; Ord. 106780 § 1(part), 1977; Ord. 90047 § 17(K), 1961.)

**15.08.120 Elevators no longer in use.**

Doors shall be removed from all sidewalk elevators which are no longer used, and the opening shall be replaced with reinforced concrete capable of withstanding an imposed load of not less than two hundred fifty (250) pounds per square foot. The metal rim around the doors must also be removed.

(Ord. 108020 § 3(part), 1979; Ord. 106780 § 1(part), 1977; Ord. 90047 § 17(L), 1961.)

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Chapter 15.10

**MARQUEES, AWNINGS, CANOPIES, AND DECORATIVE ELEMENTS**

**Sections:**

**15.10.010 Extension--Approval and compliance.**

**15.10.020 Lowest point.**

**15.10.030 Vertical depth.**

**15.10.040 Lighting.**

**15.10.050 Obstructing streetlight, utility pole, or tree prohibited.**

**15.10.010 Extension--Approval and compliance.**

No marquee, awning, canopy, or other decorative element shall extend over any public place closer than to within two feet (2') of the curbline. Marquees, awnings and canopies shall be approved as to structural strength and quality of materials, and shall be checked for conformance to all applicable codes by the Director of Design, Construction and Land Use.

(Ord. 117569 § 26, 1995; Ord. 108846 § 1(part), 1980; Ord. 91749 § 4(part), 1963; Ord. 90047 § 18(A), 1961.)

**15.10.020 Lowest point.**

The lowest point of any part of any marquee, awning, canopy, or other decorative element shall be not less than eight (8) feet, or sixteen (16) feet if in an alley, from the surface over which it is constructed, unless an exception to that requirement is approved by the Director of Transportation after a showing that traffic considerations have been satisfied.

(Ord. 118409 § 47, 1996; Ord. 117569 § 27, 1995; Ord. 115994 § 12, 1991; Ord. 108846 § 1(part), 1980; Ord. 91749 § 4(part), 1963; Ord. 90047 § 18(B), 1961.)

**15.10.030 Vertical depth.**

No marquee shall exceed thirty (30) inches in vertical depth, unless an exception to that requirement is approved by the Director of Transportation after a showing that the proposed marquee will not obscure the visibility of any sign or traffic control devices in the immediate area.

(Ord. 118409 § 48, 1996; Ord. 115994 § 13, 1991; Ord. 108846 § 1(part), 1980; Ord. 91749 § 4(part), 1963; Ord. 90047 § 18(C), 1961.)

**15.10.040 Lighting.**

The lighting under a marquee shall be at least equal to the lighting in the nearby public place outside. If the marquee reduces the natural or street light in a public place, the public place under the marquee shall be lighted during the hours of darkness and on the same time schedule as the municipal street lighting. Lights shall be designed, constructed and maintained to provide a minimum average illumination on the sidewalk of five (5) footcandles of light intensity. The lowest footcandle value of any point shall not be less than one-half ( 1/2) the average value.

(Ord. 117569 § 28, 1995; Ord. 108846 § 1(part), 1980; Ord. 91749 § 4(part), 1963; Ord. 90047 § 18(D), 1961.)

**15.10.050 Obstructing streetlight, utility pole, or tree prohibited.**

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No awning, canopy, marquee, or other decorative element shall be constructed at a location or in a manner which will obstruct, obscure, or interfere with any streetlight or with any utility pole or with any publicly maintained street tree.

(Ord. 117569 § 29, 1995; Ord. 108846 § 1(part), 1980; Ord. 91749 § 4(part), 1963; Ord. 90047 § 18(E), 1961.)

## Chapter 15.12

### SIGNS, BANNERS AND STREET CLOCKS

#### Sections:

15.12.010 Conformance to applicable regulations.

15.12.020 Barber poles.

15.12.030 Banners.

15.12.040 Street clocks.

#### 15.12.010 Conformance to applicable regulations.

A. All signs in public places and their supports shall be reviewed as to structural strength and quality of materials and for conformance to all applicable ordinances by the Director of the Department of Design, Construction and Land Use, except for sign kiosks in public rights-of-way and for signs on utility poles, lamp poles and traffic control devices that the court has declared to be a traditional public forum, which shall be reviewed by the Director of the Seattle Department of Transportation, formerly known as Seattle Transportation.

B. All signs, banners, barber poles and street clocks constructed upon or projecting over a public place shall conform to SMC Chapter 23.55, and, except those located in park drives and boulevards, the decisions and policies of the Director of Transportation.

C. No new signs, barber poles, or street clocks shall be constructed over park drives and boulevards. (Ord. 121038 § 1, 2002; Ord. 120388 § 1, 2001; Ord. 118409 § 49, 1996; Ord. 117569 § 30, 1995; Ord. 115994 § 14, 1991; Ord. 108020 § 4, 1979; Ord. 91749 § 5, 1963; Ord. 90047 § 19, 1961.)

#### 15.12.020 Barber poles.

No barber pole or any of its brackets and fastenings shall extend more than one (1) foot over or into any public place, or so that the bottom thereof will be less than eight (8) feet from the sidewalk. (Ord. 117569 § 31, 1995; Ord. 90047 § 20, 1961.)

#### 15.12.030 Banners.

No canvas or cloth sign or banner shall be stretched, hung, or otherwise placed over or across any public place except upon written permit issued by the City and then only upon such terms and conditions, and for such period of time as authorized in the permit. (Ord. 117569 § 32, 1995; Ord. 115994 § 15, 1991; Ord. 90047 § 21, 1961.)

#### 15.12.040 Street clocks.

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A. No clock shall be constructed, erected or maintained in or upon any public place within one hundred (100) feet of any other clock on the same side of such place, nor within eight (8) feet of any utility pole or fire hydrant, nor so that any portion thereof extends beyond the curblines.

B. No clock shall be more than fifteen (15) feet nor less than twelve and one-half (12 1/2) feet in height from the sidewalk to the center of the clock face. Each dial or the time on a digital clock shall be illuminated from within only, by electric light of not less than ninety (90) candlepower to each dial or number on a digital clock. The clock shall be kept lighted during the hours of the day in which the municipal streetlights are lit.

C. No clock shall be erected which has a base greater than twenty-eight (28) inches nor less than sixteen (16) inches in any dimension, nor which has a dial greater than three (3) feet nor less than two (2) feet in diameter.

D. No more than two (2) lines of advertising matter shall appear upon the dial, nor anything other than the name and address of the owner, occupant or lessee upon the post or base of any clock.

E. No cloth, drapery, sign or other thing shall be added, attached or suspended from the head of any clock.

F. No person shall permit a street clock of which he/she is the owner, to incorrectly record the time unless all dials thereof are covered. The cover of such a clock shall not have advertising matter thereon. Any clock not showing correct time or which has been covered for more than fourteen (14) days shall be removed upon order of the Director of Transportation.

(Ord. 118409 § 50, 1996; Ord. 117569 § 33, 1995; Ord. 115994 § 16, 1991; Ord. 90047 § 22, 1961.)

## Chapter 15.14

### NEWSSTANDS

#### Sections:

15.14.010 Statement of purpose--Standards.

15.14.020 Placement without permit--Exceptions.

15.14.030 Requirements.

15.14.040 When permit required--Issuance.

15.14.050 Congestion control.

15.14.060 Attended newsstands.

15.14.070 Authority of Director of Transportation.

15.14.080 Review and hearings--Appeals.

15.14.090 Newsstand policy in the Downtown Zones.

Severability: The invalidity of any section, subsection, provision, clause, or portion of this chapter, or the invalidity of the application thereof to any person or circumstances, shall not affect the validity of the remainder of this chapter or the validity of its application to other persons or circumstances.

(Ord. 106583 § 12, 1977.)

#### 15.14.010 Statement of purpose--Standards.

A. This chapter shall be interpreted and implemented in a manner to:

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1. Enable the public to acquire a wide variety of publications with a diversity of news, information, ideas, and opinions, at convenient locations in public places;
  2. Facilitate the distribution of publications in public places as contemplated by Article I, Section 5, of the Constitution of the State of Washington and the First Amendment to the United States Constitution;
  3. Maintain the use of City streets for travel and transportation and incidental authorized purposes, and to retain the use of other public places for the purposes established;
  4. Consider the interests of owners and occupants of property adjacent to public places, while respecting the rights of all users thereof; and
  5. Preserve the appearance of public places, carry out design controls in areas subject thereto, encourage improvements that make public places more pleasing, and promote the use of modern, aesthetic newsstands in congested areas.

B. The statement of purpose in SMC Section 15.14.010 A shall guide City officials in determining the overall public interest in regulating the placement, construction, maintenance, size and appearance of newsstands.

(Ord. 117569 § 34, 1995; Ord. 115994 § 17, 1991; Ord. 106583 § 1, 1977; Ord. 90047 § 19-A, 1961.)

#### **15.14.020 Placement without permit--Exceptions.**

Except as otherwise provided in Sections 15.14.030, 15.14.040 and 15.14.050, publishers and distributors may place newsstands in public places without a permit.

(Ord. 117569 § 35, 1995; Ord. 106583 § 2, 1977; Ord. 90047 § 19-B, 1961.)

#### **15.14.030 Requirements.**

All newsstands in a public place shall align parallel with the curb, allow at least five feet (5') of clear sidewalk space for pedestrian passage, be detectable by pedestrians using canes for guidance; and be maintained in a safe condition, able to withstand strong winds, and in good repair at all times.

No newsstand shall:

- A. Be placed or maintained so as to obstruct the use of any crosswalk, wheelchair ramp, driveway, hydrant, or City emergency facility, or be less than eighteen inches (18") from the curb;
- B. Impair loading at any bus, taxi, passenger or truck loading zone; hinder egress to parked vehicles in marked parking stalls; obstruct sight lines of motorists at an intersection; orient toward the roadway; or obscure any regulatory sign;
- C. Be fastened to any Metro facility or any utility pole or tree; or
- D. Contain advertising other than that which relates exclusively to the publication or publications

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sold; or be used for purposes other than the sale of such publications.  
(Ord. 117569 § 36, 1995; Ord. 106583 § 3, 1977; Ord. 90047 § 19-C, 1961.)

**15.14.040 When permit required--Issuance.**

- A. Without a permit from the authorizing official, no newsstand shall:
1. Be permanently affixed to the surface of any public place; provided that a modular unit newsstand for multiple publications may be bolted to a sidewalk without a permit if the owner or publisher first arranges with the authorizing official for its precise placement, and upon removal restores the sidewalk surface;
  2. Exceed size limitations set by the authorizing official;
  3. Conflict with design policies adopted for historical and special review districts or be placed within one hundred twenty feet (120') of the limits of a street improvement that provides for integration of newsstands into structures located therein;
  4. Conflict with a rule or regulation adopted by the authorizing official pursuant to SMC Section 15.14.070.

B. The authorizing official may issue a permit to allow the location of a newsstand or to allow an action or condition restricted by SMC Section 15.14.040 A1 through A4 whenever the same constitutes a reasonable accommodation that furthers the overall public interest.  
(Ord. 117569 § 37, 1995; Ord. 115994 § 18, 1991; Ord. 106583 § 4, 1977; Ord. 90047 § 19-D, 1961.)

**15.14.050 Congestion control.**

A. Without a permit no newsstand shall be placed within one hundred twenty feet (120') of any corner or other location with more than four (4) newsstands, or a modular unit newsstand with a capacity of at least four (4) units, or within one hundred twenty feet (120') of an attended newsstand.

B. As long as the requirements of Section 15.14.030 are not violated, an authorizing official may defer enforcing the congestion control criteria of subsection A of this section at a location until a complaint is made by a publisher, distributor, property owner, or member of the public.

C. If a complaint is made that the criteria in subsection A of this section are exceeded, or an application is made for a permit under this section, the authorized official shall determine whether the totality of newsstands at such location will conflict with the requirements of Section 15.14.030. If no such conflict is evident, and the authorizing official using the guidelines in Section 15.14.010 shall determine that the placement represents a reasonable accommodation furthering the overall public interest, the authorizing official may issue a permit for such proposed newsstand.

D. In determining whether to issue or deny a permit for a proposed newsstand under this section, the Director of Transportation shall consider: (1) whether there is a satisfactory alternate location for such newsstand in the vicinity, and if no such location exists, (2) whether an existing newsstand shall be displaced

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for such proposed newsstand. When necessary, allocations of space for newsstands at particular locations as provided herein shall be made in a manner which:

- (a) Offers the public convenient access to all publications, whether of large or small circulation;
- (b) Guarantees to all publishers a reasonable representation of their newsstands in public places;
- (c) Provides opportunity for placement of newsstands for new publications;
- (d) Encourages efficient use of space through attractive multiple-publication modular units; and
- (e) Minimizes hardship to applicants denied permits and to publishers whose newsstands are displaced.

Before allocating space at any location, the Director of Transportation shall afford the publishers affected a reasonable opportunity to do so voluntarily.

(Ord. 118409 § 51, 1996; Ord. 118369 § 7, 1996; Ord. 117569 § 38, 1995; Ord. 115994 § 19, 1991; Ord. 106583 § 5, 1977; Ord. 90047 § 19-E, 1961.)

#### **15.14.060 Attended newsstands.**

Attended newsstands existing on July 1, 1977 may remain in place within the space currently occupied for so long as the newsstands shall remain attended. A newsstand shall be deemed attended when its operator or other vendor shall sell publications directly to customers, person-to-person, for at least one and one-half (1 1/2) hours per day Mondays through Fridays and maintain the newsstand for sale of publications during general business hours when the operator or vendor is not personally present.

(Ord. 106583 § 6, 1977; Ord. 90047 § 19-F, 1961.)

#### **15.14.070 Authority of Director of Transportation.**

The Director of Transportation is authorized to:

A. Adopt rules and regulations implementing SMC Sections 15.14.020 through 15.14.080, including, but not limited to:

1. Establishing standards relating to advertising, safety, maintenance, location and the fastening of newsstands to traffic-control devices, and standards relating to the design of newsstands located within downtown Seattle between Stewart Street on the north, Sixth Avenue on the east, Yesler Street on the south and First Avenue on the west, or located along Alaskan Way adjacent to Piers 50 through 61, or located in the University District within sixty feet (60') of the street margins of Northeast 45th Street between Brooklyn Avenue Northeast and 15th Avenue Northeast, or within sixty feet (60') of the street margins of University Way between Northeast 42nd Street and Northeast 50th Street,

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2. Requiring that every newsstand in any public place have the name, address, and telephone number of the owner or other responsible party affixed thereto in a place where it may be easily seen; and that every publisher maintain on file with the Director of Transportation a current listing of newsstands placed in public places as authorized in this chapter without a permit,

3. Prohibiting newsstands in any particular sidewalk segment to alleviate congestion and maintain safe passage,

4. Requiring or providing for the relocation of newsstands temporarily to accommodate construction, maintenance and primary street uses,

5. Requiring any publisher to take such actions respecting placement, maintenance, and repair of newsstands from time to time as may be appropriate and to cooperate with City officials in the implementation of this chapter;

B. Upon five (5) days' notice, or without notice if emergency or unsafe conditions exist, impound newsstands unused for thirty (30) days or left in place more than ten (10) days after the publisher discontinues publication;

C. Upon five (5) days' notice, or with such notice as may be practical if emergency or unsafe conditions exist, impound newsstands in violation of this chapter, including newsstands maintained without a permit where a permit is required;

D. Integrate newsstands into structures such as bus-stop shelters and traffic-control devices in street area in special districts by local improvement district;

E. Recommend to the City's legislative authority for adoption, by ordinance, of a schedule of fees for newsstands under permit, for impounding and storage of newsstands, and for relocating newsstands where authorized;

F. Dispose of, as abandoned property, any impounded newsstand that is not claimed by the owner or other person responsible within thirty (30) days from the date of impoundment;

G. Allow two (2) or more publications to share the use of a newsstand or the same place within a modular unit; and

H. Recommend to publishers particular modular unit newsstands that comply with the standards of Section 15.14.040.

The Superintendent shall have comparable authority with respect to newsstands in park drives and boulevards.

(Ord. 118409 § 52, 1996; Ord. 117569 § 39, 1995; Ord. 115994 § 20, 1991; Ord. 106583 § 7, 1977; Ord. 90047 § 19-G, 1961.)

#### **15.14.080 Review and hearings--Appeals.**

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A. Engineering. Any person or publisher aggrieved by the placement of a newsstand in a public place under the jurisdiction of Seattle Transportation or an action of the Director of Transportation with respect to a newsstand may seek review of such action, by filing within ten (10) days after such action, a notice of review or reconsideration with the Director pursuant to SMC Section 15.04.112 on a form provided by the Director. Such notice shall identify the action being appealed, the appellant's objections thereto, and the relief or action desired. Unless an emergency or an unsafe condition exists, a newsstand already in place shall remain in place during a timely appeal until the Director makes a final decision. On review, the Director may sustain, modify, prohibit, or reverse any such newsstand placement. The Director's decision on review shall be final and conclusive, subject to judicial review.

B. Parks. Any person or publisher aggrieved by the placement of a newsstand in a park drive or boulevard under the jurisdiction of the Department of Parks and Recreation identified in Appendix I or shown on the map as Appendix II or an action of the Superintendent with respect to a newsstand may seek review of such placement by the Superintendent, or if the action be that of the Superintendent, its reconsideration by the Superintendent; and for that purpose, the appellant may request a hearing by the Superintendent, sitting with the Board of Park commissioners, by filing a notice of review within ten (10) days after such action. At or promptly after the close of the hearing, the Board shall give its advice and recommendations to the Superintendent, whose decision shall be final and conclusive, subject to judicial review.  
(Ord. 118409 § 53, 1996; Ord. 118369 § 8, 1996; Ord. 117569 § 40, 1995; Ord. 115994 § 21, 1991; Ord. 111214 § 1, 1983; Ord. 106583 § 8, 1977; Ord. 90047 § 19-H, 1961.)

#### **15.14.090 Newsstand policy in the Downtown Zones.**

It shall be the policy of the City to consider the location of newsstands and the practicality of integrating newsstands into structures being erected in the planning for projects in the Downtown Zones (SMC Chapter 23.49) involving the construction or reconstruction of a substantial segment of sidewalk or other open area for pedestrian use, and to utilize such integrated structures wherever practical in such areas, and wherever appropriate to encourage the replacement of single publication newsstands with attractive modular units.  
(Ord. 117569 § 41, 1995; Ord. 106583 § 9, 1977; Ord. 90047 § 19-I, 1961.)

### **Chapter 15.16**

#### **SIDEWALK CAFES**

##### **Sections:**

- 15.16.010 Permit--Required.
- 15.16.020 Permit--Application.
- 15.16.030 Notification of surrounding tenants and owners.
- 15.16.040 Terms and conditions.
- 15.16.050 Liquor.
- 15.16.060 Insurance.
- 15.16.070 Indemnity.
- 15.16.080 Sidewalk condition.

##### **15.16.010 Permit--Required.**

It shall be unlawful to operate a sidewalk cafe without a written permit to do so from the Director of

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Construction and Land Use, as provided in this chapter.

(Ord. 109740 § 6(part), 1981; Ord. 99674 § 2 (part), 1971; Ord. 90047 § 49(a), 1961.)

#### **15.16.020 Permit--Application.**

In addition to the information required by Section 15.04.025, an application for a sidewalk cafe permit shall state the anticipated periods of use during the year, and the proposed hours of daily use, including Saturdays, Sundays and holidays; and whether any liquor, as defined in RCW 66.04.010(6), will be sold or consumed in the area to be covered by the permit.

(Ord. 117569 § 42, 1995; Ord. 109740 § 6(part), 1981; Ord. 99674 § 2 (part), 1971; Ord. 90047 § 49(b), 1961.)

#### **15.16.030 Notification of surrounding tenants and owners.**

The Director of the Department of Design, Construction and Land Use shall provide notice of receipt of an application for a sidewalk cafe permit in accordance with the notice provisions of the Master Use Permit Process, SMC Chapter 23.76.

(Ord. 120611 § 2, 2001; Ord. 117569 § 43, 1995; Ord. 109740 § 6 (part), 1981; Ord. 99674 § 2 (part), 1971; Ord. 90047 § 49(c), 1961.)

#### **15.16.040 Terms and conditions.**

A. The Director of Construction and Land Use may issue a permit for use of a sidewalk for sidewalk cafe purposes in the event and to the extent that he or she determines that:

1. The applicant is the owner or occupant of the adjacent property and operates a cafe, restaurant, or tavern thereon;
2. The proposed use for a sidewalk cafe would not unduly and unreasonably impair passage to and fro by the public on the sidewalk for which the permit is sought and is consistent with any applicable standards established by the federal Americans with Disabilities Act; and
3. The proposed sidewalk cafe area is included within a food-service establishment permit pursuant to Seattle City Code Chapter 10.10, or the Seattle-King County Director of Public Health or his or her representative, has otherwise authorized such a use of the area.

B. The Director may include in the permit such terms and conditions as the Director may deem appropriate including, but not limited to:

- Restrictions as to the number and placement of tables and chairs and as to the hours and dates of use;
- A requirement that the area be cleared when not in use as a sidewalk cafe, or upon the order of the Director of Transportation or other appropriate City officer such as the Chief of Police or Fire Chief or their authorized representatives;
- Provisions that the permittees shall maintain the sidewalk in a clean and safe condition for

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pedestrian travel;

- A requirement that the applicant clear the sidewalk as may be necessary to accommodate deliveries to adjacent or other nearby properties;
- Regulations upon lighting and illumination of the sidewalk cafe; limitations upon noise; and restrictions upon the placement of furniture or equipment used in connection with the sidewalk cafe;
- The posting of a surety bond or establishment of an escrow account in accordance with the provisions of this title;
- If the sidewalk cafe causes a change in pedestrian travel patterns, appropriate repairs to the sidewalk in the immediate vicinity in order to accommodate the change or to assure compliance with the federal Americans with Disabilities Act;
- Restoration of the sidewalk upon completion of the use.

C. Unless expressly authorized by the City no pavement shall be broken, no sidewalk surface disturbed, and no permanent fixture of any kind shall be installed in or on sidewalk area in connection with a sidewalk cafe.

D. The Director of Construction and Land Use or the Director of Transportation may suspend or revoke the permission granted if an applicant violates this title, any implementing rules, or the terms and conditions of the permit.  
(Ord. 118409 § 54, 1996; Ord. 117569 § 44, 1995; Ord. 109740 § 6(part), 1981; Ord. 99674 § 2 (part), 1977; Ord. 90047 § 49(d), 1961.)

#### **15.16.050 Liquor.**

Liquor, as defined in RCW 66.04.010(16), as now existing or hereinafter amended, may be used and sold at a sidewalk cafe when authorized in both the use permit and provided for in this chapter and by permit of the Washington State Liquor Control Board, and not otherwise.  
(Ord. 109740 § 6(part), 1981; Ord. 99674 § 2 (part), 1977; Ord. 90047 § 49(e), 1961.)

#### **15.16.060 Insurance.**

An applicant for a permit for a sidewalk cafe shall, prior to issuance of such a permit, provide and maintain in full force and effect while the permit is in effect, public liability insurance in an amount specified by the Director of Transportation sufficient to cover potential claims for bodily injury, death, or disability and for property damage, which may arise from or be related to the use of sidewalk area for sidewalk cafe purposes, naming the City an additional insured.  
(Ord. 118409 § 55, 1996; Ord. 115994 § 22, 1991; Ord. 109740 § 6(part), 1981; Ord. 99674 § 2(part), 1977; Ord. 90047 § 49(f), 1961.)

#### **15.16.070 Indemnity.**

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The applicant for a sidewalk cafe permit shall execute and deliver to the City upon a form supplied by the Director of Transportation an agreement in writing and acknowledged by the applicant, forever to hold and save the City free and harmless from any and all claims, actions or damages of every kind and description which may accrue to, or be suffered by, any persons by reason of or related to the operation of such sidewalk cafe. In addition, such agreement shall contain a provision that the permit is wholly of a temporary nature, that it vests no permanent right whatsoever, that upon thirty (30) days' notice, posted on the premises, or by publication in the official newspaper of the City, or without such notice, in case the permitted use shall become dangerous or unsafe, or shall not be operated in accordance with the provisions of this title, the same may be revoked and the sidewalk cafe furniture ordered removed.

Every such agreement, after it has been received in his or her office and numbered, and shall be filed with the City Clerk.  
(Ord. 118409 § 56, 1996; Ord. 117569 § 45, 1995; Ord. 116368 § 220, 1992; Ord. 109740 § 6(part), 1981; Ord. 99674 § 2(part), 1971; Ord. 90047 § 49(g), 1961.)

#### **15.16.080 Sidewalk condition.**

The applicant shall comply with the terms and conditions of the sidewalk cafe permit issued, and shall maintain the sidewalk in a clean and safe condition for pedestrian travel, and shall immediately clear the sidewalk area when ordered to do so by the Director of Transportation or other appropriate City officer such as the Chief of Police or Fire Chief or their authorized representatives.  
(Ord. 118409 § 57, 1996; Ord. 109740 § 6(part), 1981; Ord. 99674 § 2 (part), 1971; Ord. 90047 § 49(h), 1961.)

### **Chapter 15.17**

#### **VENDING**

##### **Sections:**

- 15.17.005 Vending and display in public places.
- 15.17.010 Areas where mobile vending is restricted.
- 15.17.020 Mobile vending in restricted area.
- 15.17.050 No vending zone.
- 15.17.080 Stadium and exhibition center event vending.
- 15.17.100 Food and flower vending by cart from a site.
- 15.17.150 Sidewalk displays.
- 15.17.200 Street fairs and vending by nonprofit organizations.

#### **15.17.005 Vending and display in public places.**

It is unlawful to display for sale to the public or sell goods, wares, merchandise or services in a public place, unless:

- A. The activity exercises a civil liberty or constitutional right illustrated by Section 15.17.200;
- B. The activity implements a right or privilege granted by state law; a license authorized by ordinance (e.g., Chapter 6.310, Taxicabs and For-hire Vehicles; Chapter 15.14, Newsstands); or a franchise granted by the City;

C. The activity occurs in an area under permit that contemplates such an activity, e.g., a permit for a parade issued by the Police Department (Chapter 11.25); an areaway or sidewalk cafe (Chapters 15.08 and 15.16); street areas within the Pike Place Market Historical District (Chapter 25.24) that are being administered by the Pike Place Market Preservation and Development Authority; a filming permit (Chapter 15.35); or a permit for an event issued by the Special Events Committee (Chapter 15.52);

D. The seller is a "mobile food-service unit" making sales of food or refreshments on a regular basis within a district or on a route in compliance with the Food Code (Chapter 10.11) and rules of the Public Health Department and with Sections 15.17.010 -- 15.17.020; or

E. The seller has received a permit therefor issued pursuant to Sections 15.17.080 or 15.17.100. (Ord. 121242 § 1, 2003; Ord. 117569 § 47, 1995.)

**15.17.010 Areas where mobile vending is restricted.**

Except for the vending on foot of newspapers, magazines, event programs and other such publications, it is unlawful for any person unless authorized by Section 15.17.020 to sell, offer for sale, solicit orders, rent, lease, or otherwise peddle from a public place while walking, moving from place to place, using a mobile cart, using a vehicle, or by any other mobile method, within the following boundaries:

A. Beginning at the waterfront on Elliott Bay in a direct line with West Prospect Street, then east to West Olympic Place; then east along West Olympic Place to First Avenue West; then north along First Avenue West to West Aloha Street; then east along West Aloha and Aloha Streets to Westlake Avenue North; then south along Westlake Avenue North and Westlake Avenue to Eighth Avenue; then south along Eighth Avenue to South Jackson Street; then west along South Jackson Street to Fifth Avenue South; then south along Fifth Avenue South to Airport Way South; then southeast along Airport Way South to Sixth Avenue South; then south along Sixth Avenue South to South Holgate Street; then west along South Holgate Street to Elliott Bay on the waterfront; then north along the waterfront to a point in direct line with West Prospect Street, the place of beginning.

B. Within two hundred (200) feet of any public park, as defined in the Park Code, Ordinance 106615 as amended (Seattle Municipal Code Chapter 18.12), or within one thousand (1,000) feet of any public school.

C. Beginning at the junction of 15th Avenue N.E. and N.E. 40th Street; then west on N.E. 40th Street to Brooklyn Avenue; then north on Brooklyn Avenue to N.E. 50th; then east on N.E. 50th Street to 15th Avenue N.E.; then south on 15th Avenue N.E. to N.E. 40th Street, the place of beginning, including both sides of the streets and avenues mentioned.

(Ord. 121813 § 1, 2005; Ord. 121242 § 2, 2003; Ord. 117569 § 48(part), 1995; Ord. 109271 § 3, 1980; Ord. 90047 § 50, 1961.)

**15.17.020 Mobile vending in restricted area.**

Selling is permitted in public places in the areas described in Section 15.17.010 by persons on foot along the route of any parade for which a permit has been issued by the Police Department while the parade is in

progress and for one (1) hour prior to its commencement.

Selling by persons on foot is also permitted in public places in such areas when authorized by a permit for a crowd control event issued pursuant to Chapter 15.52 and the selling is in accordance with the terms of the permit.

A "mobile food-service unit" licensed by the Public Health Department may sell food and beverages from a vehicle in public places in such areas to personnel at business and industrial establishments and at construction sites on a pre-arranged route or a prearranged schedule. The driver and vehicle are subject to the Traffic Code, Title 11.

Nothing in this section authorizes selling as prohibited by Section 15.17.050.  
(Ord. 120822 § 2, 2002; Ord. 117569 § 48(part), 1995; Ord. 109271 § 3, 1980; Ord. 90047 § 50, 1961.)

#### **15.17.050 No vending zone.**

Except for the vending on foot of newspapers, magazines, event programs and other such publications as authorized by the Director, it is unlawful to sell, offer to sell, solicit orders, rent, lease, or otherwise peddle any goods or services in a public place within the area bounded by the centerline of South Royal Brougham Way, the center line of First Avenue South, the center line of South Atlantic Street and the center line of Third Avenue South for the day (a twenty-four hour period from midnight to midnight) of any event scheduled at Safeco Field.

The Director of Transportation is authorized to adopt rules relating to the vending on foot of newspapers, magazines, event programs, and other such publications in the No Vending Zone. Such rules may address the issuance and duration of permits, the number and placement of the on foot vendors, advertising and posting of prices, the display of licenses, documentation to accompany applications for registration, and prohibitions against discrimination, among other subjects.  
(Ord. 121242 § 3, 2003; Ord. 120843 § 1, 2002; Ord. 120822 § 3, 2002; Ord. 117569 § 49, 1995; Ord. 109271 § 3, 1980; Ord. 90047 § 50, 1961.)

#### **15.17.080 Stadium and exhibition center event vending.**

The Director of Transportation may issue a permit to authorize the use of a public place for vending within the area bounded by the center line of South Jackson Street, the center line of Fifth Avenue South, the center line of Airport Way South, the center line of Sixth Avenue South, the center line of South Holgate Street, and the center line of Alaskan Way South, except that during events at Safeco Field, vending shall not be permitted on Occidental Avenue South between Railroad Avenue South and South Jackson Street, for the sale of goods, wares, merchandise, services, food and nonalcoholic beverages from a temporary display table, tent or cart that is stationed at a site approved by the Director for stadium and exhibition center events, under the following terms and conditions:

- A. Vending of food and beverages must meet all standards established by the Seattle-King County Health Department, and if propane or a combustible fuel is used, the requirements of the Fire Department;
- B. Food and beverages sold must be capable of immediate consumption;

C. The display tables, carts, tents and all other equipment must be removed from the public place after business hours;

D. The vendor must provide public liability insurance naming the City as an additional insured in an amount determined by the Director of Transportation by rule;

E. The vending site must be kept clean at all times. The vendor must supply a refuse container;

F. No use of voice amplification devices is allowed;

G. Electrical utility connections are permitted to the adjacent property, but no lines may be extended overhead or upon the sidewalk;

H. The vendor must present to the City written approval for the vending by the adjoining property owner and/or tenant; if the tenant and property owner disagree, the property owner's decision controls;

I. The vendor displays the permit at the vending site in a manner approved by the Director of Transportation; and

J. The vendor satisfies all the conditions of its permit and such other criteria and requirements as the Director of Transportation may establish from time to time by rule in the public interest. (Ord. 121242 § 4, 2003; Ord. 120822 § 4, 2002.)

#### **15.17.100 Food and flower vending by cart from a site.**

An authorizing official may issue a permit to authorize the use of a public place for the sale of food, flowers, and nonalcoholic beverages from a cart, stationed at an authorized site, under the following terms and conditions:

A. Vending of food and beverages must meet all standards established by the Seattle-King County Health Department, and if propane or a combustible fuel is used, the requirements of the Fire Department. Vending may not occur in a single-family or residential low-rise zone;

B. Food and beverages sold must be capable of immediate consumption;

C. The cart for vending food and/or beverages may not be more than five feet (5') long, five feet (5') high, and three feet (3') wide; the authorizing official may also permit awnings;

D. The cart must be capable of being pushed by one (1) person, with at least two (2) functional wheels and positive wheel locking devices;

E. The wheels of the cart must be locked while the vendor is offering to conduct business, and the cart must be removed from the public place after business hours;

F. The vendor must provide public liability insurance naming the City as an additional insured in an

amount determined by the authorizing official by rule;

- G. The vending site must be kept clean at all times. When vending involves a container or wrapper, the vendor must supply a refuse container;
- H. No mechanical audio or noise making devices or hawking is allowed;
- I. Electrical utility connections are permitted to the adjacent property, but no lines may be extended overhead or upon the sidewalk;
- J. The vendor must present to the City written approval for the vending by the adjoining property and/or tenant; if the tenant and property owner disagree, the property owner's decision controls;
- K. If the vending occurs within two hundred feet (200') of a park or public school, the vendor must present written consent of the Superintendent of Parks and Recreation or the Seattle School District, respectively; if the vending occurs within two hundred feet (200") of a private school, the vendor must present proof of mailing or delivery of notice of the application to the school's administrator and an opportunity for comment shall be allowed. No vending of flowers may occur within two hundred feet (200') of an established florist without the written consent of the florist.
- L. The vendor satisfies such other criteria and requirements as the authorizing official may establish from time to time by rule in the public interest.  
(Ord. 117569 § 50(part), 1995.)

#### **15.17.150 Sidewalk displays.**

The Director of Transportation may issue a permit to the owner or manager of a business upon adjoining property making sales at retail to the public in a zone other than single-family or low-rise multi-family zone to display on a public sidewalk goods or wares that are being offered for sale inside the business. Sidewalk displays are subject to rules of the Director of Transportation, the terms and conditions of the permit, and the following criteria:

- A. The display may not obstruct passage on the sidewalk nor the use of any crosswalk, wheelchair ramp, bus or taxi loading zone. The display must allow at least six feet (6') of clearance for pedestrian passage to the nearest street trees; utility pole; traffic control signs, parking payment devices, or fire hydrants and may not be fastened to any of the foregoing;
- B. The display must be flush against the building of the adjoining property, must leave entrances and driveways clear, and may not extend more than three feet (3') into the sidewalk;
- C. The display must be removed during those hours that the business is closed. If the display is in place before sunrise or after sunset, the display must be lighted and readily visible to passing pedestrians on the sidewalk;
- D. Sales of goods or merchandise displayed must occur on the adjoining privately owned property;

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- E. The display may not contain alcoholic beverages, tobacco, firearms or munitions, or any article which a minor is prohibited by law from purchasing; nor any material restricted by the Fire Code from direct access or handling by the public;
- F. The display must be removed at any time that the Director of Transportation, the Chief of Police, or the Fire Chief determine that a clear sidewalk is needed for use of travel or transportation, street cleaning or maintenance, street utility work, a crowd control event or parade, or an emergency and request removal;
- G. The City assumes no responsibility for the items on display, irrespective of whether the loss occurs through accident, collision, vandalism, theft or otherwise;
- H. The applicant must provide public liability insurance naming the City as an insured on any additional insured in an amount determined by the authorizing official by rule; and
- I. The applicant shall provide the City an indemnity agreement and acknowledgment of the temporary nature of the permission granted comparable to that required of sidewalk cafes under Section 15.16.070. (Ord. 121388 § 22, 2004; Ord. 118409 § 58, 1996; Ord. 117569 § 50(part), 1995.)

**15.17.200 Street fairs and vending by nonprofit organizations.**

The Director of Transportation, the Superintendent, and the Director of the Seattle Center are authorized to adopt rules relating to the time, place and manner in which a nonprofit organization may vend merchandise in which the organization's political, religious, sociological or ideological message is inextricably intertwined when the sale exercises the vendor's rights guaranteed by the United States or the Washington Constitution. Such rules may address the issuance and duration of permits, the size and placement of tables and other equipment used, their siting and location on the sidewalks, the type of merchandise offered for sale, advertising and posting of prices, the display of licenses, the exclusion of ineligible merchandise, documentation to accompany applications for registration, and prohibitions against discrimination, among other subjects.

An authorizing official may authorize vending in a public place as part of a street fair, carnival, athletic activity, or other public event authorized by and in accordance with a permit issued by the Special Events Committee under Chapter 15.52. (Ord. 118409 § 59, 1996; Ord. 117569 § 50(part), 1995.)

**Chapter 15.18**

**DANGEROUS STRUCTURES ON ADJOINING PROPERTY**

**Sections:**

- 15.18.010 Duty to maintain--Notice of hazardous condition--Barricading.
- 15.18.020 Construction of covered way.

**15.18.010 Duty to maintain--Notice of hazardous condition--Barricading.**

A. The owner of a structure on property adjoining a public place has an obligation to maintain it so that it does not create a hazard to the public using the public place; and, if a hazard to the public should develop,

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to promptly place barricades in the public place to warn the public of the danger and discourage entry into the area of risk. Upon discovering the hazard, the owner shall immediately inform the Director of Planning and Development, and, as to park drives and boulevards, the Superintendent of Parks and Recreation, and as to other public places, the Director of Transportation.

B. Whenever the Director of Planning and Development finds that a building is unsafe, according to the Building Code (SMC Title 22), or any other applicable ordinance, and a hazard to public safety, health or welfare may exist to members of the public using a public place, then the authorizing official may in his or her discretion immediately barricade the public place or require the owner or occupant of the adjoining property to set up barricades to the extent necessary, so as to prevent public access to such area in the interest of public safety. If the City incurs an expense in erecting or maintaining barricades, the authorizing official shall bill the owner or occupant the cost thereof together with an administrative charge equal to fifteen percent (15%) of the amounts expended.

The Director of Planning and Development forthwith shall notify the owner or his or her agent of such hazardous condition and to correct this condition within ten (10) days from the date of notice thereof.  
(Ord. 121276 § 37, 2003; Ord. 118409 § 60, 1996; Ord. 117569 § 51(part), 1995; Ord. 90047 § 23(A), 1961.)

#### **15.18.020 Construction of covered way.**

If the hazardous condition described in Section 15.18.010 has not been corrected by the owner or agent within the ten (10) day period, the owner or agent shall be notified to obtain a permit for the construction and maintenance of a covered way over that portion of the sidewalk or street area as directed by the Director of Transportation, or in the case of boulevards and park drives, by the Superintendent of Parks and Recreation. The covered way shall comply with the standards in Section 15.22.120, and with specifications in City manuals for work in public places. An owner or agent who fails to begin and complete construction according to a permit or to obtain such permit in the time specified is subject to the penalties in Chapter 15.50. In addition, the City may cause such covered way to be constructed and charge the cost plus fifteen percent (15%) thereof against the property described, and such charges shall be collected in the manner of the collection of debts.  
(Ord. 118409 § 61, 1996; Ord. 117569 § 51(part), 1995; Ord. 90047 § 23(B), 1961.)

### **Chapter 15.20**

#### **BUILDING CLEANING OR PAINTING**

##### **Sections:**

- 15.20.010 Permit--Required.
- 15.20.020 Permit--Contents; validity.
- 15.20.040 Chemicals and contaminants.
- 15.20.050 Scaffolding--Compliance.
- 15.20.070 Public protection.
- 15.20.080 Ladder safety.

##### **15.20.010 Permit--Required.**

It is unlawful for anyone to occupy a public place with scaffolding, ladders or equipment to clean or paint a building, wall, or sign without first obtaining a permit, to do so from the Director of Transportation, or,

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as to park drives and boulevards, the Superintendent of Parks and Recreation. No permit is required for using a single, extended ladder fourteen feet (14') or less in length, without other equipment. The term "equipment" includes machinery and power tools for generating or applying steam, high-pressure granular material, water, compressed air, and/or chemical solvents, paints and other coatings.  
(Ord. 118409 § 62, 1996; Ord. 117569 § 52, 1995; Ord. 90047 § 24(A), 1961.)

#### **15.20.020 Permit--Contents; validity.**

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sections for public references only.  
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The permit shall specify the portion of the public place which may be occupied, the equipment that may be used, the dates or days and hours of use, and the purpose. The permit shall be valid only for the dates or number of days stated, for the occupation of such portion of the public place set forth, and at such hours as may be designated, and for the purpose of cleaning, painting, erecting or hanging scaffold for the particular structure for which the permit is issued.  
(Ord. 117569 § 53, 1995; Ord. 90047 § 24(B), 1961.)

#### **15.20.040 Chemicals and contaminants.**

The use of acids, chemicals, any other cleaning material, paint or other coating is subject to and must comply with rules and regulations of the Environmental Protection Agency and the Puget Sound Air Pollution Control Agency both as to substances used and to the manner of application.  
(Ord. 117569 § 54, 1995; Ord. 90047 § 24(D), 1961.)

#### **15.20.050 Scaffolding--Compliance.**

All scaffolding shall comply with the provisions of Chapter 15.24 of this Code and to all rules of the State of Washington, Department of Labor and Industries (WAC Title 296).  
(Ord. 117569 § 55, 1995; Ord. 90047 § 24(E), 1961.)

#### **15.20.070 Public protection.**

Any person who uses a public place for cleaning or painting a structure, with or without a permit, is required to protect the general public from injury or damage. The general public includes people who may also be using the public place in the vicinity; vehicles that may be traveling or parked on the roadway; and adjoining properties. Protective measures include, where applicable, controls on spraying; placement of tarpaulin or other coverings to intercept spillage or droppings; and screening devices.

During cleaning or painting operations, a suitable portion of the public place shall be closed to the general public; and barricades, warnings, or other traffic-control devices required by the authorizing official shall be placed in an approved manner. Hours of operation and/or additional construction may be specified to protect the public from injury or damage.  
(Ord. 117569 § 56, 1995; Ord. 90047 § 24(G), 1961.)

#### **15.20.080 Ladder safety.**

If a ladder more than fourteen feet (14') in height is used in building, painting, or cleaning operations, a person shall be stationed at the base of the ladder at all times in the interest of public safety.

(Ord. 117569 § 57, 1995; Ord. 90047 § 24(H), 1961.)DEMOLITION>

## Chapter 15.22

### BUILDING CONSTRUCTION/DEMOLITION

#### Sections:

15.22.010 Compliance required.

15.22.020 Application for use permit.

15.22.022 Investigation.

15.22.024 Policies.

15.22.026 Insurance; conditions.

15.22.030 Fence or enclosure--When required.

15.22.040 Fence or enclosure--Materials and construction.

15.22.050 Obstruction of utility or traffic facilities prohibited.

15.22.060 Removal of earth and debris.

15.22.070 Mixing of mortar or concrete.

15.22.080 Repair of damage to public property.

15.22.085 Excavations and cave-ins.

15.22.100 Permit to drive over sidewalk or curb.

15.22.110 Protection of sidewalk and pavement.

15.22.120 Railings, barricades, and walkways.

15.22.122 All walkways--Requirements.

15.22.125 Covered walkways.

#### 15.22.010 Compliance required.

When a building is to be erected, razed, repaired or altered, the specifications set out in this chapter shall be complied with by the owner of the building or his or her agent.

(Ord. 117569 § 59, 1995; Ord. 106780 § 2(part), 1977; Ord. 90047 § 25(part), 1961.)

#### 15.22.020 Application for use permit.

An application shall be filed with the Superintendent of Parks and Recreation for use of a park drive or boulevard and with the Director of Transportation for use of other public places for construction, demolition, or repair of a building. The application shall specify the proposed use of the area and the period of time the applicant desires to use the specified area and be accompanied by a plan of the definite limits of areas desired for use. The use shall be confined to the public place adjoining the property to be improved, but if the application is accompanied by written permission of other adjacent property owners, the authorizing official may allow the use of a public place extending beyond the immediately adjoining property.

(Ord. 118409 § 63, 1996; Ord. 117569 § 60(part), 1995; Ord. 115994 § 23, 1991; Ord. 106780 § 2(part), 1977; Ord. 90047 § 25(A), 1961.)

#### 15.22.022 Investigation.

The Director of Transportation or the Superintendent of Parks and Recreation as to park drives or boulevards shall investigate the area of the proposed use to determine the traffic carried by the adjacent roadway and walks, and to determine the inconvenience and hazard to the public. The authorizing official may revise the applicant's plans and confine the proposed use of the public place to an area that the official finds to be consistent with public safety and use of the street and boulevard for travel and transportation.

(Ord. 118409 § 64, 1996; Ord. 117569 § 60(part), 1995; Ord. 115994 § 23, 1991; Ord. 106780 § 2(part), 1977;

Ord. 90047 § 25(A), 1961.)

**15.22.024 Policies.**

It is City policy (1) to protect the public passage within the existing roadways and walks; if (1) is not practical, then (2) to authorize a detour around the work area on the same side of a street or boulevard within the right-of-way; and if (2) is not practical, then (3) to close the sidewalk, and as a last resort, the street. In determining the practicality of an alternative, an authorizing official may take into consideration the purpose of the proposed use, its hazard to the public and the user's need for control of adjoining right-of-way, traffic patterns (both pedestrian and vehicular), the terrain, the impact of a detour or closure on adjoining properties and businesses, the expense of the alternative, and its duration. A compelling need must be shown to close a bus or trolley route. The authorizing official may limit a detour or closure to certain hours, such as work day while construction is in progress on the adjoining site.

(Ord. 117569 § 60(part), 1995; Ord. 115994 § 23, 1991; Ord. 106780 § 2(part), 1977; Ord. 90047 § 25(A), 1961.)

**15.22.026 Insurance; conditions.**

A. Upon completion of the investigation of the application, the authorizing official may grant the requested permit, subject to the applicant's furnishing public liability insurance and a deposit and/or surety bonds or an escrow account as the authorizing official deems necessary to protect the City from any claims for damages to persons or property or any other cause arising out of the proposed use.

B. The authorizing official may alter a condition of the permit at any time that the authorizing official finds that such use may cause damage to persons or property.

C. The Director of Transportation shall determine the adequacy of protective devices installed in a public place to safeguard utility and traffic facility devices.

D. All determinations of the Director of Transportation with respect to the issuance or denial of permits under this chapter are final subject to review pursuant to SMC Section 15.04.112. A person aggrieved by a determination of the Superintendent may petition the Superintendent for an opportunity for a hearing and reconsideration of the decision.

(Ord. 118409 § 65, 1996; Ord. 118369 § 9, 1996; Ord. 117569 § 60(part), 1995; Ord. 115994 § 23, 1991; Ord. 106780 § 2(part), 1977; Ord. 90047 § 25(A), 1961.)

**15.22.030 Fence or enclosure--When required.**

A fence or enclosure shall be erected at any location at which a building is to be erected, razed, repaired or altered, and a hazard to pedestrian traffic is created: (A) within ten feet (10') of a walk or roadway, (B) in a business district, or (C) in any case deemed necessary by the City Director of Transportation or, as to park drives and boulevards, the Superintendent.

(Ord. 118409 § 66, 1996; Ord. 117569 § 61, 1995; Ord. 106780 § 2(part), 1977; Ord. 90047 § 25(B), 1961.)

**15.22.040 Fence or enclosure--Materials and construction.**

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A. Fences or enclosures at building sites on which construction or demolition activity occurs shall be continuous for their full length, except for such openings which shall be provided with sliding gates or hinged gates swinging inward, as may be necessary for the proper execution of the work. The gates of such openings shall be securely fastened in a closed position when not in use.

B. Such fence, unless otherwise provided, shall be at least seven feet (7') in height and shall, where practicable, be erected before any work is commenced. Whenever the authorizing official determines that the construction or demolition activity may create flying debris or dust or otherwise affect pedestrians on a nearby walk or traffic on the adjacent roadway, the fence shall be solid and tight, except for the gates for entry or exit; view holes with protective screening provided for the public; and, if the enclosure is adjacent to a street intersection or corner, a portion of the fence from four feet (4') to seven feet (7') high which is within thirty feet (30') each way from the corner of the fence must be of wire mesh to provide for traffic visibility at all times, unless otherwise designated by the authorizing official. Otherwise, a wire mesh fence may be used.

C. The fence shall be designed to withstand wind loads and any other design factors imposed by the Seattle Building Code (Title 22).  
(Ord. 117569 § 62, 1995; Ord. 106780 § 2(part), 1977; Ord. 90047 § 25(C) 1961.)

#### **15.22.050 Obstruction of utility or traffic facilities prohibited.**

No materials, fence or shed shall obstruct the approach to, or the normal functioning of a fire hydrant, maintenance hole, fire alarm box, catchbasin, inlet, vault, valve chamber, or any other public utility facility or traffic control device which is within an area being used by a permittee. A substantial protective frame, boarding, sand bags, etc., shall be placed or built around every streetlight pole, power pole, fire hydrant, and other utility facility or traffic control device that may be damaged by work being done on the adjacent property. This protection shall be maintained while the work is being done, shall not obstruct the normal function of the facility or device and ventilation of the maintenance holes, and shall be altered to provide for emergency access to the facility or device during periods when the workers are not present nearby.

Access to standpipes, fire escapes, and other appurtenances for fire safety of adjoining properties shall be preserved. City-owned street trees shall be protected from injury unless the authorizing official indicates otherwise.  
(Ord. 117569 § 63, 1995; Ord. 106780 § 2(part), 1977; Ord. 90047 § 25(D), 1961.)

#### **15.22.060 Removal of earth and debris.**

Earth taken from excavations and rubbish from buildings shall not be stored in a public place, but shall be removed as rapidly as produced.

Materials that are dry and apt to produce dust when handled shall be kept sufficiently moist or covered to prevent the wind blowing them about. Building rubbish accumulating on upper floors and all rubbish, plaster and other loose materials, produced while wrecking, altering or repairing a building, must be lowered by elevators in closed receptacles or by closed chutes connecting to vehicles removing the same. When likely to produce dust, the chutes must be provided with means of wetting waste to prevent the wind from blowing it about.  
(Ord. 117569 § 64, 1995; Ord. 106780 § 2(part), 1977; Ord. 90047 § 25(E), 1961.)

**15.22.070 Mixing of mortar or concrete.**

It is unlawful to mix mortar or concrete in any public place unless confined to a tight box or mixing board, and in no case shall mixers or boxes be washed so that the water will run into a public place unless free of all sand, cement or any similar material.

(Ord. 117569 § 65, 1995; Ord. 106780 § 2(part), 1977; Ord. 90047 § 25(F), 1961.)

**15.22.080 Repair of damage to public property.**

Any damage done to sidewalk, pavement, sewers, drain inlets, catchbasins or any other public facility shall be repaired as directed by the Director of Transportation as he or she finds necessary, and, if repaired by the Director, all costs plus fifteen percent (15%) shall be charged against the owner, agent or contractor; except that:

- A. If the damage be to a park drive or boulevard, the Superintendent of Parks and Recreation may make the repairs and charge the costs plus fifteen percent (15%) to cover administrative expenses to the owner, agent or contractor;
- B. If the authorizing official grants a permit to do so, the owner, agent or contractor may restore and repair such damages as required by, and under the inspection of, the authorizing official; and
- C. Injury to City-owned street trees shall be remedied in the discretion of the authorizing official by compensation and/or replacement so that the City is made whole.

If construction or demolition activities cause the City to undertake additional maintenance activities in the vicinity (such as street cleaning or sweeping; or clearing of its drain inlets, catchbasins, or storm drains functioning; or removing of other material from a public place), the authorizing official may charge the owner, agent, or contractor responsible therefor the cost of the added maintenance plus fifteen percent (15%) to cover administrative expenses.

(Ord. 118409 § 67, 1996; Ord. 117569 § 66, 1995; Ord. 106780 § 2(part), 1977; Ord. 90047 § 25(G), 1961.)

**15.22.085 Excavations and cave-ins.**

The maintenance of lateral support during an excavation and the responses to a cave-in or slide are regulated by Chapter 15.44.

(Ord. 117569 § 67, 1995.)

**15.22.100 Permit to drive over sidewalk or curb.**

Whenever construction vehicles or heavy equipment are to be moved across a public sidewalk or curb or a portion thereof not set aside as a driveway, the owner, agent or contractor shall secure a permit to drive over the walk and/or curb and shall deposit cash, a surety bond, or both or establish an escrow account as directed by the authorizing official.

(Ord. 117569 § 68, 1995; Ord. 106780 § 2(part), 1977; Ord. 90047 § 25(I), 1961.)

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**15.22.110 Protection of sidewalk and pavement.**

In using a public place or driving over walks and curbs, the contractor shall keep such walk and pavement reasonably clean, properly protected during working hours, and safe for public travel; upon failure to do so the authorizing official may place such protective covering and cause such clean-up to be made, and the cost thereof plus fifteen percent (15%) to cover administrative expenses shall be charged to the contractor. Any charges so made may be deducted from the contractor's deposits on file or may be charged against his or her bond.

(Ord. 117569 § 69, 1995; Ord. 106780 § 2(part), 1977; Ord. 90047 § 25(J), 1961.)

**15.22.120 Railings, barricades, and walkways.**

The following Table shall be used to establish minimum requirements for pedestrian and motorist safety adjacent to building sites, demolition sites, construction sites and sites of excavations abutting upon or adjacent to public places.

**WALKWAY TABLE**

(Section 15.22.120)

Height of Construction	Distance from Construction	Protection Required
8 feet or less	1. Less than 6 feet	1. Railing (§ A)
	2. 6 feet or more	2. Barricades (§ B)
More than 8 feet	3. Less than one- fourth of the height of construction	3. Fence (§ C) and covered walkway (§ D and §§ 15.22.122-- 15.22.125)
	4. More than one- fourth of the height of construction	4. Fence (§ C)

Excavation within 4 feet of the street margin...Railing with midrail (§ A). See also Chapter 15.44

The height of construction in the table refers to the height of the building being built on the adjacent building site above the sidewalk grade. The distance from construction refers to the distance a pedestrian railing or fence is located from the nearest edge of the building site.

The protection required in Column 3 is as follows:

- A. Railing. A handrail not less than three and one-half feet (3 1/2') high, capable of withstanding a fifty (50) pound load per lineal foot applied horizontally to the top rail;
- B. Barricades. Four (4) or more red or flashing amber lights as required in Chapter 15.40;
- C. Fence. Sections 15.22.030--15.22.040 apply.

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D. Walkway. A walkway is required unless the sidewalk is closed. Section 15.22.122 applies to all walkways, and, in addition, Section 15.22.125 applies when the walkway table requires a covered walkway. (Ord. 117569 § 70(part), 1995; Ord. 106780 § 2(part), 1977; Ord. 90047 § 25(K), 1961.)

**15.22.122 All walkways--Requirements.**

A. The walkway area shall have four feet (4') or more of clear walking width.

B. A tight fence of board or chain link shall stand along the entire length on the side abutting the building site.

C. The walkway shall have a handrail on the roadway side, not less than three and one-half feet (3 1/2') high capable of withstanding a fifty (50) pound load per linear foot applied horizontally to the top rail.

D. If the walkway is also used as a bus zone, as much of the handrail and wire mesh on the roadway side as stipulated by the Director of Transportation shall be omitted or removed from the walkway.

E. The walkway area shall be kept well lighted continuously between sunset and sunrise, and at such other times as necessary.

F. The walkway area shall have warning lights, painting and other devices prescribed by the Traffic Control Manual for In-Street Work.

G. A well-defined walking surface must be provided if pedestrians are to be routed off a paved sidewalk or into a roadway area. The walking surface must be solid and not slippery, and the transition between the temporary walkway surface and the sidewalk shall be without abrupt breaks or stubs. Pedestrians shall not be required to walk in a gutter.

(Ord. 118409 § 68, 1996; Ord. 117569 § 70(part), 1995; Ord. 106780 § 2(part), 1977; Ord. 90047 § 25(K), 1961.)

**15.22.125 Covered walkways.**

A covered walkway has a temporary protective roof extending above a pedestrian walkway to be built and maintained during construction or demolition on the adjacent property. In addition to the requirements in Section 15.22.122, the requirements of a covered walkway are:

A. The roof shall have eight feet (8') of clearance above the walkway, and shall be tightly boarded with a covering of roofing paper or other material to prevent water from falling through.

B. The roof shall be designed to carry the loads imposed upon it, provided the minimum live load to be used in design shall not be less than one hundred fifty (150) pounds per square foot, uniformly loaded.

C. If the walkway is abutting upon or within the roadway area, the roadway side shall be protected by a tight board fence three and one-half feet (3 1/2') high, and wire mesh or other suitable material from the top of the handrail to the roof.

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D. If materials are stored or work is done on the roof of the walkway, the roadway side of the walkway shall extend one foot (1') above the roof, or as high as needed to contain the material stored on the roof.

(Ord. 117569 § 70(part), 1995; Ord. 106780 § 2(part), 1977; Ord. 90047 § 25(K), 1961.)

## Chapter 15.24

### SCAFFOLDS

#### Sections:

15.24.010 Requirements.

15.24.020 Permit required.

15.24.030 Tarpaulin required.

#### 15.24.010 Requirements.

Scaffold and staging shall have sufficient strength to support the weight to be placed upon it and sufficient width to prevent persons and materials from falling. Tarpaulins and scaffolds shall be braced sufficiently or anchored to the building so that they will not fall or be blown about or otherwise collapse.

(Ord. 117569 § 71, 1995; Ord. 90047 § 26(A), 1961.)

#### 15.24.020 Permit required.

It is unlawful for any person to erect, hang, build or maintain any scaffold or staging over any public place without a permit from the Director of Transportation, or as to park drives or boulevards, from the Superintendent of Parks and Recreation. However, a general permit for the use of the place while building or remodeling a structure shall carry with it the right for such scaffolding or staging.

(Ord. 118409 § 69, 1996; Ord. 117569 § 72, 1995; Ord. 115994 § 24, 1991; Ord. 90047 § 26(B), 1961.)

#### 15.24.030 Tarpaulin required.

A substantial tarpaulin shall be attached to the underside of a scaffold or staging where directed by the Director of Transportation or the Superintendent as to park drives and boulevards in such a manner as to stop any spray, debris, or other material from spreading on the surface below.

(Ord. 118409 § 70, 1996; Ord. 117569 § 73, 1995; Ord. 90047 § 24(F), 1961.)

## Chapter 15.26

### BACKFILLING

#### Sections:

15.26.010 Authority of City.

15.26.020 Billing of costs.

15.26.030 Quality of backfill material.

#### 15.26.010 Authority of City.

The Director of Transportation, or as to park drives and boulevards, the Superintendent of Parks and

Recreation, shall have the control of the refilling and restoring of any public place to its proper condition, after an excavation or other use has disturbed its surface. The authorizing official may allow or require the permittee to complete the backfilling or restoration subject to City inspection or the City may perform the work itself. (Ord. 118409 § 71, 1996; Ord. 117569 § 74(part), 1995; Ord. 90047 § 27, 1961.)

#### **15.26.020 Billing of costs.**

The authorizing official shall bill the permittee for the City's cost of refilling and restoration according to one of the two (2) following methods:

A. A standard set amount for the City's work according to a schedule of fees prepared by the authorizing official and approved by ordinance when the fixed charge fairly reflects an average amount and using a fixed figure furthers the public convenience and ease of administration; or

B. The actual cost to the City for the work plus fifteen (15) percent to cover administrative expenses.

The method shall be determined before the City work commences. The charge shall be billed to the permittee or deducted from the permittee's indemnity deposit or escrow account. (Ord. 117569 § 74(part), 1995; Ord. 90047 § 27, 1961.)

#### **15.26.030 Quality of backfill material.**

The authorizing official shall require the permit holder to use a select backfill material approved by the Director of Transportation that achieves a level of subgrade support for all temporary and permanent street restorations that prevents settling of the base in relation to the surrounding street area. (Ord. 118751 § 1, 1997.)

### **Chapter 15.28**

#### **BUILDING AND EQUIPMENT MOVING**

##### **Sections:**

**15.28.010 Permit required.**

**15.28.020 Bond and insurance.**

**15.28.030 Application for permit.**

**15.28.040 Removal or trimming of trees or shrubbery.**

**15.28.050 Wires and cables--Relocation and costs; trees in boulevards or parks.**

**15.28.060 Determination of probable interference.**

**15.28.070 Grantee to bear expenses.**

**15.28.080 Authority to make rules and regulations.**

##### **15.28.010 Permit required.**

It is unlawful to move a building or equipment which requires relocation of utility wires or cables along or across any public place without a permit to do so from the Director of Transportation. When the move is along or across a park drive or boulevard, the Director shall coordinate with the Superintendent of Parks and Recreation and the permit is subject to the Superintendent's concurrence.

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(Ord. 118409 § 72, 1996; Ord. 117569 § 76, 1995; Ord. 108382 § 2(part), 1979; Ord. 90047 § 28-A(A), 1961.)

**15.28.020 Bond and insurance.**

A. Bond. The applicant shall furnish to the Director of Transportation, for filing with the City Clerk, a surety bond approved as to form by the City Attorney in an amount determined in accordance with Section 15.04.040, or have deposited a like amount into an escrow account under Section 15.04.042. If the Director elects to forego making an individual determination as to a particular application, the amount shall be Ten Thousand Dollars (\$10,000), and conditioned upon the requirements of Sections 15.04.040 through 15.04.044, subject to RCW 19.72.107. The bond shall be further conditioned to pay all costs and expenses contemplated by Sections 15.28.040 through 15.28.070, including the making of any necessary repairs to public places or facilities caused by reason of the permittee's operations in moving a building or equipment on or along any public place.

B. Insurance. In addition to the bond, the applicant shall furnish to the Director of Transportation a certificate stating that the City is included as an additional insured on his or her protective public liability insurance. The amount and coverage shall be determined in accordance with Section 15.04.045, but, in lieu of making an individual determination as to the particular application, the Director may stipulate that the insurance shall provide for a limit of not less than One Million Dollars (\$1,000,000) for all damages arising out of bodily injuries to, or death of any persons in any one (1) accident; and shall also provide property damage liability insurance providing for a limit of not less than One Hundred Fifty Thousand Dollars (\$150,000) for all damages arising out of injury to or destruction of property in any one (1) accident. The insurance shall state that the Director of Transportation shall be given ten (10) days' notice of any change, cancellation or expiration of such insurance policy.

C. Revocation. The Director of Transportation may revoke a permit at any time upon a failure to comply with any of the terms of the permit or this chapter or upon the conditions in Section 15.04.070. (Ord. 118409 § 73, 1996; Ord. 117569 § 77, 1995; Ord. 116368 § 221, 1992; Ord. 108382 § 2(part), 1979; Ord. 90047 § 28-A(B), 1961.)

**15.28.030 Application for permit.**

Every application for a permit to move a building or equipment which requires relocation of utility wires or cable through or across a public place of the City shall be made to the Director of Transportation on a form provided by the Director. Every such application shall state the location of the building to be moved, its dimensions and principal materials, and shall describe the route over which the building is to be moved, the length of time that will be required to move it, and the proposed new location thereof. Before any permit to move a building to a site within the City is issued, specific written approval must be obtained from the Department of Construction and Land Use. The concurrence of the Superintendent of Parks and Recreation is necessary if the building or such equipment will be moved along or across a park drive or boulevard; and the approval of all utilities is also necessary, if those utilities are to be disturbed.

(Ord. 118409 § 74, 1996; Ord. 117569 § 78, 1995; Ord. 115994 § 25, 1991; Ord. 108382 § 2(part), 1979; Ord. 90047 § 28-A(C), 1961.)

**15.28.040 Removal or trimming of trees or shrubbery.**

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Where the removal or trimming of any trees or other shrubbery is necessary, the building or equipment mover is required to obtain from the owner thereof a written release for any damages, holding the City free of any liability or damages whatsoever. If the building or equipment is to be moved along or across any boulevard or other public place controlled by the Parks and Recreation Department, the building or equipment mover is also required to have written approval from the Superintendent of Parks and Recreation. (Ord. 117569 § 79, 1995; Ord. 108382 § 2(part), 1979; Ord. 90047 § 28-A(D), 1961.)

**15.28.050 Wires and cables--Relocation and costs; trees in boulevards or parks.**

A person who maintains wires, cable or appurtenances in or over a public place shall move or disconnect them in order to accommodate a move authorized by permit as contemplated by Section 15.32.110. When the wires are below minimum vertical clearances above the roadway surface set by state statute, City ordinance, or rules of the authorizing official, and timely notice has been given, and no adjustment or disconnection would be necessary had the minimum vertical clearance been maintained, the cost of moving the wires or cables shall be borne by the person maintaining the wires or cables; otherwise the cost shall be assessed to the grantee of the permit to move the building or equipment.

The Director of Transportation shall determine the probable injury and cost which the moving of a building or equipment will cause to owners of wires and cables that are at or above minimum vertical clearances over the surface of the public place, and also the probable injury and inconvenience the severance of such wires and cables will cause to patrons of public utilities. The Superintendent shall determine the probable injury and cost of restoration or loss which the moving of a building or equipment along or across a park drive or boulevard or a street abutting a park will cause to the department's trees and shrubbery. Such findings shall be endorsed upon the application for permit. (Ord. 118409 § 75, 1996; Ord. 117569 § 80, 1995; Ord. 108382 § 2(part), 1979; Ord. 90047 § 28-A(E), 1961.)

**15.28.060 Determination of probable interference.**

A. Investigation. The Director of Transportation shall ascertain the probable interference with the rights of the public that such moving will cause, and any other facts which may aid in determining whether or not such permit should be granted. The Director of Transportation shall also prescribe the time such moving shall be done, the route to be followed and such traffic barricades and escorts and any other stipulations such official may deem necessary for public safety and convenience. The determinations of the Director shall be subject to the concurrence of the Superintendent with respect to movement along or across a park drive or boulevard.

B. Opportunity for Hearing. If the Director of Transportation finds the injury and inconvenience to the public, to owners of private property, and to public utilities is minor, or that the affected parties consent to the move, and the Superintendent concurs in authorizing the movement planned along or across a park drive or boulevard, the Director may grant the permit without a hearing. If the Director of Transportation finds that there would be substantial injury or inconvenience to the public, to public utilities or to owners of private property and there are unresolved objections to the move, the Director shall notify the applicant that the permit may only be granted through a public hearing process; and, if the applicant so requests, the Director shall designate a hearing officer and schedule a hearing.

C. Hearings. If a hearing is scheduled, the Director shall notify the applicant and the owners or

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agents of the properties that may be affected of the date, time, and place of the public hearing regarding such application. At this hearing, all persons interested may appear and offer their opinion regarding whether or not such permit should be granted.

D. Cost of Advertising. Whenever the Director of Transportation determines that a public hearing must be held to determine whether or not a permit to move a building or equipment should be granted, the applicant shall pay the cost to the City for advertising the hearing.

E. Decision. Based upon the findings of the hearing officer with respect to such application and the testimony received during the public hearing on such application, the Director shall determine whether or not such permit shall be granted.

(Ord. 118409 § 76, 1996; Ord. 118369 § 10, 1996; Ord. 117569 § 81, 1995; Ord. 115994 § 26, 1991; Ord. 108382 § 2(part) 1979; Ord 90047 § 28-A(F), 1961.)

#### **15.28.070 Grantee to bear expenses.**

The grantee of a permit to move a building or equipment which requires relocating utility wires or cable along or across any public place shall bear any and all expenses to the Parks, Seattle Transportation and Police Departments that may be occasioned by such moving; provided, that nothing contained in this chapter shall be construed as repealing any of the provisions of any franchise ordinance.

(Ord. 118409 § 77, 1996; Ord. 117569 § 82, 1995; Ord. 108382 § 2(part), 1979; Ord. 90047 § 28-A(G), 1961.)

#### **15.28.080 Authority to make rules and regulations.**

The Director of Transportation may make rules and regulations pursuant to the Administrative Code of the City (Ordinance 102228)1 and governing the moving of buildings along or across public places. Violation of those rules and regulations constitutes a violation of this subtitle.

(Ord. 118409 § 78, 1996; Ord. 108382 § 2(part), 1979; Ord. 90047 § 28-A(H), 1961.)

1. Editor's Note: The Administrative Code is codified in Chapter 3.02 of this Code.

### **Chapter 15.32**

#### **FRANCHISE AND PUBLIC UTILITY PERMITS AND REGULATIONS**

##### **Sections:**

15.32.010 Permit--Required.

15.32.020 Terms of use and occupancy.

15.32.030 Application.

15.32.040 Review.

15.32.050 Coordination of projects and deferment of construction.

15.32.060 Payment of fees.

15.32.070 Additional ducts or conduits.

15.32.080 Joint use poles.

15.32.090 City use for governmental communication.

15.32.100 Painting poles.

15.32.110 Accommodating moving of building and equipment.

15.32.120 Displacement for public use.

15.32.130 Undergrounding overhead wiring.

15.32.140 Removal.

15.32.150 Indemnity.

15.32.160 Street restoration requirements.

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**15.32.300 Attachments to City-owned poles.**

1. Cross-reference: For provisions regarding underground utility districts, see Chapter 21.68 of this Code.

2. Editor's Note: Sections 1 and 2 of Ord. 116247, passed by the City Council on July 6, 1992, concerning permit issuance restrictions, read as follows:

"Section 1. Until such time the City adopts a comprehensive pole attachment policy or until April 1, 1993, whichever occurs first, the City shall not grant any new pole attachment agreements not previously entered into by the City Light department or any other City department that has ownership of poles. In addition, the City shall not grant any street uses permits pursuant to Seattle Municipal Code Chapter 15.32 for attachment to poles or for the erection of new poles, other than for the continuation of existing services as provided in Section 2 of this Ordinance, and any specific exemptions authorized by Council Resolution pursuant to Section 3 of this Ordinance."

"Section 2. Street use permits may continue to be issued under Seattle Municipal Code Chapter 15.32 for the continuation and maintenance of existing services already on poles including telephone, electric, Metro, streetlight, railroad signals, cable television within specific franchise areas, and private installations between buildings of the same ownership which do not utilize City poles or facilities."

3. Editor's Note: Sections 1 and 2 of Ordinance 116620, passed by the City Council on March 31, 1993, read as follows:

"Section 1. The moratorium on pole attachments put in place by Ordinance 116247 is hereby extended under the same terms and conditions until April 12, 1993."

"Section 2. This ordinance extending the pole attachment moratorium shall be implemented on April 1, 1993. All applications pending at the time of adoption of Ordinance 116247 (adopting a moratorium on pole attachments) and any subsequent applications for pole attachment shall be considered in accordance with the terms of the City's comprehensive pole attachment policy at such time as the policy is adopted."

**15.32.010 Permit--Required.**

It is unlawful for anyone to construct, maintain and operate on, under or over the streets, alleys or public places of the City, any railroad or streetcar tracks, pipes, ducts, utility tunnels, vaults, maintenance holes, poles, fixtures, wires or any other appurtenants necessary for the purpose of conducting any lawful business, either public or private, or to go upon any such public place to perform any work therein which will disturb the surface of the street, planting strip or sidewalk, or to occupy area upon the surface or beneath the surface of the street, planting strip or sidewalk, without complying with all the provisions of any ordinance in relation thereto and obtaining and having a permit from the Director of Transportation for such purpose, or as to park drives and boulevards, a permit from the Superintendent of Parks and Recreation. This prohibition includes everyone, whether an individual or a corporation or association; whether acting as an individual or as employee or agent of another; and whether or not the person has a right under the Charter, any ordinance or franchise, or any other authority of law to conduct business within a public place.

(Ord. 118409 § 79, 1996; Ord. 117569 § 86, 1995; Ord. 115994 § 31, 1991; Ord. 96598 § 1(part), 1968; Ord. 90047 § 30(part), 1961.)

**15.32.020 Terms of use and occupancy.**

The terms and conditions of the use and occupancy of public streets and alleys in the City by anyone constructing or operating under authority of this chapter and ordinances amendatory thereto shall be provided in Sections 15.32.020 through 15.32.130.

(Ord. 117569 § 87(part), 1995; Ord. 116633 § 1, 1993; Ord. 115994 § 32, 1991; Ord. 110258 § 2, 1981; Ord. 96598 § 1(part), 1968; Ord. 90047 § 30(part), 1961.)

**15.32.030 Application.**

Anyone desiring to place or maintain in any public place any of the authorized facilities mentioned in Section 15.32.010 shall, prior to the commencement of any construction work, file an application for a permit

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therefor with the Director of Transportation, or in the case of a park drive or boulevard, with the Superintendent of Parks and Recreation (collectively herein the "authorizing official"). The application shall be on a form furnished by the authorizing official. The authorizing official may require that the application be accompanied by a plat drawn to an accurate scale, conforming to such reasonable rules and regulations as such official may prescribe, and showing the exact location, character, position, dimension, depth and height of the work proposed to be done.

(Ord. 118409 § 80, 1996; Ord. 117569 § 87(part), 1995; Ord. 116633 § 1, 1993; Ord. 115994 § 32, 1991; Ord. 110258 § 2, 1981; Ord. 96598 § 1(part), 1968; Ord. 90047 § 30(part), 1961.)

#### **15.32.040 Review.**

Prior to the granting of any permit, the authorizing official may require such modifications or changes to the proposed work as such official deems necessary to properly protect the public in the use of the public place, and shall in the permit, if the same be granted, fix the time or times within and during which such work shall be done. The authorizing official shall have the power to regulate the construction and enforce permit and ordinance requirements. The authorizing official shall keep a record of the permit and the work done thereunder.

(Ord. 117569 § 87(part), 1995; Ord. 116633 § 1, 1993; Ord. 115994 § 32, 1991; Ord. 110258 § 2, 1981; Ord. 96598 § 1(part), 1968; Ord. 90047 § 30(part), 1961.)

#### **15.32.050 Coordination of projects and deferment of construction.**

A. The authorizing official may, in such official's reasonable discretion, defer construction or other activity under any permit provided for in this chapter, until such time as such official deems proper in all cases where the public place on which the work is desired to be done is occupied or about to be occupied in any work by the City, or by some other person having a right to use the same in such manner as to render it seriously inconvenient to the public to permit any further obstruction thereof at such time, and in granting such permit, may so regulate the manner of doing such work in order to cause the least inconvenience to the public in the use of such public place; and in all cases any work of the City or its contractors or employees for municipal purposes shall have precedence over all work of every other kind.

B. Beginning by November 1, 1997, and by October 1st of each succeeding year, the Director of Transportation shall provide to all utilities a list of street and other improvements planned for the following three (3) years. All agencies, utilities, franchisees, and City departments planning work in a street, alley, or other public place that will require a permit under this chapter shall submit a list of proposed projects and locations to the Director of Transportation by December 31st of each year. This list shall cover planned projects for the following three (3) years. These lists of planned projects shall be entered into the City's Geographic Information System and integrated with other information on street condition and use. The Director of Transportation and the Superintendent of Parks and Recreation shall deny agencies that fail to provide this information permits for construction or other activity under this chapter unless that agency was not timely provided a list of planned street improvements for that year.

C. The Director of Transportation shall establish a Utility Coordinating Committee for the purpose of coordinating street and utility projects to minimize the frequency of street openings and disruption to neighborhoods. This committee shall consist of one (1) management representative each from Seattle Transportation, Seattle Public Utilities, and Seattle City Light. The Director of Transportation shall invite one

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(1) representative each from companies that applied in the previous calendar year for a permit under this chapter to serve in an advisory capacity to this committee. The committee shall meet at least twice a year to review and coordinate street and utility projects for the next three (3) years. The committee shall decide which of the submitted projects will be scheduled for the next twelve (12) months, taking into consideration maximizing efficiencies, reducing inconvenience to the public, and avoiding work conflicts in the street rights-of-way; and shall not allow pavement cuts within three (3) years after resurfacing or reconstruction. By March 1, 1998, and by February 1st of each succeeding year, the committee shall develop and publish a Street and Utility Improvement Plan that lists projects it has scheduled for the next twelve (12) months and shall make information available to affected residents, property owners, neighborhood organizations, and businesses about these projects. The committee shall also annually review and comment on the City's Pavement Opening Policies and associated fees, charges, inspection costs, and street restoration costs. The Director of Transportation shall propose to the City Council legislation to establish fees and charges by ordinance.

D. Except for activities included in the current Street and Utility Improvement Plan, no permit shall be issued under this chapter for construction or other activity that will commence in the street, alley, or other public place; except, that this prohibition shall not apply to:

1. Emergency repairs that could not have been anticipated or are necessary for the protection of the public's health and safety;
2. New or revised service connections that have been requested by a utility's customer;
3. Construction or other activity that will commence in the street, alley, or other public place that does not affect or conflict with other projects in the Street and Utility Improvement Plan or other work anticipated by the City or other permit holders over the next three (3) years; or
4. Work for which the City's denial of a permit would violate federal law.

E. No permit shall be issued under this chapter for work that requires cutting or disturbing the paved surface of any street, alley, or other public place for a period of three (3) years from the completion of resurfacing or reconstruction of that public place; except that this prohibition shall not apply to:

1. Emergency repairs that could not have been anticipated and are necessary for the protection of the public's health and safety;
2. New or revised service connections that have been requested by a utility's customer; or
3. Work for which the City's denial of a permit would violate federal law.

F. An applicant denied a permit under the provisions of this section may appeal to the Director of Transportation, whose decision in such matter shall be final.

(Ord. 118751 § 2, 1997; Ord. 117569 § 84, 1995; Ord. 115994 § 30, 1991; Ord. 9004 § 29(part), 1961.)

### **15.32.060 Payment of fees.**

Anyone doing construction work under permit pursuant to this chapter shall, in addition to the permit fee

authorized in Section 15.04.074, pay to the City for deposit into the Transportation Fund or in the case of park drives and boulevards, the Park and Recreation Fund such amounts as, in the judgment of the authorizing official, are reasonably necessary to investigate and process the application for construction work, inspect such work, secure proper field notes for location, plat such locations on the permanent records of the Department, and inspect or reinspect as to maintenance, during the progress of or after the repair of, any construction placed under permits previously issued.

(Ord. 117569 § 87(part), 1995; Ord. 116633 § 1, 1993; Ord. 115994 § 32, 1991; Ord. 110258 § 2, 1981; Ord. 96598 § 1(part), 1968; Ord. 90047 § 30(part), 1961.)

### **15.32.070 Additional ducts or conduits.**

Anyone constructing under authority of this chapter and ordinances amendatory thereof any underground ducts or conduits, shall:

A. When the number of main line ducts or conduits exceeds two (2), reserve free of cost to the City for the exclusive use of governmental communication, traffic signal, and other governmental signal purposes, additional ducts in the proportion of one (1) duct for every five (5) or less constructed; provided, the authorizing official may, in such official's reasonable discretion, limit the number of ducts to be reserved; and

B. Upon request, provide the City with additional duct or conduit space over and above the duct or conduits planned to be constructed for the entity holding the permit or provided free to the City pursuant to subsection A above. Such additional ducts or conduits shall be of a size and configuration specified by the City and shall be dedicated to the City. The City shall have the right to use the ducts and conduit for any purpose, including but not limited to leasing them to other entities. The incremental costs of adding the specified ducts and conduits for the City shall be borne by the City.

(Ord. 117569 § 87(part), 1995; Ord. 116633 § 1, 1993; Ord. 115994 § 32, 1991; Ord. 110258 § 2, 1981; Ord. 96598 § 1(part), 1968; Ord. 90047 § 30(part), 1961.)

### **15.32.080 Joint use poles.**

A. Attachments to City-owned poles shall be governed by this chapter and policies adopted by the City in accordance with this chapter. See particularly Section 15.32.300.

B. Anyone erecting or maintaining any privately owned pole installed under the authority of this chapter shall permit joint use of such pole to another who is authorized to construct and maintain such a pole or attachments thereto if directed to do so by the authorizing official and shall obey any order issued by the authorizing official relative to the joint use of such pole.

C. Other than the City, anyone who pursuant to subsection B makes a joint use of a privately owned pole or set of poles of another shall pay to the owner a reasonable proportion of the cost of installing and maintaining the pole or set of poles, respectively, provided, by mutual agreement the affected parties may adopt an alternative arrangement for compensation. Section 15.32.090 denies compensation for use of a privately owned pole by the City for government communication.

(Ord. 117569 § 87(part), 1995; Ord. 116633 § 1, 1993; Ord. 115994 § 32, 1991; Ord. 110258 § 2, 1981; Ord. 96598 § 1(part), 1968; Ord. 90047 § 30(part), 1961.)

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**15.32.090 City use for governmental communication.**

Anyone erecting or maintaining poles under authority of this section shall allow the City the right, free of charge, to attach, maintain and operate its governmental communication and signal wires and/or fixtures, on crossarms, or on the poles erected and so maintained.

(Ord. 117569 § 87(part), 1995; Ord. 116633 § 1, 1993; Ord. 115994 § 32, 1991; Ord. 110258 § 2, 1981; Ord. 96598 § 1(part), 1968; Ord. 90047 § 30(part), 1961.)

**15.32.100 Painting poles.**

Anyone erecting or maintaining poles under authority of this chapter shall, upon order of the authorizing official, paint or repaint its poles to such height and in such colors and at such times as said official may direct.

(Ord. 117569 § 87(part), 1995; Ord. 116633 § 1, 1993; Ord. 115994 § 32, 1991; Ord. 110258 § 2, 1981; Ord. 96598 § 1(part), 1968; Ord. 90047 § 30(part), 1961.)

**15.32.110 Accommodating moving of building and equipment.**

Anyone maintaining wires, cables, or appurtenances in a public place whether under authority of a franchise from the City, or as a utility under permit without a franchise, upon seven (7) days' notice from the authorizing official, shall disconnect or move his, her or its wires, cables or appurtenances to allow for the moving of buildings or equipment across or along any such street, alley, or other public place; provided, that the advance notice may be reduced to twenty-four (24) hours if the wires, cables or appurtenances are below the minimum clearance set by law or regulation and in the case of an emergency. The cost to the franchise holders of moving the wire, cable or appurtenance shall be borne as follows: (a) by the franchise holder if the wires, cables or appurtenances are below the minimum vertical clearance required by state statutes, City ordinance, or rules of the authorizing official, above the surface of the public place, and no adjustment would be necessary if the minimum clearance had been maintained, and (b) by the person desiring to move the building or equipment under other circumstances.

(Ord. 117569 § 87(part), 1995; Ord. 116633 § 1, 1993; Ord. 115994 § 32, 1991; Ord. 110258 § 2, 1981; Ord. 96598 § 1(part), 1968; Ord. 90047 § 30(part), 1961.)

**15.32.120 Displacement for public use.**

Anyone upon order of the authorizing official shall upon ten (10) days' notice, at his, her or its own cost and expense, move any underground, surface or overhead facilities which interfere with any local improvement district work or with any construction for street or transportation purposes authorized or ordered by the City.

(Ord. 117569 § 87(part), 1995; Ord. 116633 § 1, 1993; Ord. 115994 § 32, 1991; Ord. 110258 § 2, 1981; Ord. 96598 § 1(part), 1968; Ord. 90047 § 30(part), 1961.)

**15.32.130 Undergrounding overhead wiring.**

Anyone maintaining over any street, alley or other public place, any overhead construction, either poles or wires, shall place the same underground upon being directed to do so by the City by ordinance; provided, that all other public utility companies maintaining overhead construction shall be subject to such ordinance.

(Ord. 117569 § 87(part), 1995; Ord. 116633 § 1, 1993; Ord. 115994 § 32, 1991; Ord. 110258 § 2, 1981; Ord. 96598 § 1(part), 1968; Ord. 90047 § 30(part), 1961.)

**15.32.140 Removal.**

Anyone accepting permits under the terms of this chapter for the installation of any pipe, duct, utility tunnel, vault, maintenance hole, pole, wire or any other appurtenance shall remove such installation when it is no longer required or used, and the authorizing official orders its removal.

(Ord. 117569 § 87(part), 1995; Ord. 116633 § 1, 1993; Ord. 115994 § 32, 1991; Ord. 110258 § 2, 1981; Ord. 96598 § 1(part), 1968; Ord. 90047 § 30(part), 1961.)

**15.32.150 Indemnity.**

A. Anyone accepting permits under the terms of this chapter shall, in addition to the provisions provided for in this title, indemnify and save the City free and harmless from any liability, loss, cost, damage, trouble, or expense due to casualty, accident or damages either to person or property which may at any time arise or occur by reason of the construction, maintenance, operation or use of conduits, pipes, ducts, utility tunnels, vaults, maintenance holes, poles, wires or any other appurtenances of any character placed under authority of this chapter. Such indemnity is required until the conduits, pipes, ducts, utility tunnels, vaults, maintenance holes, poles, wires or any other appurtenances are removed from the public place, or, until the City furnishes a written release of the requirement to the owner.

B. In addition the City may require that anyone accepting such a permit provide the City with additional indemnification, such as an indemnification from a parent company, and/or the City may require that the permittee provide proof of insurance acceptable to the City which covers potential exposure to the City.

C. The indemnification does not apply to injuries to persons or damage to property caused by or resulting from the sole negligence of the City, its agents or employees.

(Ord. 117569 § 87(part), 1995; Ord. 116633 § 1, 1993; Ord. 115994 § 32, 1991; Ord. 110258 § 2, 1981; Ord. 96598 § 1(part), 1968; Ord. 90047 § 30(part), 1961.)

**15.32.160 Street restoration requirements.**

A. Anyone issued a permit for construction or other activity under this chapter shall temporarily restore the street, alley, or other public place in a manner approved by the Director of Transportation, or as to park drives and boulevards, the Superintendent of Parks and Recreation, within twenty-four (24) hours after completion of the work for which the permit was issued. This requirement of a temporary restoration shall be waived if a permanent restoration is completed in a manner approved by the Director of Transportation as described in subsections C, D, and E of this section within twenty-four (24) hours after completion of the work for which the permit was issued.

B. All permanent repairs of a temporary restoration shall be completed within one (1) year after completion of the work for which the permit was issued. If the permittee fails to complete the permanent restoration within this time period and in a manner approved by the Director of Transportation as described in subsections C, D, and E of this section, the Director of Transportation, or as to park drives and boulevards, the Superintendent of Parks and Recreation, may restore the street, alley, or other public place and bill the permittee for the repair as set forth in Section 15.26.020. The permittee may, at the time the permit is issued, if the Director of Transportation agrees, contract with the Director of Transportation for completion of the permanent

restoration.

C. Permanent restoration of a concrete street, alley, or other public place shall be completed in a manner approved by the Director of Transportation. Permanent restoration shall include, at a minimum, the following, unless the Director of Transportation determines that the permittee can otherwise make an equivalent restoration of the street, alley, or other public place:

1. For any concrete surface fifteen (15) years old or less or in excellent condition as determined by the Director of Transportation, entire replacement of any concrete panel affected by the construction or other activity is required, except that in the case of a large concrete panel, the Director of Transportation may authorize the panel to be saw cut and require only the affected portion of the panel be replaced.
2. For any concrete surface where forty (40) percent or more of a concrete panel is affected by the construction or other activity, entire replacement of any concrete panel so affected by the construction or other activity is required, except that in the case of a large concrete panel, the Director of Transportation may authorize the panel to be saw cut and require only the affected portion of the panel be replaced.
3. For any other concrete surface, restoration of the area of the panel affected is required.

D. Permanent restoration of an asphalt or asphalt overlay street, alley or other public place shall be completed in a manner acceptable to the Director of Transportation. Permanent restoration shall include, at a minimum, the following, unless the Director of Transportation determines that the permittee can otherwise make an equivalent restoration of the street, alley, or other public place:

1. For any asphalt surface three (3) years old or less, new asphalt for the length of the cut and width of all lanes affected by the construction or other activity is required.
2. For any asphalt surface where thirty (30) percent or more of the width of any lane is affected by the construction or other activity, new asphalt for the length of the cut and width of all lanes affected is required.
3. For any other asphalt surface, new asphalt for the length and width of the affected area is required.

E. Permittees shall be responsible for any necessary repair of a temporary restoration of a street, alley, or other public place until the permanent restoration is completed. Permittees shall be responsible for any necessary repair of a permanent restoration until the street, alley, or other public place has exceeded its useful life or has been repaved or reconstructed, unless the permittee contracted with the Director of Transportation for the permanent restoration. If the permittee who is responsible fails to complete any necessary repair of a failed temporary restoration within three (3) calendar days or a permanent restoration within thirty (30) calendar days of being notified to do so by the City, the Director of Transportation may complete the repair and bill the permittee for the costs of such repair as set forth in Section 15.26.020.

F. In those cases where the Director of Transportation, or as to park drives and boulevards, the

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Superintendent of Parks and Recreation, has determined that the permittee has not restored the street, alley, or other public place to its condition prior to the commencement of activity under the permit, the permittee shall pay to the Director of Transportation, or as to park drives and boulevards, the Superintendent of Parks and Recreation, a standard charge from a schedule adopted by ordinance reflecting the Director of Transportation's estimate of the loss in useful life of the street, alley, or other public place as a result of the construction or other activity. Such charge shall be based on the size of the area affected and the types of surface (concrete, asphalt, or other) and subgrade material of the street, alley, or other public place prior to the commencement of activity under the permit. This charge shall be paid regardless of whether the permanent street restoration is completed by the permittee or by the Director of Transportation. All funds collected from this charge shall be deposited in the Transportation Fund, or as to park drives and boulevards, the Parks and Recreation Fund, and used only for pavement replacement, repair, and maintenance, and not for any other purpose. (Ord. 118751 § 3, 1997.)

### 15.32.300 Attachments to City-owned poles.

The terms and conditions for attaching to City-owned poles by entities other than co-owners of the poles shall be as follows:

- A. Definitions. The following words, used in this section, have the following meanings:
  - 1. "Pole" means City-owned poles including electrical distribution poles and other poles owned or installed by the City, but excluding facilities for electrical transmission purposes.
  - 2. "Communication space" means that portion of a pole above the minimum ground clearance for communication conductors and below the maximum height allowed by the separation between communication and power conductors required by applicable national, state and local electrical safety codes.
  - 3. "Transmission poles/towers" means structures whose primary purpose is to support electrical transmission conductors, distinguished from distribution conductors by exceeding 34.5 kV.
  - 4. "Special attachment, Class I" means attachments that can be accommodated on existing poles without disruption to current users or use of a communication space and without significant visual impact.
  - 5. "Special attachment, Class II" means attachments:
    - a. That extend above the electrical facilities, above the top of an existing pole or require the replacement of an existing pole with a taller pole to achieve adequate height for the applicant's purposes; or
    - b. That have significant visual impacts.
- B. The City shall reserve one (1) communication space on City-owned poles for its own use.
- C. If additional communication space is available on City-owned poles, after reserving one (1)

space for the City and after accounting for the space occupied by existing services already on the poles, the City may permit additional attachments in communication space under the following conditions:

1. The needs of the City are paramount. The City shall be the determinant regarding any question of right to attach, construction compliance or contract interpretation regarding attachment to poles. Permission to make attachments to the City's poles may be withdrawn for violation of applicable codes, for breach of contract, for failure to supply proof of required permits, by governmental directive or for any reason associated with the City's requirements for the use of its poles or public right-of-way. The City may direct the immediate removal of attachments at the owner's expense, if attachments fail to conform to codes or the City's requirements, or if attachments interfere with City operations.
2. All attachments shall be made in accordance with all applicable codes as well as City electrical standards, guidelines and practices.
3. All attachments, including co-lashing, shall be subject to prior approval of the Department of Information Technology, Seattle Department of Transportation and the City Light Department in accordance with the following principles, requirements and procedures:
  - a. Providing for the safety of the public, City employees, private contractors, and other users of poles is a fundamental principle which must be observed.
  - b. The primary function of the City's poles is to support the City's electrical lines and equipment.
  - c. The City shall neither replace existing poles with taller poles nor add crossarms to existing poles to create more communication space on the poles, except as described in subsection C4 below.
  - d. Any new attachments must accommodate any prior agreements between the City and other entities regarding use of space on the poles.
  - e. The City shall not relinquish the one (1) communication space reserved for its own use on every pole. At the request of the applicant, however, the City shall consider creating additional space for communication uses on the poles by taking such actions as removing secondary rack wiring and substituting triplex wire, moving streetlight fixtures, guy wires and other attachments to the poles and by providing for co-lashing. Any actions undertaken to create more communication space shall be considered make-ready work, and any such costs shall be borne by the applicant.
  - f. Approval of attachments may include requirements for extra mitigation measures in certain areas, such as residential, critical areas and shoreline zones, greenbelts, parks, historic districts and viewsheds. All such extra measures, including any additional public involvement and/or environmental review, shall be taken in accordance with directives from the Superintendent of the City Light Department, and all costs associated with such extra measures and review shall be paid by the applicant.

- g. All make-ready costs such as costs for any permits, environmental review, adjustment of other equipment on the pole, tree replacement and tree trimming, shall be paid by the applicant prior to making any attachments to the poles.
- h. As a condition of securing the City's permission to use its poles for attachment of cable, all applicants shall be required to permit co-lashing to their own cable of up to two (2) other cables, which may be owned and operated by other entities. All cable attachments that initially occupy a space on a City-owned pole shall be required to provide an external or internal support ("messenger") wire that is capable of supporting two (2) other cables in addition to the initial cable installed by the applicant. Owners of cable subsequently co-lashed to the initial cable shall pay the owner of the initial cable a proportionate share of the cost of the messenger wire. All entities co-lashing together shall be required to provide one another with reciprocal indemnity provisions equivalent to those which must be granted to the City by each of them pursuant to Section 15.32.150. Co-lashing shall not be required of any applicant until all other spaces on the pole, other than the City's reserved space, have been utilized. The City Light Department shall issue a Department Policy and Procedure for providing co-lashing space based on costs, operational convenience, cable size, and other criteria which are developed in the course of producing such Department Policy and Procedure.
- i. In addition to the indemnification required by Section 15.32.150, the City may require that the applicant provide the City and entities permitted to co-lash with additional indemnification, such as indemnification from a parent company, and/or require that the applicant provide proof of specific insurance provisions acceptable to the City which cover potential exposure of both the applicant and the City.
- j. As a further condition of securing the City's permission to use its poles for attachment of cable, all applicants upon request shall be required to provide the City with capacity on the applicant's cable over and above the capacity specifications submitted by the applicant. Such additional capacity may be in the form of dedicated fiber or dedicated space on the same cable being installed by the applicant or in the form of separate cable, as specified by the Department of Information Technology, and shall be dedicated to the City for as long as the cable is attached to the City's poles. The City shall have the right to use that capacity for any governmental purpose and the right to lease that capacity to any public or nonprofit entities. The incremental costs of adding the specified amount of capacity for the City shall be borne by the City.
- k. Applications for attachment to City-owned poles shall be submitted to the City Light Department. The City Light Department shall then coordinate that request with Seattle Department of Transportation and the Department of Information Technology. Approval of all three (3) departments shall be required prior to the issuance of a permit to attach to the poles.
- l. All applications for pole attachment shall be considered on a first-come, first-serve basis, provided that where space is limited, attachment permits shall be given first to public

entities, second to entities which are common carriers, third to entities which request attachment to six (6) poles or less for their own private communication needs, and fourth to others.

m. If no space can be created on the poles requested, the applicant may seek an exception to any of the requirements set forth in this section by submitting a written request to a three (3) person review committee comprised of one (1) representative each from the Department of Information Technology, Seattle Department of Transportation and the City Light Department. The committee shall review the request with reference to considerations which may warrant making an exception including, but not limited to reduced environmental effects, the lack of alternatives for achieving equivalent service available to the applicant, the lack of alternative routing which can be made available and the feasibility of undergrounding all or part of the cable. After engaging in a review of the application, the committee shall forward a recommendation to the Mayor and City Council. Exceptions will not be recommended where the City Light Department believes the safety will be compromised by the granting of an exception. Any exceptions to the requirements of this section must be approved by ordinance.

n. All entities that are provided attachments to City-owned poles, other than Class II attachments, including attachments by means of co-lashing, shall pay a rental fee for each such attachment at a rate established by ordinance. All income from such pole rental rates shall be paid into the Light Fund.

4. Provisions for Special Attachments.

a. Class II attachments shall be limited to situations where: (i) make-ready costs are paid by the provider; (ii) pole/equipment, installation, operation, and maintenance costs are paid by the provider; and (iii) visual impacts of antennas and other attachments are reduced to a degree acceptable to the Superintendent.

b. Class II attachment requests are subject to public notice and comment. Approval of attachments may include requirements for extra mitigation measures in certain areas, such as residential, critical areas and shoreline zones, greenbelts, parks, historic districts and view-sheds. All such extra measures, including any additional public involvement and/or environmental review, shall be taken in accordance with directives from the Superintendent of the City Light Department, and all costs associated with such extra measures and review shall be paid by the applicant. Where a request meets the following criteria in Seattle, the applicant shall apply to the Department of Planning and Development and pay for an attachment siting review and recommendation consistent with the application, fee, notice, timeline and criteria for an administrative conditional use permit. The recommendation of the Department of Planning and Development shall be advisory to the Superintendent:

Zone	Street Type	Zoning Height Limit	Pole Height Requested
SF, L-1, NC-1	Nonar-terial	<40	<60
SF, L-1, NC-1	Arterial	<40	>60
L-2, L-3, L-4, NC-2	Either	<40	>60
NC-3, C, I, MI	Either	<40	>60

- c. Where the request is for a location outside Seattle, the applicant shall comply with all applicable requirements of the local jurisdiction where the property is located.
- d. Class II attachments shall be permitted substantially in the form of the site agreements authorized by Ordinance 118737,<sup>1</sup> together with special terms and conditions within the site agreement.
- e. Class II rental rates shall be established at fair market value as determined by the City Light Department and set forth in the special terms and conditions within the site agreement. All income from such Class II rental rates shall be paid into the Light Fund. (Ord. 121420 § 6, 2004; Ord. 121276 § 16, 2003; Ord. 120181 § 117, 2000; Ord. 119395 § 1, 1999; Ord. 118409 § 81, 1996; Ord. 118397 § 102, 1996; Ord. 117569 §§ 88, 89, 1995; Ord. 116633 § 2, 1993.)
1. Editor's Note: Ordinance 118737 is on file in the City Clerk's office.

## Chapter 15.35

### FILMING

#### Sections:

15.35.010 Permits for filming.

15.35.020 Terms and conditions.

#### 15.35.010 Permits for filming.

To accommodate filming motion pictures and videotaping productions, and pursuant to a master filming permit, the Director of Transportation, or as to park drives and boulevards, the Superintendent of Parks and Recreation, may close public places for a duration consistent with preserving necessary access to adjacent properties; authorize temporary changes in the appearance thereof; relocate street signs and other fixtures; permit erection of temporary structures and parking of vehicles in designated areas longer than twenty-four (24) hours or time limits set by parking payment devices; and provide other appropriate services.

Applications for a master filming permit shall be made to the Director of the Office of Economic Development who shall coordinate component applications with each appropriate permitting authority. After each component permit is approved by the applicable permitting authority, the permit shall be issued in the nature of a master filming permit for the activities described, covering uses contemplated by Seattle Municipal Code Sections 11.23.120, 15.04.074, 21.04.530, 22-602.040 C and 22.901Q.010 and Chapters 15.08 through 15.46, inclusive. Each permit component shall be subject to all of the terms and conditions contained in the authorizing section of the Seattle Municipal Code except the individual permit fee. (Ord. 121388 § 23, 2004; Ord. 121317 § 7, 2003; Ord. 118409 § 82, 1996; Ord. 118238 § 4, 1996; Ord. 117569 § 90, 1995; Ord. 115942 § 1(part), 1991.)

#### 15.35.020 Terms and conditions.

A filming permit may be conditioned upon restoration of the public place and reimbursement of City expenses for the filming, including, among other expenditures, coordination with abutting owners, site

consultations with traffic engineers, traffic control, site presence, removal and reinstallation of street fixtures; providing barricades, meter-hooding, and like activities as required; and upon compensation for lost parking revenues at the site.

(Ord. 121388 § 24, 2004; Ord. 115942 § 1(part), 1991.)

## Chapter 15.36

### LIFTING HEAVY EQUIPMENT

#### Sections:

15.36.010 Permits--Authority.

#### 15.36.010 Permits--Authority.

The Director of Transportation, or as to park drives and boulevards, the Superintendent of Parks and Recreation, may grant permits to raise and/or lower safes, machinery or any other heavy articles into and from buildings and to occupy in so doing such portion of the public place as the authorizing official may deem necessary and subject to such conditions and regulations as may be prescribed for the safety and convenience of the public.

(Ord. 118409 § 83, 1996; Ord. 117569 § 91, 1995; Ord. 90047 § 32, 1961.)

## Chapter 15.38

### IMPOUNDING

#### Sections:

15.38.010 Procedure generally.

15.38.020 Storage, notice, fees.

15.38.030 Sale of impounded property.

15.38.040 Seizure and summary disposal.

15.38.050 Motor vehicles; boats; animals; newsstands.

15.38.060 Evictions; evacuations; emergencies.

15.38.070 Presumption.

#### 15.38.010 Procedure generally.

A. Seizure. The Director of Transportation, and as to park drives and boulevards, the Superintendent of Parks and Recreation (collectively, the "authorizing official") may take custody of any personal property which is in a public place without a permit as follows:

1. Immediately with respect to property which constitutes a hazard to public safety or obstructs travel or transportation;
2. Immediately with respect to property identified in Section 15.38.040 or Sections 15.48.100--15.48.110;
3. In accordance with the statute or section cited as to property within Section 15.38.050;

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4. After twenty-four (24) hours of continuous occupancy, when a permit is required for the occupancy; and/or

5. After a reasonable time, when the location of the property reflects circumstances described in Section 15.38.060.

B. Persons Authorized. The authorizing official may remove and dispose of the property, in accordance with the section of this chapter which is most nearly applicable under the circumstances. The impounding may be made under the direction of the authorizing official by any City employee, or by any police officer, by a contractor, or by an authorized volunteer.

C. Order to Remove. As an alternative to taking custody, the City may decline to accept the property and require the owner or the last person in possession of the property to remove the property from a public place; or, if the owner is known, relocate the property to the owner's premises.

D. Disposition. Upon taking custody, the City's remedies include, among other alternatives, retaining the property for City use, selling it and depositing the funds, donating it for charitable purposes in accordance with RCW 63.24.160, and/or disposing of it as solid waste, each as indicated in the following sections.

(Ord. 118409 § 84, 1996; Ord. 117569 § 92(part), 1995; Ord. 108020 § 5, 1979; Ord. 90047 § 33, 1961.)

#### **15.38.020 Storage, notice, fees.**

A. Impounding. Upon taking custody, the authorizing official shall take the personal property to any City storage yard or building unless any of Sections 15.38.030 through 15.38.050 or Sections 15.48.110--15.48.120 shall apply.

B. Notice of Owner. If the owner or custodian of the impounded property is known, the authorizing official shall give notice to the owner or custodian of the impounding and storage; the charge for the impound and the rate for storage; and the manner of making claim for the property; and, if the owner or custodian fails to make claim within sixty (60) days, the authorizing official may sell or otherwise dispose of the property as unclaimed. Notice of property with a value of Twenty-five Dollars (\$25) or less may be given orally at the time of seizure or by telephone.

C. Notice When Owner Unknown. If the property has a value of One Hundred Dollars (\$100) or more and the owner or custodian is not known, then the authorizing official shall publish notice of its impounding in the City's official newspaper; and, if the property is not claimed within sixty (60) days after the date of publication, the authorizing official may sell or otherwise dispose of the property as unclaimed. If the property has a value less than One Hundred Dollars (\$100) but more than Twenty-five Dollars (\$25) and the owner or custodian is unknown, notice shall be posted at the site if practical, and if not practical, the seizure itself shall be deemed sufficient notice, and the property may be disposed of after sixty (60) days unless sooner claimed.

D. Fees. Upon release of impounded property to an owner or custodian, the authorizing official shall charge and collect a fee for the City's taking of custody, transportation, and storage (including a daily storage rate) contained in a fee schedule adopted by ordinance. Fees shall be deemed be waived as to stolen property

Seattle Municipal Code  
December 2005 code update file  
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that was found if the owner has reported to the police the property as stolen and agrees to assist in a prosecution of the party responsible.

(Ord. 117569 § 92(part), 1995; Ord. 108020 § 5, 1979; Ord. 90047 § 33, 1961.)

#### 15.38.030 Sale of impounded property.

A. If, at the expiration of the time set forth in Section 15.38.020 the property has not been released to the owner, the property is surplus to the City's needs, and has a sufficient value for sale, the authorizing official may arrange for its sale at public auction or through the City's Director of Executive Administration in conjunction with the sale of surplus City property.

B. Upon sale of the property, the authorizing official shall deposit the proceeds into the City Treasury.

C. At any time within six (6) months from and after the date of the sale, the former owner, upon proper application to the authorizing official, and upon presentation of satisfactory proof that he or she was the owner of the property sold, shall receive the residue of the proceeds of such sale, after deducting the expenses of seizure, impounding, advertising and sale and charges under the fee schedule. The right to the proceeds conferred under this subsection expires if at the end of six (6) months the former owner shall not have applied to the City therefor.

(Ord. 120794 § 209, 2002; Ord. 120181 § 118, 2000; Ord. 118397 § 103, 1996; Ord. 117569 § 92(part), 1995; Ord. 108020 § 5, 1979; Ord. 90047 § 33, 1961.)

#### 15.38.040 Seizure and summary disposal.

The Director of Transportation, or as to park drives and boulevards, the Superintendent of Parks and Recreation (the "authorizing official") may take custody of and dispose of without notice any of the following objects or articles within a public place:

A. Debris, spilled loads, or obstructions, as contemplated by Chapter 15.46; and any solid waste accumulated in violation of Sections 21.36.400 through 21.36.440;

B. Personal property that the owner disclaims or authorizes the City to take; and property that appears to be abandoned and is valued at Twenty-five Dollars (\$25.00) or less, unless the property is of a character to be of interest to the Chief of Police;

C. Any contraband or other property which it is unlawful to produce or possess; any object declared a nuisance by statute or City ordinance where summary abatement is authorized; and, unless authorized by permit from the Fire Chief, any explosives or other substances that may present a danger to public safety;

D. Any unauthorized sign, signal or marking as defined in RCW 46.61.075 or Seattle Municipal Code Sections 11.50.520 through 11.50.560; and

E. Any advertising sign or notice affixed without City permission to a traffic control device, a utility pole, a City structure, other than a poster board or kiosk designated for handbills, or a City-owned tree or shrub.

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Seattle Municipal Code  
December 2005 code update file  
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If the property is of a character that it appears to be of interest to the Chief of Police, the authorizing official shall allow the Chief an opportunity to take possession as contemplated by RCW 63.21.050--63.21.060 and RCW Chapter 63.32, and if the Chief declines to take custody, the authorizing official may dispose of it.

Each authorizing official may authorize any person or association to assist in removing litter, solid waste, debris, disclaimed or abandoned property, and unauthorized signs or notices from a public place and may arrange for disposal of material so collected.  
(Ord. 118409 § 85, 1996; Ord. 117569 § 93(part), 1995.)

#### **15.38.050 Motor vehicles; boats; animals; newsstands.**

The impoundment and disposition of abandoned and/or unauthorized vehicles is regulated by Seattle Municipal Code Chapter 11.30 and RCW 46.55.080 through 46.55.115, and as to a vehicle, watercraft, camper, or component part thereof whose manufacturer's serial or distinguishing number or mark has been removed or altered by RCW 46.12.310--46.12.340. The Director of Transportation and the Superintendent are authorized to assist the Chief of Police and the Director of Licenses and Consumer Affairs in arranging for the removal thereof from public places.

The impounding of animals is regulated by Seattle Municipal Code Chapter 9.25.

The impounding of newsstands is regulated by Seattle Municipal Code Section 15.14.070.  
(Ord. 118409 § 86, 1996; Ord. 117569 § 93(part), 1995.)

#### **15.38.060 Evictions; evacuations; emergencies.**

A. Reasonable Opportunity. An authorizing official shall allow the owner or custodian a reasonable opportunity to remove his or her personal property from a public place or make other disposition whenever privately owned property is placed into the sidewalk or planting strip pursuant to: (a) an eviction ordered by the Superior Court; (b) an evacuation of premises pursuant to an order of the Fire Chief; (c) activities of firefighters in the course of extinguishing a fire or explosion; or (d) a storm, slide, disaster or other catastrophe.

B. Determining the Duration. The opportunity allowed for removal may be as short as twenty-four (24) hours or as long as seven (7) days, but may be extended if good cause is shown by issuing a permit for use of a public place. In establishing a deadline for removal, the Director or Superintendent may consider the following factors: (a) the public's use made of the public place and its need for clear access; (b) the time that an owner, proceeding diligently, would need to relocate his or her possessions, including, if services of a commercial transportation company are needed, whether arrangements therefor are in process; (c) the impact of allowing the accumulation on the sidewalk or planting strip to continue, including the risk of accident, the attraction to vermin, and its appearance; (d) weather conditions; and, (e) if applicable, the risk that if prompt action is not taken, removal may ultimately become more burdensome to the City.

C. Notice to Remove. The authorizing official shall provide written notice to the owner or custodian at his or her address, if known; if the owner or custodian or either's address is not known, or the owner or custodian is not available at the site, the authorizing official may post notice to remove property on the sidewalk

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or planting strip. The notice shall direct the owner or custodian to remove his or her property, set a time for completion of removal; and inform the owner that if the property is not so removed, the City will take possession and remove the same at the owner's or custodian's costs and expense.

D. Warnings. The authorizing official may require the owner to place safe and adequate guidance to pedestrian and vehicular traffic moving past the site as contemplated by Chapter 15.40.

E. Impounding and/or Disposition. Upon expiration of the deadline for removal, the authorizing official may impound the property remaining in the public place; and as to those items within the criteria of Section 15.38.040, make summary disposition and as to the remainder, make disposition in accordance with Section 15.38.040.

(Ord. 117569 § 93(part), 1995.)

### **15.38.070 Presumption.**

Personal property in a public place is presumed to be abandoned by the owner or custodian so as to permit an authorizing official to take custody whenever:

A. The property is placed out for collection in conjunction with solid waste or recyclable material on the scheduled date for City collection, or it is placed there on a date contemporaneous with a community collection or clean-up;

B. A reasonable person would not allow the property to be there unattended for the length of time the property has been there, taking into account the location of the property in the sidewalk or roadway, the type of property, the danger of theft, and the risk of damage from weather;

C. No name appears on the property and the occupant or owner of the adjacent real property on inquiry disclaims ownership, and there is no permit for such a use of the public place; or

D. The property (other than a newsstand or recreational equipment) is unattended, without a permit, on a sidewalk or planting strip adjoining a park or in a park drive or boulevard.

Whenever the presumption applies, a claimant has the burden of establishing his or her ownership or right to custody in seeking a release of the property impounded.

(Ord. 117569 § 93(part), 1995.)

## **Chapter 15.40**

### **WARNING LIGHTS AND BARRICADES**

#### **Sections:**

15.40.010 Lights and barricades required--Posting on obstructions in streets.

15.40.030 Placement by City--Payment.

15.40.040 Finality of determination.

15.40.050 Unlawful acts designated.

15.40.010 Lights and barricades required--Posting on obstructions in streets.

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It is unlawful for anyone, in any manner, to obstruct, excavate or tear up any public place, without providing safe and adequate guidance to pedestrian and vehicle traffic moving past the site. Such guidance shall consist of signs, barricades and/or warning lights. The design and location of such devices shall conform to the City's Traffic Control Manual for In-Street Work, and as to park drives and boulevards, standards set by the Superintendent of Parks and Recreation. These devices shall be removed at the completion of the work or the removal of obstructions in public places, providing the surface has been restored to the satisfaction of the City. (Ord. 117569 § 94, 1995; Ord. 111017 § 1, 1983; Ord. 103891 § 1(part), 1974; Ord. 92405 § 1(part), 1963; Ord. 92252 § 1(part), 1963; Ord. 90047 § 34(A), 1961.)

#### **15.40.030 Placement by City--Payment.**

The Director of Transportation or, as to park drives and boulevards, the Superintendent of Parks and Recreation (collectively the "authorizing official") is authorized to place barricades and warning lights at unguarded or inadequately guarded excavations, obstructions, or other dangerous conditions existing in any public place and anyone causing or permitting such condition shall pay the cost of barricading and lighting by the City according to a fee schedule established by ordinance.

(Ord. 118409 § 87, 1996; Ord. 117569 § 95, 1995; Ord. 103891 § 1(part), 1974; Ord. 92405 § 1(part), 1963; Ord. 92252 § 1(part), 1963; Ord. 90047 § 34(C), 1961.)

#### **15.40.040 Finality of determination.**

The judgment of the authorizing official shall be final as to the number and adequacy of lights and barricades at all obstructions and excavations.

(Ord. 117569 § 96, 1995; Ord. 103891 § 1(part), 1974; Ord. 92405 § 1(part), 1963; Ord. 92252 § 1(part), 1963; Ord. 90047 § 34(D), 1961.)

#### **15.40.050 Unlawful acts designated.**

It is unlawful to deface, move, injure, damage, alter or remove any sign, barricade or light placed at or near any obstruction or defect in the street, or posted to protect pedestrians or obstruct the passing of vehicles. (Ord. 117569 § 97, 1995; Ord. 103891 § 1(part), 1974; Ord. 92405 § 1(part), 1963; Ord. 92252 § 1(part), 1963; Ord. 90047 § 34(E), 1961.)

### **Chapter 15.42**

#### **PLANTING TREES AND SHRUBS**

##### **Sections:**

15.42.010 General provisions--Trees.

15.42.015 Tree-root damage--Liability.

15.42.020 Overhanging trees and shrubs.

15.42.030 Contact with telephone or electric wires.

15.42.040 Obstruction of intersection prohibited.

15.42.050 Conformance to Street Tree Planting Standards.

15.42.060 Removal of hazards.

#### **15.42.010 General provisions--Trees.**

No one shall plant in any public place any maple, Lombardy poplar, cottonwood or gum, or any other tree which breeds disease dangerous to other trees or to the public health. No one shall allow to remain in any public place any tree trunk, limb, branch, fruit or foliage which is in such condition as to be hazardous to the public, and any such trees now existing in any such planting (parking) strip or abutting street area may be removed in the manner provided in this subtitle for the revocation of permits and removal of obstructions. (Ord. 109969 § 1, 1981; Ord. 90047 § 35(A), 1961.)

**15.42.015 Tree-root damage--Liability.**

Anyone who owns any tree, the roots of which cause injury to the public sewers, sidewalks, or pavements shall be liable for the damage done to the public sewers, sidewalks or pavement by said trees. No tree shall be planted within one foot (1') of any City sidewalk or pavement, except by special permit. (Ord. 109969 § 2, 1981.)

**15.42.020 Overhanging trees and shrubs.**

No flowers, shrubs or trees shall be allowed to overhang or prevent the free use of the sidewalk or roadway, or street maintenance activity, except that trees may extend over the sidewalk when kept trimmed to a height of eight feet (8') above the same, and fourteen feet (14') above a roadway. (Ord. 90047 § 35(B), 1961.)

**15.42.030 Contact with telephone or electric wires.**

No trees shall be allowed to come in contact with telephone, telegraph, electric or power wires of public service companies or of the City where such wires are twenty-five feet (25') or more above the level of the public place over which they pass. When the Director of Transportation finds that such trees are coming in contact with such wires of public service companies or of the City, said Director may order the trees trimmed, and if not so trimmed within ten (10) days after service of written notice upon the owner of such trees, or the posting of written notice thereof upon the premises, the Director of Transportation may issue a permit to the owner(s) of the wires, authorizing them to trim such trees at their own expense. If the work is done by the owner(s) of the wires, the Director of Transportation or his/her representative may accompany such owner(s) or the contractor thereof and have charge of the work, and the cost of supervising such trimming shall be borne by the owner(s) of the wires.

(Ord. 118409 § 88, 1996; Ord. 115994 § 34, 1991; Ord. 90047 § 35(C), 1961.)

**15.42.040 Obstruction of intersection prohibited.**

No trees, shrubs or flowers over two feet (2') in height shall be planted or maintained in that portion of any planting (parking) strip lying within thirty feet (30') of the intersection of the planting (parking) strip with the curbline of any intersecting street.

(Ord. 90047 § 35(D), 1961.)

**15.42.050 Conformance to Street Tree Planting Standards.**

Tree planting shall conform to the Street Planting Standards of the City of Seattle adopted by the Board

of Public Works and continued in effect pursuant to this subtitle or as later modified by the Director of Transportation, insofar as practical. Changes from those standards may not be granted without approval of the Director of Transportation.

(Ord. 118409 § 89, 1996; Ord. 115994 § 35, 1991; Ord. 90047 § 35(E), 1961.)

#### **15.42.060 Removal of hazards.**

If any such trees or shrubs are or become a hazard, the Director of Transportation may order the same removed as provided by this subtitle.

(Ord. 118409 § 90, 1996; Ord. 115994 § 36, 1991; Ord. 90047 § 35(F), 1961.)

### **Chapter 15.44**

#### **EXCAVATIONS AND FILLS**

##### **Sections:**

##### **Subchapter I Excavations and Fills in Public Places**

**15.44.003 Permit--Required.**

**15.44.006 Permit procedures.**

##### **Subchapter II Excavations and Fills Beside Public Places**

**15.44.010 Barricades and warning devices.**

**15.44.020 Excavation and fill near public places--Permit.**

**15.44.030 Permit--Security.**

**15.44.040 Permit--Liability insurance.**

**15.44.050 Permit--Indemnity.**

**15.44.060 Entry and inspection.**

**15.44.070 Special plans.**

**15.44.080 Permit fees.**

**15.44.090 Permit procedures.**

**15.44.100 Compliance.**

**15.44.110 Permit--Suspension, revocation.**

**15.44.120 Protection of public.**

**15.44.130 Collection of charges.**

**15.44.140 Appeal.**

**15.44.150 Form of notice of appeal.**

**15.44.160 Indemnity agreement--Shoring materials in public places.**

**15.44.170 Restriction on encroachments by shoring.**

##### **Subchapter I**

##### **Excavations and Fills in Public Places**

#### **15.44.003 Permit--Required.**

It is unlawful to make any excavation or fill in or upon any public place without a permit from the Director of Transportation, or as to park drives and boulevards, the Superintendent of Parks and Recreation (collectively called the "authorizing official"). This section shall not apply to activities of the City for the purpose of street or boulevard maintenance; activities of City contractors in performing public works contracts in accordance with the plans and specifications of an authorizing official; gardening activities for the care of planting strips and unimproved streets as contemplated by Section 15.02.048; and tree planting in unimproved

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areas in conformance with Chapter 15.42.  
(Ord. 118409 § 91, 1996; Ord. 117569 § 99(part), 1995.)

**15.44.006 Permit procedures.**

An application to make an excavation or fill in or upon any public place shall be processed in the manner contemplated by Sections 15.44.030 through 15.44.170.  
(Ord. 117569 § 99(part), 1995.)

**Subchapter II**

**Excavations and Fills Beside Public Places**

**15.44.010 Barricades and warning devices.**

It is unlawful to leave any excavation or unstable fill within four feet (4') of any public place without adequate barricades and warning devices or fences to protect the public, or to fail to maintain the lateral support of any public place or of a fill adjacent to such public places.

(Ord. 117569 § 100, 1995; Ord. 109507 § 1(part), 1980; Ord. 106078 § 1(part), 1976; Ord. 103060 § 1(part), 1974; Ord. 98197 § 1(part), 1969; Ord. 94436 § 1(part), 1965; Ord. 90047 § 41(a), 1961.)

**15.44.020 Excavation and fill near public places--Permit.**

It is unlawful to excavate or fill in excess of three feet (3'), measured vertically, on private property within any area between the vertical prolongation of the margin of a public place, and a one hundred percent (100%) slope line (forty-five degrees (45°) from a horizontal line) from the existing elevation of the margin of a public place to the proposed elevation of the private property, without first obtaining a permit from the Director of Construction and Land Use to do so, and no work shall commence toward such excavation or fill until a permit therefor has been issued.

(Ord. 117569 § 101, 1995; Ord. 109507 § 1(part), 1980; Ord. 106078 § 1(part), 1976; Ord. 103060 § 1(part), 1974; Ord. 98197 § 1(part), 1969; Ord. 94436 § 1(part), 1965; Ord. 90047 § 41(b), 1961.)

**15.44.030 Permit--Security.**

A. An applicant for the permit required by Sections 15.44.003 or 15.44.020 shall post or cause the owner or contractor to post security with the City in an amount determined by the authorizing official to be sufficient to cover the following:

1. All charges and payments due under this title;
2. When it can be anticipated that an earth movement might occur, the reasonable costs of the following:
  - a. The cost of repair and restoration of any adjacent public place, including but not limited to grading, resurfacing and drainage,

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b. The cost of repair and restoration of all sewers, storm drains, water, and power lines and other utilities in the adjacent public place, and

c. The expense of safety precautions and emergency measures to protect the public, street utilities and any adjacent public place, including but not limited to the expense of placing signs, barricades, fences, and traffic detours; and

3. When soldier piles or other shoring will be located in a public place, the reasonable cost of the extraction of the soldier piles and other materials which are to be situated in a public place for shoring purposes and are to be removed.

B. Upon notice to the applicant, the authorizing official may at any time increase or reduce the amount of the required security or waive the same as conditions warrant.

C. The party posting the security may elect whether the security will be in the form of a cash indemnity deposit or a surety bond approved as to surety and form by the City Attorney, or a combination of a cash indemnity deposit and a surety bond.

(Ord. 117569 § 102, 1995; Ord. 109507 § 1(part), 1980; Ord. 106078 § 1(part), 1976; Ord. 103060 § 1(part), 1974; Ord. 98197 § 1(part), 1969; Ord. 94436 § 1(part), 1965; Ord. 90047 § 41(c), 1961.)

#### **15.44.040 Permit--Liability insurance.**

An applicant for the permit required by Sections 15.44.003 or 15.44.020 shall maintain in full force and effect public liability insurance in an amount sufficient to cover potential claims for bodily injury, death, or disability and for property damage, which may arise from or be related to the excavation or fill covered by any such permit or the operation of equipment used in connection with such excavation or fill and naming the City as an additional insured, or in lieu thereof, cause the owner or contractor to maintain the same. The authorizing official may require that such insurance be provided prior to issuance of the permit, and with the concurrence of the City's risk manager, may waive the same for neighborhood improvement or beautification projects.

(Ord. 117569 § 103, 1995; Ord. 109507 § 1(part), 1980; Ord. 106078 § 1(part), 1976; Ord. 103060 § 1(part), 1974; Ord. 98197 § 1(part), 1969; Ord. 94436 § 1(part), 1965; Ord. 90047 § 41(d), 1961.)

#### **15.44.050 Permit--Indemnity.**

An applicant for the permit required by Sections 15.44.003 or 15.44.020 shall agree to at all times protect and save harmless the City from all claims, actions, suits, losses, and expenses of every kind and description which may accrue to or be suffered by any person or persons or property or by the City by reason of any excavation or fill for which a permit has been issued pursuant to Section 15.44.020 and/or by reason of soldier piles and other shoring materials placed or left situated within a public place and shall agree to compensate the City for damages to the public place and the utilities therein, and for costs of repair, reconstruction, and restoration of the public place, including but not limited to the expenses of such repair, reconstruction or restoration, construction of temporary facilities and bypasses, traffic redirection, barricades, fences and other measures taken to protect the public, the public place, and utilities therein, and for the extraction of soldier piles and other materials that are situated within a public place for shoring purposes and will be removed as part of and prior to completion of a construction project for which the permit is sought.

(Ord. 117569 § 104, 1995; Ord. 109507 § 1(part), 1980; Ord. 106078 § 1(part), 1976; Ord. 103060 § 1(part),

1974; Ord. 98197 § 1(part), 1969; Ord. 94436 § 1(part), 1965; Ord. 90047 § 41(e), 1961.)

**15.44.060 Entry and inspection.**

The filing of an application for a permit required by Section 15.44.020 or the making of an excavation or fill described in Section 15.44.020, shall constitute consent by the applicant, contractor, and property owner for the authorizing official to enter upon the property at reasonable times and to inspect and investigate the soil conditions, the progress of the excavation or fill, or any facts and circumstances related to the application, permit or excavation or fill.

(Ord. 117569 § 105, 1995; Ord. 109507 § 1(part), 1980; Ord. 106078 § 1(part), 1976; Ord. 103060 § 1(part), 1974; Ord. 98197 § 1(part), 1969; Ord. 94436 § 1(part), 1965; Ord. 90047 § 41(f), 1961.)

**15.44.070 Special plans.**

A. If the safety or stability of a public place may be jeopardized by an excavation or fill described in Section 15.44.020, the authorizing official may require special plans, specifications and proposed methods of construction to be submitted for approval prior to issuing the permit required by Section 15.44.020.

B. Approval of the plans shall not relieve the contractor and/or owner making such excavation or fill of responsibility for damages, expenses or costs which may result from the excavation or fill, the failure of shoring, or the method of operation.

(Ord. 117569 § 106, 1995; Ord. 109507 § 1(part), 1980; Ord. 106078 § 1(part), 1976; Ord. 103060 § 1(part), 1974; Ord. 98197 § 1(part), 1969; Ord. 94436 § 1(part), 1965; Ord. 90047 § 41(g), 1961.)

**15.44.080 Permit fees.**

Fees for the permit required by Sections 15.44.003 or 15.44.020 shall be established as provided in Section 15.04.074.

(Ord. 117569 § 107, 1995; Ord. 109507 § 1(part), 1980; Ord. 106078 § 1(part), 1976; Ord. 103060 § 1(part), 1974; Ord. 101351 § 2, 1972; Ord. 98197 § 1(part), 1969; Ord. 94436 § 1(part), 1965; Ord. 90047 § 41(h), 1961.)

**15.44.090 Permit procedures.**

The following procedures and criteria shall be used in processing an application for the permit required by Section 15.44.003 or Section 15.44.020:

A. Plans, specifications and methods of construction required by the authorizing official shall be submitted in quadruplicate.

B. Shoring plans submitted shall be designed by and bear the seal of a professional engineer licensed in the state.

C. All shoring systems, including the members, their connections and support, shall be designed to carry the loads imposed on them and details shall be shown on the plans.

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D. Allowable stresses, including allowances for short term loading, for timber, steel or concrete shall be based on the Seattle Building and Construction Code (Title 22).

E. Soil investigations and reports may be required for all excavations described in Section 15.44.020 so that appropriate pressures may be established. The authorizing official may require investigations at any depth whenever specific conditions existing at the site of such excavation reveal an unstable soil structure, circumstances indicate that the excavation may impair the lateral support of any public place or any adjacent City property, or that such further investigation will supply information necessary to properly evaluate the application for the permit or shoring plans submitted. When highway traffic can come within a horizontal distance from the top of the shoring equal to one-half ( 1/2) of its height, the pressure shall have added to it a live load surcharge pressure equal to not less than two feet (2') of earth.

F. Soldier piles, tie-back rods, anchors and other shoring materials that are intended to remain in a public place after completion of the construction on adjoining property shall be shown on the plans submitted and so identified. If approved, the authorizing official may require that the plans filed be supplemented upon completion of construction, with a set of plans or other documents showing such residuals in public places, as constructed.

G. When the plans presented show an encroachment upon the property interest of an abutting owner or of a franchise holder in a public place, the authorizing official may require that the consent of the person so affected be obtained as a condition of the issuance of the permit provided for in Section 15.44.020.

H. If in the opinion of the Director of Transportation or Director of Construction and Land Use the design of any excavation or fill, whether shored or not, does not adequately protect the public place, the authorizing official may require a third party review of the design. Third party review requires the applicant's geotechnical and/or additional technical studies to be reviewed by an independent third party, paid for by the applicant but hired by the authorizing official. Third party review shall be conducted by a qualified engineering consultant.

I. Backfilling and restoring of excavations or cave-ins in public places is regulated by Chapter 15.26. (Ord. 118409 § 92, 1996; Ord. 117569 § 108, 1995; Ord. 109507 § 1(part), 1980; Ord. 106078 § 1(part), 1976; Ord. 103060 § 1(part), 1974; Ord. 98197 § 1(part), 1969; Ord. 94436 § 1(part), 1965; Ord. 90047 § 41(i), 1961.)

#### **15.44.100 Compliance.**

All excavations and fills described in Sections 15.44.003 and 15.44.020 shall be made in accordance with the plans approved by the authorizing official or as modified with his or her approval, and unless the permit shall provide otherwise, all soldier piles and other material used for shoring purposes shall be removed from public places as part of and prior to completion of the construction project for which an excavation or fill was made.

(Ord. 117569 § 109, 1995; Ord. 109507 § 1(part), 1980; Ord. 106078 § 1(part), 1976; Ord. 103060 § 1(part), 1974; Ord. 98197 § 1(part), 1969; Ord. 94436 § 1(part), 1965; Ord. 90047 § 41(j), 1961.)

#### **15.44.110 Permit--Suspension, revocation.**

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A. The authorizing official may revoke or suspend the permit required by Sections 15.44.003 or 15.44.020 whenever:

1. The permittee requests such revocation or suspension;
2. The work does not proceed in accordance with the plans, as approved, or is not in compliance with the requirements of this title, the Seattle Building and Construction Code (Title 22), or other City ordinances and the Washington Industrial Safety and Health Act (RCW Chapter 49.17), and their implementing regulations;
3. Entry upon the property for the purposes of investigation and inspection has been denied;
4. The permittee has made a misrepresentation of a material fact in applying for the permit;
5. The progress of the work indicates that the plan is or will be inadequate to protect the public, the adjoining property, utilities in the public place, or the excavation or fill endangers or will endanger the public, the adjoining property, public place, or utilities in the public place;
6. The permit has not been acted upon within one (1) year of the time allowed by the permit or extensions;
7. The related building permit has expired without renewal, or has been revoked or canceled.

B. Upon suspension or revocation of the permit, all work thereupon shall cease, except as authorized or directed by the authorizing official.

(Ord. 117569 § 110, 1995; Ord. 109507 § 1(part), 1980; Ord. 106078 § 1(part), 1976; Ord. 103060 § 1(part), 1974; Ord. 98197 § 1(part), 1969; Ord. 94436 § 1(part), 1965; Ord. 90047 § 41(k), 1961.)

#### **15.44.120 Protection of public.**

A. Where excavations are to be made in any area adjacent to a public place, the owner, agent, or contractor making such excavation shall maintain the lateral support of the public place. Where fills are to be made in any area adjacent to a public place, the owner, agent or contractor shall prevent any overflow, slide or other trespass upon the public place. Where excavations or fills are to be made in a public place, itself, the owner, agent or contractor shall maintain the lateral support of the remainder of the public place and any utilities therein, and shall prevent any overflow, slides, or damage from fills to areas outside the scope of the permit.

B. Whenever an excavation has been made in a public place, a cave-in or slide of earth has occurred extending into a public place, or an excavation or fill has caused or contributed to a condition that appears to substantially impair the lateral support of the adjacent public place, or endangers the public, an adjoining public place, utilities in a public place, or City property, the authorizing official may require that the contractor making such excavation or fill and/or the owner of the property upon which such excavation or fill is being made, at his or her own expense, take actions to protect the public, adjacent public places, City property, and utilities, including compliance within a prescribed time.

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C. In the event that the owner or contractor fails or refuses to take the actions directed promptly, or fails to fully comply with such directions given by the authorizing official, or if emergency conditions exist requiring immediate action, the authorizing official may enter upon the property and take such actions as he or she deems necessary to protect the public, the adjacent public places, or utilities in the public places, or to maintain the lateral support thereof, including placing of temporary shoring, backfilling, alteration of drainage patterns and any other actions reasonably necessary to decrease the possibility or extent of earth movement, or regarded as necessary safety precautions; and the owner, agent and/or contractor shall be jointly and severally liable to the City for the costs thereof together with a charge equal to fifteen percent (15%) of the City's costs to cover administrative expenses.

D. The determinations of City officials as to whether, when and how to take remedial action, if any, are discretionary judgments; this enabling authority in this section and in Section 15.22.090 does not impose any duty to take action to protect the public, utilities in the public place or adjacent properties. (Ord. 117569 § 111, 1995; Ord. 109507 § 1(part), 1980; Ord. 106078 § 1(part), 1976; Ord. 103060 § 1(part), 1974; Ord. 98197 § 1(part), 1969; Ord. 94436 § 1(part), 1965; Ord. 90047 § 41(l), 1961.)

### **15.44.130 Collection of charges.**

A. The holder of any permit required by SMC Section 15.44.003 or 15.44.020, or contractor making the excavation or fill described in SMC Section 15.44.003 or 15.44.020, or the owner of the property upon which such excavation or fill is being made shall pay all charges assessed pursuant to this title on or before thirty (30) days after mailing of a statement of charges by the authorizing official. In event of an appeal pursuant to SMC Sections 15.44.140 and 15.44.150, the Director may extend the time for payment pending determination of the appeal and for a reasonable time thereafter.

B. Such charge shall be the joint and several obligation of the permit holder, contractor and owner and in the event such charges remain unpaid thirty (30) days after the date due, recovery thereof may be made from the cash deposit and/or upon the security provided pursuant to Section 15.44.030, and/or by civil action in the manner provided by law. (Ord. 118409 § 93, 1996; Ord. 118369 § 11, 1996; Ord. 117569 § 112, 1995; Ord. 115994 § 37, 1991; Ord. 109507 § 1(part), 1980; Ord. 106078 § 1(part), 1976; Ord. 103060 § 1(part), 1974; Ord. 98147 § 1(part), 1969; Ord. 94436 § 1(part), 1965; Ord. 90047 § 41(m), 1961.)

### **15.44.140 Appeal.**

A. An applicant for the permit required by SMC Section 15.44.003, feeling aggrieved by any of the following actions, charges or determinations of the Director of Transportation may within ten (10) days thereof appeal the same to the Director personally, or the Director's designated hearing officer by filing a written notice of appeal with the Director:

1. The denial of a permit to excavate or fill required by SMC Section 15.44.003;
2. The amount or sufficiency of the security to be posted pursuant to SMC Section 15.44.030;
3. The amount and coverage of the insurance to be supplied pursuant to SMC Section 15.44.040;

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4. Requests for soil investigations made pursuant to SMC Section 15.44.090; and/or
  5. Actions imposing conditions modifying, or rejecting any special plans, specifications, shoring plans, and proposed methods of construction required by SMC Section 15.44.070 or 15.44.090.

No appeal may be made from such actions or determinations after the applicant has accepted the permit to excavate or fill. Unless otherwise determined by the Director of Transportation, no such permit to excavate or fill shall issue until after final determination of any such appeal.

See ordinances and tables and graphics, and tables and graphics, this source file.

B. A holder of the permit required by SMC Section 15.44.003 or 15.44.020, feeling aggrieved by any of the following actions, charges or determinations of the Director of Transportation may within three (3) days thereof (exclusive of Saturdays, Sundays, and holidays) appeal the same to the Director personally or the Director's designated hearing officer by filing a written notice of appeal with the Director;

1. A directive by the Director of Transportation to increase the security required pursuant to SMC Section 15.44.030;
2. The amount of charges for actions taken pursuant to SMC Section 15.44.120 or 15.22.080 to protect the public;
3. Suspension or revocation of the permit pursuant to SMC Section 15.44.110.

C. Any such permit holder feeling aggrieved by any action, directive or determination of the Director of Transportation made or taken pursuant to SMC Section 15.44.120, other than the amount of charges made thereunder, may appeal from the same to the Director personally or to the Director's designated hearing officer by filing a written notice of appeal with the Director within three (3) days (exclusive of Saturday, Sunday and holidays) from the date the direction or determination was first made, or the action first taken; provided, that the permit holder shall fully comply with the Director of Transportation's direction or determination pending the decision on the appeal, and no compensation shall be paid or allowed such permit holder for any expenses incurred in connection with compliance.

D. The Director may delegate to a designated hearing officer the conduct of a hearing and may, after opportunity for a hearing, sustain, modify or reverse any such action, charge or determination. The decision of the Director of Transportation shall be final.  
(Ord. 118409 § 94, 1996; Ord. 117569 § 113, 1995; Ord. 115994 § 38, 1991; Ord. 109507 § 1(part), 1980; Ord. 106078 § 1(part), 1976; Ord. 103060 § 1(part), 1974; Ord. 98197 § 1(part), 1969; Ord. 94436 § 1(part), 1965; Ord. 90047 § 41(n), 1961.)

#### **15.44.150 Form of notice of appeal.**

The written notice of appeal required in SMC Section 15.44.140 shall be filed in triplicate, describe precisely the action or determination appealed, explain the error alleged therein, and propose the action desired from the Director of Transportation.

(Ord. 118409 § 95, 1996; Ord. 115994 § 39, 1991; Ord. 109507 § 1(part), 1980; Ord. 106078 § 1(part), 1976; Ord. 103060 § 1(part), 1974; Ord. 98197 § 1(part), 1969; Ord. 94436 § 1(part), 1965; Ord. 90047 § 41(o), 1961.)

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**15.44.160 Indemnity agreement--Shoring materials in public places.**

If the application for permit to excavate or fill, or the materials submitted therewith, shows that the applicant requests the soldier piles and other materials used for shoring purposes be allowed to remain in a public place after completion of construction of the project for which the permit is sought, the owner of the abutting property to be improved and of the improvement to be built shall execute and deliver to the City an agreement in writing, on a form supplied by the authorizing official, signed and acknowledged in the manner provided by law for the execution of deeds, containing an accurate legal description of the premises, which covenants on the part of such owner(s) for themselves and their heirs, successors, and assigns to promptly remove the same on the order of the City in the event that the space occupied by the obstruction is needed for a primary or secondary street use and to hold and save the City free and harmless from any and all claims, actions or damages of every kind and description which may accrue to or be suffered by any person by reason of the use of such public place for soldier piles and materials situated in place. The document shall be recorded with the Department of Records and Elections of King County and the covenants shall respectively be a covenant running with the land and an encumbrance upon the improvement.

(Ord. 117569 § 114, 1995; Ord. 109507 § 1(part), 1980; Ord. 106078 § 1(part), 1976; Ord. 103060 § 1(part), 1974; Ord. 98197 § 1(part), 1969; Ord. 94436 § 1(part), 1965; Ord. 90047 § 41(p), 1961.)

**15.44.170 Restriction on encroachments by shoring.**

All soldier piles or other shoring materials situated within four (4) vertical feet or less of the established grade of a public place shall be removed at or prior to completion of construction of a project for which an excavation or fill permit was granted.

(Ord. 117569 § 115, 1995; Ord. 115994 § 40, 1991; Ord. 109507 § 1(part), 1980; Ord. 106078 § 1(part), 1976; Ord. 103060 § 1(part), 1974; Ord. 98197 § 1(part), 1969; Ord. 94436 § 1(part), 1965; Ord. 90047 § 41(q), 1961.)

**Chapter 15.46**

**DEBRIS IN PUBLIC PLACES**

**Sections:**

- 15.46.010 Removal of obstructions or nuisances.
- 15.46.020 Spilled loads.
- 15.46.030 Deposits in street or gutter.
- 15.46.040 Owner's and contractor's responsibility.
- 15.46.050 Rebuttable presumption.

**15.46.010 Removal of obstructions or nuisances.**

Whenever it furthers the safety or convenience of the public, the Director of Transportation, and, as to park drives and boulevards, the Superintendent of Parks and Recreation, may remove obstructions, hazards or nuisances from public places, and anyone causing the obstruction, hazard or nuisance shall be responsible for reimbursing the City for the expense of removing the same and cleaning the public place together with a charge equal to fifteen percent (15%) of the City's costs to cover administrative expenses.

(Ord. 118409 § 96, 1996; Ord. 117569 § 117, 1995; Ord. 90047 § 36, 1961.)

**15.46.020 Spilled loads.**

The owner or operator of any vehicle which has spilled, dropped, dumped, or in any manner deposited any matter upon a public place shall cause the public place to be cleaned when notified so to do by the Director of Transportation, or as to park drives and boulevards, by the Superintendent of Parks and Recreation. (Ord. 118409 § 97, 1996; Ord. 117569 § 118, 1995; Ord. 90047 § 37, 1961.)

**15.46.030 Deposits in street or gutter.**

It is unlawful to wash or sweep or otherwise deposit any matter in any street or gutter. (Ord. 117569 § 119, 1995; Ord. 90047 § 38, 1961.)

**15.46.040 Owner's and contractor's responsibility.**

The owner or lessee of the property who contracts for construction, an excavation or fill, or a demolition, and any general contractor responsible for the work, are responsible for preventing dumping, spillage, washing or overflow, tracking, or windblow of materials from or for the premises onto an adjoining public place. This responsibility includes activities of subcontractors and transportation of materials to or from the premises. The responsibility is joint and several.

If a dumping, spillage, washing or overflow, tracking or windblow of materials should occur, the owner and/or contractor shall promptly cause the same to be removed and the public place cleaned. If the material should flow or be washed into City storm drains, the Director of Transportation shall be notified. If the owner or contractor should fail to remove the material and restore the public place, the owner and/or the contractor shall be liable to the City for the costs thereof together with a charge equal to fifteen (15) percent of the City's cost to cover administrative expenses. (Ord. 118396 § 14, 1996; Ord. 117569 § 116(part), 1995.)

**15.46.050 Rebuttable presumption.**

For the purposes of this chapter, there is a rebuttable presumption that:

- A. Earth or construction materials found dumped, spilled, tracked, or windblown in a public place within one hundred (100) feet of a construction site and similar to earth or materials on the construction site came from the construction site;
- B. If there are no other apparent sources in the immediate vicinity, earth, debris, spillage, and other liquids collected in a storm drain or a gutter in the natural flow of drainage from a construction site came from the construction site;
- C. Earth, debris or other spillage linked by tire trackage or other trails to a construction site result from transportation to or from the construction site; and
- D. The written statement of the authorizing official of the costs and expenses incurred by the City in removing materials and restoring a public place is a true and accurate record of the work done by the City and of the charges incurred.

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(Ord. 117569 § 116(part), 1995.)

## Chapter 15.48

### MISCELLANEOUS ACTS

#### Sections:

15.48.010 Snow and ice removal.

15.48.020 Barbed wire or electric fence.

15.48.040 Sitting or lying down on public sidewalks in downtown and neighborhood commercial zones.

15.48.105 Conformance to applicable regulations for posting.

15.48.110 Removal authorized.

15.48.120 Responsibility for costs of removal.

15.48.130 Presumptions for assessing cost of removal.

15.48.900 Civil penalty.

#### 15.48.010 Snow and ice removal.

It is the responsibility of the owner or occupant of private property to remove snow and ice on the sidewalks abutting his or her property in a timely manner and, if practical, prevent its becoming or remaining in an icy, ridged, uneven or humped condition or in a condition which is potentially hazardous to users of the public sidewalks.

(Ord. 117569 § 121, 1995; Ord. 90047 § 39, 1961.)

#### 15.48.020 Barbed wire or electric fence.

It is unlawful to place, or maintain, or allow to be placed, or maintained, any barbed wire or electric fence abutting upon the marginal line of any public place in a manner that may be hazardous to a pedestrian in the public place.

(Ord. 117569 § 122, 1995; Ord. 90047 § 40, 1961.)

#### 15.48.040 Sitting or lying down on public sidewalks in downtown and neighborhood commercial zones.

A. Prohibition. No person shall sit or lie down upon a public sidewalk, or upon a blanket, chair, stool, or any other object placed upon a public sidewalk, during the hours between seven (7:00) a.m. and nine (9:00) p.m. in the following zones:

1. The Downtown Zone, defined as the area bounded by the Puget Sound waterfront on the west, South Jackson Street on the south, Interstate 5 on the East, and Denny Way and Broad Street on the North;
2. Neighborhood Commercial Zones, defined as areas zoned as Pioneer Square Mixed (PSM), International District Mixed (IDM), Commercial 1 (C1), Commercial 2 (C2), Neighborhood Commercial 1 (NC1), Neighborhood Commercial 2 (NC2), and Neighborhood Commercial 3 (NC3).

B. Exceptions. The prohibition in subsection A shall not apply to any person:

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1. Sitting or lying down on a public sidewalk due to a medical emergency;
  2. Who, as the result of a disability, utilizes a wheelchair, walker, or similar device to move about the public sidewalk;
  3. Operating or patronizing a commercial establishment conducted on the public sidewalk pursuant to a street use permit; or a person participating in or attending a parade, festival, performance, rally, demonstration, meeting, or similar event conducted on the public sidewalk pursuant to a street use or other applicable permit;
  4. Sitting on a chair or bench located on the public sidewalk which is supplied by a public agency or by the abutting private property owner;
  5. Sitting on a public sidewalk within a bus stop zone while waiting for public or private transportation.

Nothing in any of these exceptions shall be construed to permit any conduct which is prohibited by SMC Section 12A.12.015, Pedestrian interference.

C. No person shall be cited under this section unless the person engages in conduct prohibited by this section after having been notified by a law enforcement officer that the conduct violates this section. (Ord. 117103 § 2, 1994; Ord. 116885 § 1(part), 1993.)

#### **15.48.105 Conformance to applicable regulations for posting.**

A. Handbills, signs and posters may be affixed to City-owned utility poles, lamp poles and traffic control devices under the control of the Seattle Department of Transportation, except for freestanding stop signs and yield signs, and their posts, in accordance with the rules promulgated by the Director of the Seattle Department of Transportation pursuant to Chapter 3.02, the Seattle Administrative Code. Those rules shall regulate the time, place and manner of posting so as to advance the public purposes stated above so that (1) members of the public are afforded reasonable access to exercise their free speech rights, including being able to place signs at a height determined by the Director to be reasonable, consistent with other public purposes, which height shall not be greater than twelve (12) feet from the surface of the ground; and (2) handbills, signs, and posters affixed to any City-owned traffic control device, utility pole or lamp post will not unreasonably (a) contribute to a traffic hazard; (b) contribute to a safety hazard to anyone working on a utility pole, lamp pole or traffic control device; (c) contribute to a risk of fire; (d) contribute to visual blight; or (e) cause damage to City-owned property.

B. Pursuant to Seattle Municipal Code Chapter 23.55, handbills, signs and posters may also be affixed to City-owned poster boards and kiosks that are designated for handbills and signs.

C. A public agency may, with permission of the City, post traffic, parking and other regulatory signs on City-owned structures.

D. Other than as provided in this section, it is unlawful for anyone to affix any handbill, sign or poster upon a City-owned structure, or any City-owned tree or shrubbery in any public place. City-owned

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structures include, but are not limited to, bridges and overpasses, monorail supports, retaining walls, fences, street furniture and shelters, and poles and posts not under the control of Seattle Transportation. Wires and appurtenances to any City-owned structure are also a City-owned structure. (Ord. 121038 § 3, 2002.)

#### **15.48.110 Removal authorized.**

For the purposes of SMC Section 15.48.120, the following persons are authorized to remove any handbill, sign, or poster found affixed to any object, and to obliterate any of the foregoing that is not readily removed, in violation of Section 15.48.105:

- A. Any City officer or employee in the scope and course of his or her duties;
  - B. Any volunteer authorized by the City official with jurisdiction over the property to which the handbill, sign, or poster was affixed or paint applied; and
  - C. Whenever a pole or other facility is subject to joint use by the City and a franchisee, any officer or employee of the franchisee.
- (Ord. 121038 § 4, 2002; Ord. 117066 § 1(part), 1994.)

#### **15.48.120 Responsibility for costs of removal.**

Any person responsible for any posting made in violation of Section 15.48.105 shall be liable to the City for the costs incurred by the City in removal thereof and, in event of a failure to pay, for billing and collection charges.

The Director of the Seattle Department of Transportation, or his or her designee, is authorized to effect the collection of the removal cost incurred by the City, and, if the charge is not paid promptly, interest and the costs of collection, including reasonable attorney's fees. The cost shall be determined in accordance with a rate schedule approved by the City by ordinance. Costs include, but are not limited to, direct labor, material and equipment costs, as well as department and general City overhead costs attributable to the removal of signs and to identifying the responsible person or persons and collecting from them the costs of removal.

If the person responsible for posting the handbill, sign or poster is a minor or indigent, the Director of the Seattle Department of Transportation, or his or her designee, is authorized to accept in settlement community service or labor in litter collection or removal of signs from public places equal in value to the City's cost of removal.

The Director of the Seattle Department of Transportation is authorized to promulgate rules for the implementation of the program to recover the costs of removal, including providing for an administrative hearing before the Director or his or her designee. (Ord. 121038 § 5, 2002; Ord. 118409 § 98, 1996; Ord. 117066 § 1(part), 1994.)

#### **15.48.130 Presumptions for assessing cost of removal.**

For the purpose of recovering the costs of removal, there is a rebuttable presumption that:

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- A. A real estate agent, broker, brokerage firm, auctioneer or other person whose name or telephone number appears on a handbill, sign or poster is the person responsible for posting the handbill, sign or poster advertising the property for sale, lease or rent;
- B. A candidate seeking office is the person responsible for posting a handbill, sign or poster promoting his or her candidacy for public office;
- C. A person conducting a yard, garage, estate or moving sale is the person responsible for posting a handbill, sign or poster advertising the sale; and, unless the sale is advertised as that of a merchant or liquidator engaged in the business of selling personal property, that the owner, or lessee if the property is leased, of the premises where the sale occurs is responsible for conducting the sale;
- D. An owner, or lessee if the property is leased, of property used for a commercial activity or event is the person responsible for posting a handbill, sign or poster advertising the commercial activity or event;
- E. A person whose name, telephone number or address appears as the sponsor of a sporting event, concert, theatrical performance or similar activity is the person responsible for posting a handbill, sign, or poster advertising the activity or event;
- F. A person whose name, telephone number or address appears as the person to contact on any handbill, sign or poster is the person responsible for posting the handbill, sign or poster.

A person presumed to be responsible for posting a handbill, sign, or poster under the presumptions in this section may rebut the presumption by declaring under penalty of perjury or swearing under oath that the person did not cause, authorize or permit the posting of the handbill, sign, or poster on any public or utility property within the public place.

The presumptions in this section for recovering the costs of removal of handbills, signs or poster do not apply to proceedings to collect a civil fine under Section 15.50.050.  
(Ord. 117066 § 1(part) 1994.)

#### **15.48.900 Civil penalty.**

- A. Each violation of Section 15.48.040 shall be a civil infraction as contemplated by RCW Chapter 7.80 and deemed to be a Class 3 civil infraction under RCW 7.80120(c), and shall subject the violator to a maximum penalty and a default amount of Fifty Dollars (\$50) plus statutory assessments. If the person is unable to pay the monetary penalty, the court may order performance of a number of hours of community service in lieu of a monetary penalty.
- B. Each violation of Section 15.48.105 shall be a civil infraction as contemplated by RCW Chapter 7.80 and deemed to be a Class 1 civil infraction under RCW 7.80.120(a), and shall subject the violator to a maximum penalty and default amount of Two Hundred Fifty Dollars (\$250) plus statutory assessments. The penalty for a civil infraction is in addition to the civil liability of the person responsible for the posting to the City for the cost of removal under Sections 15.48.120 and 15.48.130.

C. As contemplated by RCW 7.80.160, a person who fails to sign a notice of civil infraction or who willfully violates his or her written and signed promise to appear in court or his or her written and signed promise to respond to a notice of civil infraction is guilty of a misdemeanor regardless of the disposition of the notice of civil infraction. A person who willfully fails to pay a monetary penalty or perform community service as ordered by a court may be found in contempt of court as provided in chapter 7.21 RCW.

D. An action for a civil infraction shall be initiated and process in the manner contemplated by RCW Chapter 7.80 and the Infraction Rules for Courts of Limited Jurisdiction. For purposes of RCW 7.80.040, the "enforcement officer" authorized to enforce the provisions of this title are: (1) as to park drives and boulevards, the Superintendent of Parks and Recreation, and as to other public places, the Director of the Seattle Department of Transportation; (2) authorized representatives or assistants of either of them; and (3) a commissioned officer of the Seattle Police Department and a person issued a Special Police Officer Commission by the Chief of Police with authority to enforce this title.  
(Ord. 121241 § 1, 2003; Ord. 120822 § 5, 2002)

## Chapter 15.52

### CROWD CONTROL EVENTS

#### Sections:

- 15.52.005 Definitions.
- 15.52.010 Special Events Committee.
- 15.52.020 Committee membership.
- 15.52.030 Powers of Special Events Committee.
- 15.52.040 Special event permits required.
- 15.52.050 Conditions authorized.
- 15.52.060 Processing, denial, revocation of permit.
- 15.52.070 Fees.
- 15.52.080 Exemptions from fees.
- 15.52.090 Exclusions.

#### 15.52.005 Definitions.

The following terms, when used in this chapter, shall have the following meanings:

- A. "Special event" means:
1. An event planned to be held in a park or other public place that meets all three of the following criteria:
    - a. Is reasonably expected to cause or result in more than fifty (50) people gathering in a park or other public place;
    - b. Is reasonably expected to have a substantial impact on such park or other public place; and
    - c. Is reasonably expected to require the provision of substantial public services; or
  2. An event planned to be held on private property that meets all three of the following criteria:

a. Is reasonably expected to cause or result in more than five hundred (500) people gathering in a park or other public place;

b. Is reasonably expected to have a substantial impact on such park or other public place; and

c. Is reasonably expected to require the provision of substantial public services; or

3. Any other planned event in a park or other public place if the event organizer requests the City to provide any public services in addition to those that would normally be provided by the City in the absence of the event.

B. "Park" and "public place" mean as those terms are defined in SMC Chapters 18.12 and 15.02, respectively.

C. "Substantial impact on a park or other public place" means an event would preclude in whole or in significant part the public's normal and customary use of such park or public place.

D. "Substantial public services" means a material increase in the amount, scope or level of necessary fire, police, traffic control, crowd control or other public services above those that would normally be required without the event. With respect to police resources, "substantial public services" means resources for crowd management or traffic control required for the event over and above the normal deployment of police in that geographic area of the City at the time of day during which the event will occur.  
(Ord. 120631 § 1, 2001.)

#### **15.52.010 Special Events Committee.**

There is hereby established a Special Events Committee to identify in coordination with City departments and other governmental entities the nature and scope of governmental services necessary for special events as defined in this chapter; to issue special event permits for such events; to determine appropriate terms and conditions for such permits; to set the applicable fees; and to administer this chapter.  
(Ord. 120631 § 2, 2001; Ord. 115982 § 1(part), 1991.)

#### **15.52.020 Committee membership.**

The Special Events Committee shall be comprised of the following voting members:

A. A representative of the Mayor, the Budget Director, the Fire Chief, the Police Chief, the Superintendent of Parks and Recreation, and the Directors of Transportation, Planning and Development, Finance, and Neighborhoods, and of the Seattle-King County Health Department;

B. A representative of the Metropolitan Services Division of King County;

C. Three (3) citizens and one (1) alternate appointed by the Mayor, subject to confirmation by the City Council; an alternate may vote when the appointee is absent. One (1) of the citizens shall have experience



I. To perform such other functions as may be assigned by ordinance from time to time.  
(Ord. 120631 § 3, 2001; Ord. 115982 § 1(part), 1991.)

#### **15.52.040 Special event permits required.**

A. A special event permit or authorization from the Special Events Committee is required for any special event, as defined in this chapter, except that no special event permit shall be required if the event sponsor, organizer or other party and the City have entered into a written agreement covering the same matters as would otherwise be included in a special event permit for such an event. Such special event permit shall be in addition to any street or park use permit, or other regular permits as may be required by ordinance.

B. To avoid duplication, when a special event permit covers the subject matter to their satisfaction, the Director of Transportation and/or as to parks, park drives and boulevards, the Superintendent of Parks and Recreation, respectively, may waive issuing a separate street use permit or park use permit.

C. When a special event permit is required, no street use permit shall issue under this title, nor shall a park use permit issue pursuant to Title 18, for such an event until the Special Events Committee has issued its special event permit therefor or otherwise authorized the issuance of the departmental permits, unless pursuant to subsection B the Director and/or the Superintendent waive issuance of separate permits.

D. When a special event permit is required, the Special Events Committee shall, after reviewing the application and if necessary meeting with the organizer, advise the organizer of all other permits that appear to be required for the event based on information contained in the application; and assist the organizer in contacting other departments to apply for all other permits in a timely manner.

E. When such an event will be an exercise of rights protected by the First and Fourteenth Amendments to the United States Constitution, or Article I, Sections 3, 4, 5, or 11 of the Washington Constitution, the application shall be processed promptly, without charging a fee for political or religious activities or imposing terms or conditions that infringe constitutional freedoms, and in a manner that respects the liberties of applicants and the public.

(Ord. 120631 § 4, 2001; Ord. 118409 § 106, 1996; Ord. 117569 § 128, 1995; Ord. 115982 § 1(part), 1991.)

#### **15.52.050 Conditions authorized.**

The Special Events Committee may include in a special event permit, among other provisions, reasonable terms or conditions as to the time, place and manner of the event; the implementation of a plan presented by the applicant and approved by the Committee for crowd control, traffic control and security; compliance with health and sanitary regulations as explicated by the Seattle-King County Health Department for the event; coordination with the Fire Department or medical personnel for emergency treatment and evacuation of people who may need immediate care, cardio-pulmonary resuscitation or ambulance service; emergency communication; fire suppression equipment with structures; maintenance of unobstructed emergency passageways; and, where traffic congestion may be anticipated, encouraging the use of transit and car pooling. In determining conditions, the Special Events Committee shall consider anticipated impacts of the event based on an assessment of the event, including size, scope, complexity and history as well as the event's or event organizer's successful implementation of conditions included in previous permits. Conditions shall be based upon projected impacts on public safety, public places and public services, but shall not be based upon

the programming content of the event or message that the proposed event may convey.

In order to accommodate other concurrent events, the rights of abutting owners and the needs of the public to use streets or parks, the conditions may include, but are not limited to, reasonable adjustments in the date, time, route or location of the proposed event; accommodations of pedestrian or vehicular traffic using the street; and limitations on the duration of the event.

(Ord. 120631 § 5, 2001; Ord. 115982 § 1(part), 1991.)

**15.52.060 Processing, denial, revocation of permit.**

A. Processing. To assist the City in planning for and assigning its police, fire, and other department personnel, the organizers of annual special events subject to a special event permit are encouraged to submit their applications at least three (3) months before the scheduled event; and the Special Events Committee shall process such application within sixty (60) days of the application, if practicable.

B. Denial. The Special Events Committee may deny an application for a special event permit if:

1. The applicant supplies false or misleading information; the applicant fails to complete the application or to supply other required information or documents; or the applicant declares or shows an unwillingness or inability to comply with reasonable terms or conditions contained in the proposed permit;
2. The proposed event is proximate to another previously permitted or previously scheduled exempt event, so that the combined impacts and required public services exceed what the City, after reasonable efforts have been made to accommodate both events, can reasonably provide; or the proposed event would interfere with construction or maintenance work in the immediate vicinity, or unreasonably infringe upon the rights of abutting properties; or
3. The proposed event would unreasonably disrupt the orderly or safe circulation of traffic as would present an unreasonable risk of injury or damage to the public.

In the event subsection 2 or 3, above, applies, the Special Events Committee shall offer the applicant the opportunity to submit an alternative date or place for the proposed event before denying the application.

If the Special Events Committee denies an application, the Committee shall state in writing the reasons for its denial.

C. Revocation. The Special Events Committee may cancel or revoke a permit already issued upon written notice to the applicant stating the grounds for revocation if:

1. The applicant, in the information supplied, has made misstatement of a material fact; the applicant has failed to fulfill a term or condition of the permit in a timely manner; or the check submitted by an applicant in payment of the fee for a permit has been dishonored;
2. The applicant requests the cancellation of the permit or cancels the event; or

3. An emergency or supervening occurrence requires the cancellation or termination of the event in order to protect the public health or safety.

The City shall refund the permit fee in the event of a revocation caused by an emergency or supervening occurrence; the City shall refund the balance of the fee less its costs incurred if the cancellation occurs at the request of an applicant who is in compliance with this chapter.

D. **Administrative Review.** An applicant may request an administrative review of a Special Events Committee denial of a special events permit application, or conditions placed upon a permit that the applicant alleges are unconstitutional or will prevent the applicant from holding the proposed event. Such a review shall be conducted by an Administrative Review Committee, comprised of the Superintendent of Parks and Recreation, the Director of Transportation, and the Fire Chief, or their deputies, provided that if the deputy is a member of the Special Events Committee, then the department head shall serve on the Administrative Review Committee. A request for an administrative review shall be made to the Special Events Committee in writing within three (3) business days after the denial or issuance of the permit with conditions. The Administrative Review Committee shall issue its decision within five (5) business days of its receipt of the request for review. (Ord. 120631 § 6, 2001; Ord. 115982 § 1(part), 1991.)

#### **15.52.070 Fees.**

A. **Computation of Fees.** The fee for a special event permit shall be computed as follows:

1. No fee shall be charged for events exempt from fees under Section 15.52.080 or excluded under Section 15.52.090;
2. The schedule in subsection B sets the base fee for 1992; the base fee is supplemented by a factor of Twenty-five Cents (\$.25) per registered entrant in a sporting event;
3. The base fee applicable to events in 1993 and each year thereafter shall be revised by the Special Events Committee annually based on changes in the purchasing power of the dollar during the preceding year shown by the Consumer Price Index for Urban Wage Earners and Clerical Workers for Seattle, First Six Months, published in or about August of each year by the U.S. Department of Labor, Bureau of Labor Statistics. Adjustments shall use 1992 as the base year, provided, as to events with fifty thousand (50,000) or more people in attendance, the rates in Note 2 to the schedule in subsection B apply, and 1994 shall be the base year for calculating inflation adjustments for events in calendar year 1995 and thereafter. Except as provided in Note 2, the base fee for any classification of anticipated attendance in the schedule in subsection B may not increase by more than ten percent (10%) from one (1) year to the next;
4. The base fee schedule applies for each day of the event. If any event extends over two (2) or more days and its anticipated attendance varies from day to day, the fee will be calculated on the anticipated peak attendance for each date. A fee for a sporting event may encompass two (2) or more activities as long as all activities are part of a coordinated program. A fee for a day-event in the same area or along the same route encompasses all activities that occur as a part of that event within the block segments or park areas of the permit. When a day-event occurs with a sporting

event or parade outside the area of the permit, the fee will be based on the charge for both events. The fee for an event that extends for two (2) or more days is the sum of the charges for each day;

5. These fees for a special permit do not displace any other fees required by ordinance for the event.

No special event shall be exempted from paying the fees in subsection B except those activities described in Sections 15.52.080 and 15.52.090.

**B. Base Fee Schedule per Day of Event.**

"Anticipated Attendance" on Date (Note 1)	"Sporting Event" or "Parade"		"Day-Event"	
	No Fee	"Entry Fee"	No Fee	"Entry Fee"
50--1,000	\$ 100.00	\$ 500.00	\$ 100.00	\$ 500.00
1,001--5,000	250.00	1,250.00	250.00	1,000.00
5,001--10,000	500.00	2,000.00	500.00	1,500.00
10,001--25,000	1,000.00	3,000.00	1,000.00	2,500.00
25,001--50,000	3,000.00	6,750.00	3,000.00	5,500.00
50,000 or more	10,000.00	12,000.00	10,000.00	12,000.00

Note 1: Terms in quotation marks are defined in subsection C.

Note 2: During 1993, the base fee for an event with an anticipated attendance of fifty thousand (50,000) or more people shall be Fifteen Thousand Dollars (\$15,000.00) for an event free of charge for the public, and Seventeen Thousand Dollars (\$17,000.00) for an event with an entry charge to the public. During 1994, the base fee for such an event shall be Twenty Thousand Dollars (\$20,000.00) for an event free of charge to the public, and Twenty-five Thousand Dollars (\$25,000.00) for an event with an entry charge to the public.

**C. Explanations of Base Fee Schedule.**

The "anticipated attendance" is calculated as everyone present at the peak time for the event, including participants, spectators, performers and patrons.

A "day-event" occupies a portion of a public place and/or park, typically with booths or stands, an exhibition, activities on a stage or platform, and/or amusement rides. Examples include street fairs, festivals, carnivals, concerts, hydroplane races, major displays of fireworks, and outdoor circuses.

An "entry fee" is a charge made to the general public to attend or participate in a special event. It does not mean a payment to the producer of a special event by a seller of merchandise or services, an entertainer, a sponsor or advertiser, or an exhibitor, such as a percentage, concession or booth fee.

A "parade" is a march or procession. It may include floats, motor vehicles, and/or animals.

"Public place" is defined in Section 15.02.040.

A "sporting event" is a gathering of people, most of whom participate in an athletic activity or in physical exertion. It includes a run, walk, bicycling, a race or competitive contest.

**D. When Payable.** A deposit in the amount of the base fee is due and payable upon issuance of the permit unless the Special Events Committee authorized an alternate arrangement. The entire fee, including the

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per entrant charge in Section 15.52.070 A2, is due and payable thirty (30) days after the event. All payments shall be deposited into the City Treasury to the credit of the Treasurer's Clearing Fund; and upon settlement, the amount due to the City shall be transferred to the General Fund, Special Event Revenue Account, and any balance refunded.

E. Refund. A holder of a permit who has paid a base fee for an event based on an anticipated attendance greater than the attendance at the event as reported by the Police Department afterward shall be entitled to a refund of the amount overpaid if the permittee applies to the Special Events Committee within thirty (30) days after the event.  
(Ord. 115982 § 1(part), 1991.)

#### **15.52.080 Exemptions from fees.**

No fee shall be imposed when prohibited by the First and Fourteenth Amendments to the United States Constitution, or Article I, Section 3, 4, 5, or 11 of the Washington Constitution. Political or religious activity intended primarily for the communication or expression of ideas shall be presumed to be a constitutionally protected event. Factors that may be considered in evaluating whether or not the fee applies include the nature of the event; the extent of commercial activity, such as the sales of food, goods, and services; product advertising or promotion, or other business participation in the event; the use or application of any funds raised; if part of an annual tradition or a series, previous events in the sequence; and the public perception of the event.

No fee shall apply to a block party with an anticipated attendance of three hundred (300) people or fewer that closes off a residential street segment no more than one (1) block in length, a sidewalk or alley abutting a park, or an unopened right-of-way for eight (8) hours or less during daylight hours, and does not need police service for crowd control.

No fee shall be imposed under this chapter on events that are authorized by a special ordinance which sets out fees or charges for that particular event.  
(Ord. 115982 § 1(part), 1991.)

#### **15.52.090 Exclusions.**

This chapter excludes events at the Seattle Center; events of or under the authority of the United States; and/or use of streets or parks as a result of or preparation for a fire, earthquake or other disaster, or practices or exercises for disaster management.  
(Ord. 115982 § 1(part), 1991.)

### **Chapter 15.54**

#### **MONORAIL GUIDEWAYS**

**15.54.010 Definitions.**

**15.54.020 Review and Approval of a Monorail Guideway.**

#### **15.54.010 Definitions.**

The terms "city transportation authority," "monorail guideway," "monorail transit facility," "monorail transit station," and "monorail transit system" shall have the same meaning as the definitions of those terms in

Chapter 23.84.  
(Ord. 121278 § 14, 2003.)

**15.54.020 Review and Approval of a Monorail Guideway.**

A. Any city transportation authority desiring to construct a monorail guideway in City right-of-way or city transportation authority right-of-way (even where such rights-of-way may consist only of aerial easements) shall obtain the approval of the Director of Transportation of final construction plans before commencing any such work. In exercising his or her authority under this chapter, the Director of Transportation shall follow applicable procedures in this title and not procedures in Chapter 23.76.

B. The Director of Transportation may approve a monorail guideway only if the horizontal and vertical alignment of the monorail guideway has been approved by the City Council by ordinance or resolution.

C. Where necessary to achieve consistency with the terms of the City Council's approval of the monorail transit system, the Director of Transportation may waive or modify development standards pursuant to Title 23, including but not limited to, height, setbacks, yards, landscaping, or lot coverage. In addition, to promote consistency with any monorail transit system-specific design guidelines to be developed by the City and a city transportation authority and approved by the City Council by ordinance, development standards other than height may be waived or modified.

D. The Director of Transportation may impose reasonable conditions:

1. Where necessary to achieve consistency with the terms of the City Council's approval of the monorail transit system; or
2. Pursuant to Chapter 25.05 to lessen identified impacts caused by the monorail transit facilities; or
3. To ensure consistency with any monorail transit system-specific design guidelines to be developed by the City and a city transportation authority and approved by the City Council by ordinance.

E. Nothing in this chapter shall prevent the City from granting further rights to, or imposing further conditions upon, a city transportation authority's use of the City's streets or the City's rights-of-way pursuant to a non-exclusive transit-way agreement for use of said streets or rights-of-way.  
(Ord. 121278 § 14, 2003.)

**Subtitle II.**

**Miscellaneous Street Use Regulations**

**Chapter 15.60**

**CLASSIFICATION OF ROADS AND STREETS**

**Sections:**

15.60.015 Street classification system.

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Statutory Reference: For statutory provisions requiring cities to classify streets, see RCW 35.78.010 and 47.26.180.

### **15.60.015 Street classification system.**

The classification of streets contemplated by RCW 35.78.010 and RCW 47.28.180, adopted by Ordinance 113194 and amended from time to time, and the "Seattle Comprehensive Transportation Program--Street Classification Guidelines" adopted by Resolution 27152, as revised from time to time, are available for inspection and copying at Seattle Transportation, and at the office of the City Clerk, Seattle Municipal Building.  
(Ord. 118409 § 107, 1996; Ord. 117569 § 129, 1995.)

## **Chapter 15.62**

### **VACATION OF STREETS, ALLEYS AND PUBLIC PLACES**

#### **Sections:**

**15.62.010 Statement of purpose.**

**15.62.020 Petition for vacation.**

**15.62.030 Petition fees.**

**15.62.040 Notice of hearing.**

**15.62.050 Protest.**

**15.62.060 Hearing.**

**15.62.070 Easements for utilities and services.**

**15.62.080 Vacation of waterfront streets.**

**15.62.090 Compensation for vacation.**

**15.62.100 Appraisals.**

**15.62.110 Payment of compensation or conveyance.**

**15.62.120 Posting and mailing notices--Recording ordinance.**

Statutory Reference: For statutory provisions on street vacations, see RCW Ch. 35.79.

#### **15.62.010 Statement of purpose.**

The purpose of this chapter is to establish procedures, notice requirements and fees for the vacation of streets, alleys and public places within the City. This chapter is intended to implement the authority granted to the City by RCW Chapter 35.79 and to conform to its provisions, and in case of conflict between this chapter and that statute, it is intended that the statutory provisions shall be controlling.  
(Ord. 109740 § 1(part), 1981.)

#### **15.62.020 Petition for vacation.**

The owners of an interest in any real estate abutting upon any street, alley or public place who may desire to vacate the street, alley or public place or any part thereof may petition the City Council to make vacation, giving a description of the property to be vacated, or the City Council may itself initiate such vacation procedure by resolution. The petition or resolution shall be filed with the City Clerk, and if the petition is signed by the owners of more than two-thirds ( 2/3) of the property abutting upon the part of such street or alley sought to be vacated, the City Council shall by resolution fix a time when the petition will be heard and determined by such authority or a committee thereof, which time shall be not more than sixty (60) days nor less than twenty (20) days after the date of the passage of such resolution.  
(Ord. 109740 § 1 (part), 1981.)

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the Office of the City Clerk**

**15.62.030 Petition fees.**

Every petition for the vacation of any street, alley or public place, or any part thereof, shall be accompanied by an initial payment to the City of a pre-hearing fee of Four Hundred Fifty Dollars (\$450.00) to defray a portion of the administrative costs incurred in processing such vacation petitions. Subsequent fees for post-hearing activities shall be One Hundred Fifty Dollars (\$150.00) for single-family residential zoned land, and Three Hundred Dollars (\$300.00) for all other street vacation petitions. Such fees shall not be refunded under any circumstances. In addition, at the time the City Council, or a committee thereof, recommends granting a vacation petition for single-family residential zoned land, the petitioner shall deposit Six Hundred Dollars (\$600.00) with the Director of Transportation to be applied to the cost of an appraisal. If the land is zoned other than single-family residential or multiple parcels of land are involved in the vacation, the petitioner shall deposit an amount determined by the Director of Transportation to be the Director's best estimate of the cost of an appraisal of the land. In the event an appraisal cost is less than the amount deposited, the vacation compensation payable to the City shall be reduced by the difference between the deposit and the actual cost or, in the alternative, such difference shall be refunded. In the event an appraisal cost is more than the amount deposited, the vacation compensation payable to the City shall be increased by the difference between the deposit and the actual cost, or, in the alternative, such difference shall be separately billed and paid prior to final approval of the vacation.

(Ord. 118409 § 108, 1996; Ord. 116469 § 1, 1992; Ord. 111436 § 1, 1983; Ord. 110879 § 1, 1982; Ord. 109740 § 1(part), 1981.)

**15.62.040 Notice of hearing.**

Upon the passage of the resolution fixing the time for hearing the petition or proposal for vacation, the City Clerk shall give not less than twenty (20) days' notice of the time, place and purpose of the hearing by written notice posted in three (3) of the most public places in the City and by posting written placards in conspicuous places on and near the street, alley or public place sought to be vacated. Placards shall be highly visible and at least eleven inches (11") by fourteen inches (14") in size, with headings that can be read from a distance of seventy-five feet (75") by persons of normal visual acuity, and shall include a map showing the location of the street, alley, or public place proposed to be vacated. In addition to posting notices of the hearing, the City Clerk shall mail a copy of the notice containing a statement of the time and place fixed for the hearing to:

- A. All owners, commercial lessees and residents of property which lies within three hundred feet (300') of the street, alley or public place proposed to be vacated, provided that when a street, alley or public place is proposed to be vacated in the area bounded by Denny Way, the Central Freeway, South Royal Brougham Way and Elliott Bay, notices shall be mailed only to property owners and building managers. For such purpose the real property tax roll as issued annually on microfiche by the County Comptroller and the addresses listed in the latest edition of Polk's Directory or its successor publications shall be used;
  
- B. The Director of the Department of Construction and Land Use for inclusion in an informational mailing to newspapers, individuals and groups on a master mailing list established pursuant to the Master Use Permit Ordinance (Chapter 23.76).  
(Ord. 111405 § 1, 1983; Ord. 109740 § 1(part), 1981.)

**15.62.050 Protest.**

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If fifty percent (50%) of the abutting property owners file written objections to a Council-initiated vacation with the City Clerk prior to the time of the hearing, the City shall be prohibited from proceeding with the resolution.  
(Ord. 109740 § 1(part), 1981.)

**15.62.060 Hearing.**

The hearing on such petition or proposal shall be held before the City Council, or before a committee thereof upon the day fixed by resolution or at the time to which said hearing may be adjourned. If the hearing is before such a committee, the same shall, following the hearing, report its recommendation on the petition or proposal to the City Council which may adopt or reject the recommendation. If such hearing is held before such a committee, it shall not be necessary to hold a hearing before the City Council.

The City Council may grant the petition with or without conditions, or may deny the petition.  
(Ord. 113022 § 1, 1986; Ord. 109740 § 1(part), 1981.)

**15.62.070 Easements for utilities and services.**

Ordinances vacating streets, alleys or public places may contain a provision retaining or requiring conveyance of easements for construction, repair and maintenance of existing and future public utilities and services.  
(Ord. 113022 § 2, 1986; Ord. 109740 § 1(part), 1981.)

**15.62.080 Vacation of waterfront streets.**

- A. The City is not authorized to vacate a street, alley or public place if any portion thereof abuts a body of salt or fresh water unless:
  - 1. The vacation is sought to enable the City to acquire the property for port purposes, beach or water access purposes, boat moorage or launching sites, park, public view, recreation, or educational purposes, or other public uses;
  - 2. The City Council, by resolution, declares that the street, alley or public place is not presently being used as a street, alley or public place, and that the street, alley or public place is not suitable for any of the following purposes: Port, beach or water access, boat moorage, launching sites, park, public view, recreation, or education; or
  - 3. The vacation is sought to enable the City to implement a plan, adopted by resolution or ordinance, that provides comparable or improved public access to the same shoreline area to which the streets, alleys or public places sought to be vacated abut, had the properties included in the plan not been vacated.
- B. Before adopting an ordinance vacating a street, alley or public place under subsection A2 of this section, the City Council shall:

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Text provided for historical reference only.  
See ordinances creating and amending sections for complete text, graphics, and tables and to confirm accuracy of
1. Cause an inventory to be compiled of all rights-of-way within the City that abut the same body of water that is abutted by the street, alley or public place sought to be vacated;
  2. Cause a study to be conducted to determine if the street, alley or public place to be vacated is suitable for use by the City for any of the following purposes: Port, boat moorage, launching sites, beach or water access, park, public view, recreation, or education;
  3. Hold a public hearing on the proposed vacation in the manner required by RCW Chapter 35.79 and this chapter; and
  4. Include in its written decision a finding that the street, alley or public place sought to be vacated is not suitable for any of the purposes listed under subsection B2 of this section, and that the vacation is in the public interest.

C. Notice of the public hearing on the proposed vacation shall be posted on the street, alley or public place sought to be vacated, and the notice shall indicate in addition to the requirements of Section 15.62.040 that the area is public access, that it is proposed to be vacated, and that anyone objecting to the proposed vacation should attend the public hearing or send a letter to the Transportation Committee indicating his or her objection.

D. Moneys received from the vacation shall be placed in the Guaranty Deposit Fund and may be used by the City only for the purpose of acquiring additional beach or water access, additional public view sites to a body of water, or additional moorage or launching sites.  
(Ord. 113649 § 1, 1987; Ord. 109740 § 1(part), 1981.)

#### **15.62.090 Compensation for vacation.**

A. Ordinances vacating any street or alley or part thereof shall not be passed by the City Council until a sum equal to one-half ( 1/2) of the appraised value of the area vacated is paid to the City, provided that if the street or alley has been a part of a dedicated public right-of-way for twenty-five years or more, the City shall be compensated in an amount equal to the full appraised value of the area vacated. In certain circumstances, provision of other valuable consideration acceptable to the City may be made in lieu or up to one-half ( 1/2) of the payment; provided that such consideration shall not be acceptable if it is required for the street vacation, it is considered a public benefit to meet the public benefit requirements of the street vacation, or it is required by other regulatory action. Acceptable consideration shall be quantified in dollars which shall then be credited to the required payment. City, State and federal agencies shall be exempt from such payment, but shall pay to the City all costs incurred by the City in processing the vacation request. As contemplated by RCW 35.79.035(3), the full market value shall be paid upon vacation of streets abutting upon bodies of water.

B. Conveyance of other property acceptable to the City may be made in lieu of the payment required by subsection A, whether required to mitigate adverse impacts of the vacation or otherwise. The full appraised value of the land conveyed shall be credited to the required payment. When the value of the in-lieu parcel is less than the payment required by subsection A, the petitioner shall pay the difference to the City. When the value of the in-lieu parcel exceeds the payment required by subsection A, the City shall pay the difference to petitioner.  
(Ord. 121661 § 3, 2004; Ord. 120607 § 1, 2001; Ord. 117569 § 130, 1995; Ord. 113022 § 3, 1986.)

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### **15.62.100 Appraisals.**

The Director of Transportation is authorized to obtain appraisals from either qualified, independent appraisers or qualified City of Seattle personnel in the discretion of the Engineer of such streets or alleys as are recommended for vacation after hearing by the City Council or a committee thereof, and is further authorized to obtain appraisals from either qualified independent real estate appraisers or qualified City of Seattle personnel, in the discretion of the Director of Transportation of the fair market value of the alternate right-of-way of land proposed to be granted or dedicated to the City for street or alley purposes in lieu of a cash payment in the manner contemplated by Section 15.62.090 and in such instance an additional appraisal deposit fee shall be paid for the appraisal of such parcel or parcels, and according to the fee and time schedule provided for in Section 15.62.030. Where qualified City of Seattle personnel are used to make the required appraisals, a reasonable hourly rate of compensation, as determined from time to time by the Director of Transportation shall be charged against the appraisal deposit fee.

(Ord. 118409 § 109, 1996; Ord. 109740 § 1(part), 1981.)

### **15.62.110 Payment of compensation or conveyance.**

Upon securing an appraisal of the value of the street or alley area to be vacated as provided in this chapter, the Director of Transportation shall notify the petitioner of the amount of compensation, deducting therefrom any remaining appraisal fee deposit not previously refunded to petitioner. The payment shall be delivered to the Director of Transportation who, upon receipt of any such payment shall forthwith transmit the same to the City Director of Executive Administration for deposit in the Cumulative Reserve Fund and shall make a written report of such payment to the City Council. In the event that the petitioner has received approval of delivery of an instrument granting or dedicating to the City a parcel or parcels of land in lieu of a cash payment as contemplated by Section 15.62.090, the Director of Transportation, in his or her discretion, at the applicant's expense shall obtain either a policy of title insurance insuring title thereto in the City, or a certificate of title as to the title thereof, and upon receipt of such policy or certificate shall transmit the same to the City Council for inclusion in the appropriate file.

(Ord. 120794 § 210, 2002; Ord. 120181 § 26 (part), 2000; Ord. 118409 § 110, 1996; Ord. 117627 § 3, 1995; Ord. 117242 § 19, 1994; Ord. 113022 § 4, 1986; Ord. 109740 § 1(part), 1981.)

### **15.62.120 Posting and mailing notices--Recording ordinance.**

Posting and mailing of the notices provided for in this chapter shall be the responsibility of the City Clerk, who shall have the discretion to permit the Director of Transportation or his/her designee to post and mail the notices under the supervision of the City Clerk. As required by RCW 35.79.030, a certified copy of the ordinance vacating a street, alley or public place, or part thereof, shall be recorded by the City Clerk and in the office of the King County Comptroller.

(Ord. 118409 § 111, 1996; Ord. 109740 § 1(part), 1981.)

## **Chapter 15.64**

### **SKYBRIDGE PERMITS**

#### **Sections:**

**15.64.010 Purpose and intent statement.**

For current SMC, contact  
the Office of the City Clerk

15.64.020 Petition for skybridge permit.

15.64.026 Skybridges prohibited on Downtown view corridors.

15.64.030 Director's recommendation.

15.64.040 Preliminary application.

15.64.050 Circulation of preliminary application.

15.64.060 Preliminary conceptual approval.

15.64.065 Council conceptual approval.

15.64.070 Submission of construction plans.

15.64.080 Council consideration of petition.

15.64.090 Conditions imposed on grant of permit.

15.64.100 Inspection; maintenance.

**15.64.010 Purpose and intent statement.**

A. The purpose of this chapter is to establish the procedure and criteria for the administration and approval of applications for permission to construct, maintain and operate pedestrian skybridges over and across streets, alleys and other public places within The City of Seattle.

B. It is the intent of the City Council to limit the proliferation and adverse effects of skybridges. It is intended that proposed skybridges shall be reviewed with regard to how well they serve the public interest and their relationship to

the cityscape. The provisions of this chapter shall be liberally construed in carrying out the intent of the Council.

C. The construction of a skybridge for private use or purposes over or above a park drive or boulevard is contrary to City policy.

(Ord. 117569 § 131, 1995; Ord. 110422 § 1(part), 1982.)

**15.64.020 Petition for skybridge permit.**

Any owner of an interest in real property abutting any street, alley or other public place, as defined in Section 15.02.030 of the Seattle Municipal Code, who desires to construct a pedestrian skybridge over and above the street, alley or other public place, may petition the City Council to grant a special permit for construction, maintenance, and operation of a pedestrian skybridge. The petition shall be filed with the City Clerk.

(Ord. 110422 § 1(part), 1982.)

**15.64.026 Skybridges prohibited on Downtown view corridors.**

No skybridge permit may be approved for any skybridge that is proposed to be built over a street that is designated as a Downtown view corridor on the Downtown View Corridor Map adopted by Resolution 30297, which map is incorporated by reference herein.

(Ord. 120372 § 1, 2001.)

**15.64.030 Director's recommendation.**

The City Council shall refer each application for a skybridge permit to the Director of Transportation for a recommendation. Thereafter, the Director and the City Council shall follow the procedures set forth in SMC

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Sections 15.64.040, et seq., of this chapter.  
(Ord. 118369 § 15, 1996; Ord. 115994 § 44, 1991; Ord. 110422 § 1(part), 1982.)

**15.64.040 Preliminary application.**

At the time of filing the application, the applicant shall also submit to the Director of Transportation on a form supplied by such official, the following:

- A. Conceptual drawings of the proposed skybridge, which shall include its location, size, height above ground surface, and cost estimate;
- B. Conceptual drawings of alternatives to the skybridge, with cost estimates;
- C. Drawings of the proposed skybridge showing its visual appearance;
- D. Photographs of the location and immediately surrounding area;
- E. An environmental checklist as defined by WAC 197-11-742 and WAC 197-11-960 and adopted by SMC Sections 25.05.315 and 25.05.960;
- F. A statement of the reasons for the necessity of the proposed skybridge;
- G. Any additional information deemed necessary for processing the application.  
(Ord. 118409 § 112, 1996; Ord. 117569 § 132, 1995; Ord. 115994 § 45, 1991; Ord. 110422 § 1(part), 1982.)

**15.64.050 Circulation of preliminary application.**

- A. The Director of Transportation shall circulate the preliminary application and conceptual drawings to the Seattle Design Commission, the various interested City departments, and public and private utilities affected by the proposed skybridge for review, comment and recommendation.
- B. In making the recommendation on the proposed skybridge, the following elements shall be considered:
  - 1. That horizontal and vertical clearance is adequate;
  - 2. That structural adequacy is insured;
  - 3. Potential conflict with existing or proposed utilities, street lighting or traffic control devices;
  - 4. View blockage;
  - 5. Interruption or interference with existing streetscape;
  - 6. Reduction of natural light;

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sections for complete text, graphics,  
and tables and to confirm accuracy of  
this code file.
7. Reduction of pedestrian activity at street level;
  8. The number of pedestrians projected to use the skybridges;
  9. Effect on commerce and enjoyment of neighboring land use;
  10. Availability of reasonable alternatives;
  11. Effect on traffic and pedestrian safety; and
  12. Accessibility for elderly and handicapped.

(Ord. 118409 § 113, 1996; Ord. 110422 § 1(part), 1982.)

#### **15.64.060 Preliminary conceptual approval.**

The Director of Transportation shall compile the comments and recommendations of the Seattle Design Commission, the various City departments, Executive Department offices, and utilities and submit them, along with the preliminary application, conceptual drawings and environmental documents, and with the Director's recommendation to approve, deny, or modify the application, to the City Council or a committee thereof, for conceptual approval.

(Ord. 118409 § 114, 1996; Ord. 118369 § 16, 1996; Ord. 115994 § 46, 1991; Ord. 110422 § 1(part), 1982.)

#### **15.64.065 Council conceptual approval.**

A. The City Council or a committee thereof shall consider the recommendation of the Director and shall include in its consideration those elements set out in SMC Section 15.64.050 B. Upon completion of consideration of the recommendation of the Director, the City Council shall by resolution approve, deny, or approve with requirements or conditions, the application for conceptual approval of the skybridge.

B. The City Council shall not grant conceptual approval to construct, maintain and operate a skybridge unless it finds that the skybridge is in the public interest and no reasonable alternative to the skybridge exists.

C. No Master Use Permit under Chapter 23.76 of the Seattle Municipal Code shall be issued for a development that includes a proposal for a skybridge or skybridges until the City Council has granted conceptual approval for all proposed skybridges included in the proposed development.

(Ord. 118369 § 17, 1996; Ord. 117569 § 133, 1995; Ord. 115994 § 47, 1991; Ord. 110422 § 1(part), 1982.)

#### **15.64.070 Submission of construction plans.**

If conceptual approval of the preliminary application is obtained from the City Council, the applicant shall submit construction plans to the Director of Transportation, the Director of the Department of Planning and Development, and the Seattle Design Commission, for their final review and recommendation to the City Council.

(Ord. 121276 § 37, 2003; Ord. 118409 § 115, 1996; Ord. 118369 § 18, 1996; Ord. 115994 § 48, 1991; Ord. 110422 § 1(part), 1982.)

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**15.64.080 Council consideration of petition.**

- A. The Director of Transportation shall determine if the construction plans are in substantial conformance with the application which was given preliminary conceptual approval, including any requirements or conditions imposed by the Council.
- B. Upon completion of final review of the construction plans, the Director of Transportation shall transmit a final recommendation to the City Council for its decision to grant or deny the petition for a skybridge permit.
- C. Approval of a petition for a skybridge and permit shall be granted only by ordinance. (Ord. 118409 § 116, 1996; Ord. 117569 § 134, 1995; Ord. 110422 § 1(part), 1982.)

**15.64.090 Conditions imposed on grant of permit.**

The City Council may impose such terms and conditions as it deems necessary upon the grant of permission to construct, maintain and operate a skybridge, which terms and conditions may include but shall not be limited to: the term of years for which permission is granted and renewal periods, if any; provision for regular City inspection of and procedures for closure or removal of the skybridge; requirements for performance bonds, public liability insurance, indemnification, and annual fees; prohibition against assignment without City consent; and timely acceptance of permission. Every ordinance approving a skybridge shall provide that the permission granted is subject to the primary use by the City of the street, alley or other public place for public travel and other street uses, and that the City expressly reserves the right to require the permittee to remove the skybridge at its sole cost and expense in case the street, alley or other public place is needed for such public use; or if the skybridge interferes with such public use; and that a determination by the City Council by ordinance that the space occupied by the skybridge is needed for or interferes with such public use shall be final and conclusive without any right of the permittee to resort to the courts to question the same. (Ord. 121855 § 71, 2005; Ord. 110422 § 1(part), 1982.)

**15.64.100 Inspection; maintenance.**

Skybridges are subject to Chapter 15.76 unless the franchise or authorizing ordinance specifically states otherwise or provides an alternate provision for inspection and protection of the public with the City's costs reimbursed from the permittee. (Ord. 117569 § 135, 1995.)

**Subtitle III.**

**Maintenance and Construction**

**Chapter 15.70**

**SIDEWALK CONSTRUCTION**

**Sections:**

**15.70.010 Purpose.**

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**15.70.020 Payment of construction or reconstruction costs.**

**15.70.030 Notification to construct or reconstruct--When work to be done by Seattle Department of Transportation.**

Statutory Reference: For statutory provisions on sidewalk construction in first-class cities, see RCW Ch. 35.69.

**15.70.010 Purpose.**

This chapter is enacted in order to enable the City to exercise the powers and authority granted by RCW Chapter 35.69 and to provide for the application and enforcement of said Act in this City.

(Ord. 108992 § 3, 1980; Ord. 65482 § 3, 1935.)

**15.70.020 Payment of construction or reconstruction costs.**

Whenever a portion, not longer than one (1) block in length, of any street (the word "street" as used in this chapter, includes any boulevard, avenue, street, alley, way, lane, square or place) is not improved by the construction of a sidewalk thereon (the word "sidewalk," as used in this chapter includes any and all structures or forms of street improvement included in the space between the street margin and the roadway), or the sidewalk thereon has become unfit or unsafe for purposes of public travel, and such street adjacent to both ends of said portion is so improved and in good repair, and the City Council by resolution finds that the improvement of such portion by the construction or reconstruction of a sidewalk thereon is necessary for the public safety and convenience, the duty, burden and expense of constructing or reconstructing such sidewalk shall devolve upon the property directly abutting upon such portion (which term "property directly abutting" or "abutting property," as used in this chapter, shall be deemed to be all property having a frontage upon the sides or margins of any such portion); provided, that such abutting property shall not be charged with any costs of construction or reconstruction under this chapter in excess of fifty percent (50%) of the valuation of such abutting property, exclusive of improvements thereon, according to the valuation last placed upon it for purpose of general taxation.

(Ord. 108992 § 1, 1980; Ord. 65482 § 1, 1935.)

**15.70.030 Notification to construct or reconstruct--When work to be done by Seattle Department of Transportation.**

Whenever the City Council has adopted such resolution, it shall cause a notice to be served on the owner of the property directly abutting on such portion of such street instructing said owner to construct or reconstruct a sidewalk on such portion in accordance with plans and specifications which shall be attached to such notice. Such notice shall be served by delivering it in person to the owner or leaving at his home with a person of suitable age and discretion then resident therein, or with an agent of such owner, authorized to collect rentals on such property, or, if the owner is a nonresident of the state, by mailing a copy to his last known address, or, if the owner is unknown or if his address is unknown, then by posting a copy in a conspicuous place on such portion of said street where such improvement is to be made. Such notice shall specify a reasonable time within which such construction or reconstruction shall be made, and shall state that in case the owner fails to make the same within such time, the City will proceed to make the same through Seattle Department of Transportation and at a subsequent date, to be definitely stated in the notice, said department will report to the City Council an assessment roll showing the lot or parcel of land directly abutting on such portion of such street so improved, the cost of such improvement, the name of the owner, if known, and that the City Council at the time stated in the notice or at the time or times to which the same may be adjourned, will hear any and all protests against the proposed assessment. Upon the expiration of the time fixed within which the owner is required to construct or reconstruct such sidewalk, if the owner has failed to perform such work, the City may proceed to perform the

work and shall, within the time fixed in said notice, report to the City Council an assessment roll showing the lot or parcel of land directly abutting on such portion of such street so improved, the cost of such work, and the name of the owner, if known. The City Council shall, at the time in such notice designated, or at an adjourned time or times, assess the cost of such improvement against the property and shall fix the time and manner for payment thereof, which assessment shall become a lien upon the property and shall be collected in the manner provided by law for collection of local improvements assessments under Title 35 of the Revised Code of Washington.

(Ord. 121420 § 6, 2004; Ord. 118409 § 117, 1996; Ord. 108992 § 2, 1980; Ord. 65482 § 2, 1935.)

## Chapter 15.72

### SIDEWALK MAINTENANCE

#### Sections:

**15.72.010 Notice to clear or clean sidewalk.**

**15.72.020 Notice--Information.**

**15.72.030 Notice--Delivery.**

**15.72.040 Work done by Seattle Department of Transportation--Report to Council.**

**15.72.050 Assessment of costs.**

Statutory Reference: For statutory provisions authorizing cities to provide for the construction and repair of sidewalks, see RCW Chs. 35.68 and 35.69.

#### **15.72.010 Notice to clear or clean sidewalk.**

Whenever, in the judgment of the Director of Transportation, the condition of any sidewalk, or any portion thereof, in the City is such as to render the same unfit or unsafe for purposes of public travel, or require clearing, cleaning, repair or renewal, said official is authorized, empowered and directed to serve upon the owner of the property immediately abutting upon the sidewalk, a notice advising such owner of the condition thereof and instructing him/her to clear, clean, repair or renew the same.

(Ord. 118409 § 118, 1996; Ord. 115994 § 50, 1991; Ord. 45712 § 1, 1923.)

#### **15.72.020 Notice--Information.**

The notice provided for in SMC Section 15.72.010 shall specify a reasonable time, to be stated therein, within which such clearing, cleaning, repair or renewal shall be done, and shall state that in case the owner shall fail to do such clearing or cleaning or to make such repairs or renewals within the time therein specified, Seattle Department of Transportation will clear or clean the walk or make such repairs or renewal forthwith, and will report to the City Council at its next regular meeting, or as soon thereafter as possible, the date to be definitely stated, an assessment roll showing the lot or parcel of land immediately abutting on that portion of the sidewalk so improved, the cost of such improvement or repair, and the name of the owner if known; and that the Council will hear any or all protests against the proposed assessment.

(Ord. 121420 § 6, 2004; Ord. 118409 § 119, 1996; Ord. 115994 § 51, 1991; Ord. 45712 § 2, 1923.)

#### **15.72.030 Notice--Delivery.**

The notice provided for in Section 15.72.010 shall be served by delivering the same in person to the owner of the property or his authorized agent, or by leaving a copy of such notice at the home of the owner or authorized agent, or, if the owner is a nonresident, by mailing a copy to his last known address, or, if his address

be unknown, such notice shall be mailed in the U.S. Post Office, addressed to such owner in care of General Delivery.  
(Ord. 45712 § 3, 1923.)

#### **15.72.040 Work done by Seattle Department of Transportation--Report to Council.**

In case any property owner fails or neglects to clear, clean, repair or renew the sidewalk, or any portion thereof, in accordance with the requirements of the notice provided for in SMC Section 15.72.010, the Director of Transportation shall cause such sidewalk to be cleared, cleaned, repaired or renewed, and thereupon shall report to the City Council an assessment roll showing the lot or parcel of land immediately abutting upon the portion of the sidewalk so improved, the cost of such improvement or repair and the name of the owner, if known.  
(Ord. 121420 § 6, 2004; Ord. 118409 § 120, 1996; Ord. 115994 § 52, 1991; Ord. 45712 § 4, 1923.)

#### **15.72.050 Assessment of costs.**

At the time designated in the notice provided for in Section 15.72.010, or the time to which the hearing upon the roll may be adjourned, the City Council, by ordinance, shall modify or confirm such assessment roll and shall assess the cost of such improvement against such abutting property in accordance with the benefits derived therefrom, which assessment shall become a lien upon the property and shall be collected in the manner provided by law or ordinance for the collection of local improvement assessments.  
(Ord. 45712 § 5, 1923.)

### **Chapter 15.76**

#### **INSPECTION OF CERTAIN STRUCTURES IN PUBLIC PLACES**

##### **Sections:**

**15.76.010 Inspection of bridges, trestles, viaducts, skybridges and other structures.**

**15.76.020 Inspection costs.**

**15.76.030 Chapter not applicable when.**

**15.76.050 Barricading of hazards authorized.**

**15.76.060 Other protective action.**

#### **15.76.010 Inspection of bridges, trestles, viaducts, skybridges and other structures.**

The Director of Transportation may annually, or as often as deemed necessary for the protection of the public safety, inspect or cause to be inspected all bridges, trestles, viaducts, tunnels, grade crossings, skybridges and other structures which have been or may be constructed or installed in, along, over, or across the public places of the City pursuant to ordinance granting any franchise or special permit and required by such ordinance to be maintained by the grantee of any such franchise or special permit. Pursuant to agreement with the Superintendent of Parks and Recreation, the Director of Transportation may also inspect or cause to be inspected such structures in, along, over, or across park drives and boulevards.  
(Ord. 118409 § 121, 1996; Ord. 117569 § 138, 1995; Ord. 96715 § 1, 1968.)

#### **15.76.020 Inspection costs.**

The cost of such inspection shall be paid by the grantee of any such franchise or special permit. The

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ordinances creating and amending  
sections for complete text, graphics, and tables and to confirm accuracy of

Director of Transportation, and/or as to park drives and boulevards, the Superintendent of Parks and Recreation, is authorized to bill for and collect fees in such amounts as are commensurate with the reasonable cost of such inspections.

(Ord. 118409 § 122, 1996; Ord. 117569 § 139, 1995; Ord. 96715 § 2, 1968.)

**15.76.030 Chapter not applicable when.**

This chapter shall not be applicable to inspections made in accordance with specific provisions of an ordinance authorizing or granting any such franchise or special permit where the payment of the cost of inspection is specifically provided for in such ordinance.

(Ord. 96715 § 3, 1968.)

**15.76.050 Barricading of hazards authorized.**

If the inspection authorized in Section 15.76.010 should disclose that there is a hazard to the public safety, health or welfare, then the Director of Transportation, and as to park drives and boulevards, the Superintendent of Parks and Recreation may order that the grantee of the franchise immediately close the structure and set up barricades, warnings, and/or lights to the extent necessary, so as to prevent public access to the area of the hazard in the interest of public safety. If the City incurs an expense in erecting or maintaining barricades, warnings, lights, and/or detours of traffic, the authorizing official shall bill the owner or occupant the cost thereof together with an amount equal to fifteen percent (15%) of such costs to cover administrative charges.

(Ord. 118409 § 123, 1996; Ord. 117569 § 137(part), 1995.)

**15.76.060 Other protective action.**

A. If the inspection authorized in Section 15.76.010 should disclose that the structure is not being maintained in accordance with approved plans and specifications, the Director of Transportation, and as to park drives and boulevards, the Superintendent of Parks and Recreation (the "authorizing official") may require that the grantee within ten (10) days present a plan for making the necessary repairs or improvements to bring the structure into as good or better condition than contemplated by the approved plans and specifications; that the plan include time tables for completion of the work, and that the grantee adopt a plan of regular maintenance and repair.

B. If the inspection should disclose that the structure endangers persons in the public place (whether through a collapse, dropping of materials, channelizing water or debris, or subsidence of the surface of the public place) or that the structure does not meet applicable standards of the Building and Construction Code (Title 23), the authorizing official may direct that the grantee at his or her expense make immediate repairs to correct the hazard to the public place and to bring the structure into conformity with applicable City codes. The authorizing official, in consultation with the Director of Planning and Development, may set a reasonable deadline for the grantee to complete the necessary repairs or removal of the structure.

C. Should the grantee fail to make satisfactory progress toward remedying a hazard to the public health, safety, or welfare or a reasonable time elapse after notice to the grantee to make such repairs, the Director of Transportation or the Superintendent of Parks and Recreation, as to park drives and boulevards, may enter upon the property and take such actions as deemed necessary to protect the public from the hazard; and

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the owner or grantee shall be liable to the City for the costs thereof together with an amount equal to fifteen percent (15%) of such costs to cover the City's administrative expenses.

D. In the event a franchise ordinance provides an alternative procedure for remedying a hazard to the public health, safety or welfare, from such structures, the procedure in the franchise ordinance shall be followed.

(Ord. 121276 § 37, 2003; Ord. 118409 § 124, 1996; Ord. 117569 § 137(part), 1995.)

#### **Subtitle IV.**

#### **Enforcement**

#### **Chapter 15.90**

#### **ENFORCEMENT**

**15.90.002 Violations.**

**15.90.004 Authority to enforce.**

**15.90.006 Investigation and notice of violation.**

**15.90.008 Time to comply.**

**15.90.010 Stop Work Order.**

**15.90.012 Emergency Order.**

**15.90.014 Review by the Director.**

**15.90.016 Extension of compliance date.**

**15.90.018 Civil penalty.**

**15.90.020 Alternative criminal penalty.**

**15.90.022 Additional relief.**

#### **15.90.002 Violations.**

A. It is a violation of Title 15 for any person to initiate or maintain or cause to be initiated or maintained the use of any public place within The City of Seattle without first obtaining the permits or authorizations required for the use by Title 15.

B. It is a violation of Title 15 for any person to use any public place in any manner that is not permitted by the terms of any permit or authorization issued pursuant to Title 15 or previous codes, provided that the terms or conditions are explicitly stated on the permit or the approved plans.

C. It is a violation of Title 15 to remove or deface any sign, notice, complaint or order required by or posted in accordance with Title 15.

D. It is a violation of Title 15 to misrepresent any material fact in any application, plans or other information submitted to obtain any street or sidewalk use authorization.

E. It is a violation of Title 15 for anyone to fail to comply with the requirements of Title 15.  
(Ord. 121241 § 3, 2003.)

#### **15.90.004 Authority to enforce.**

A. The Director of the Seattle Department of Transportation is authorized to enforce Title 15. The

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Director may call upon the police, fire, health or other appropriate City departments to assist in enforcement. The Director is also authorized to enforce Section 23.55.004, Signs projecting over public rights-of-way.

B. Upon presentation of proper credentials, the Director or duly authorized representative of the Director may, with the consent of the owner or occupier of a building or premises, or pursuant to a lawfully issued inspection warrant, enter at reasonable times any building or premises subject to the consent or warrant to perform the duties imposed by the Street and Sidewalk Use Code. The Director or duly authorized representative of the Director may enter any public place at any time.

C. The Street and Sidewalk Use Code shall be enforced for the benefit of the health, safety and welfare of the general public, and not for the benefit of any particular person or class of persons.

D. It is the intent of this Street and Sidewalk Use Code to place the obligation of complying with its requirements upon the adjacent property owner, occupant or other person responsible for the use of public places within the scope of this Code.

E. No provision of or term used in this Code is intended to impose any duty upon the City or any of its officers or employees which would subject them to damages in a civil action.  
(Ord. 121241 § 3, 2003.)

#### **15.90.006 Investigation and notice of violation.**

A. The Director is authorized to investigate any use of a public place which the Director reasonably believes does not comply with the standards and requirements of this Street and Sidewalk Use Code.

B. If after investigation the Director determines that the standards or requirements have been violated, the Director may issue a notice of violation to the adjacent property owner, occupant or other person responsible for the violation. The notice of violation shall state separately each standard or requirement violated, shall state what corrective action, if any, is necessary to comply with the standards or requirements; and shall set a reasonable time for compliance.

C. The notice shall be served upon the adjacent property owner, occupant or other person responsible for the violation by personal service in the manner set forth in RCW 4.28.080 for service of a summons or sent by first class mail, addressed to the last known address of such person(s). Service shall be complete at the time of personal service, or if mailed, three (3) days following the date of mailing. If a notice of violation sent by first class mail is returned as undeliverable, service may be made by posting the notice of violation at a conspicuous place on the site.

D. Nothing in this section shall be deemed to limit or preclude any action or proceeding pursuant to Section 15.90.010 or Section 15.90.012, and nothing in this section shall be deemed to obligate or require the Director to issue a notice of violation prior to the imposition of civil or criminal penalties.

E. A notice or an Order may be amended at any time in order to:

1. Correct clerical and other errors, or

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2. Cite additional authority for a stated violation.

F. Violations of SMC 15.48.040 and 15.48.100 shall be cited in accordance with SMC 15.48.900.

G. Unless a request for review before the Director is made in accordance with Section 15.90.014 the notice of violation shall become the final order of the Director. After the notice of violation becomes the final order of the Director, a copy of the notice of violation may be filed with the King County Department of Records and Elections. Any final order other than a stop-work order or emergency order issued by the Director pursuant to this subtitle may be appealed to the Hearing Examiner by an aggrieved person. Appeals to the Hearing Examiner shall be initiated by filing a written notice with the applicable fee within fifteen (15) days of the date set for compliance in the notice of violation or Order following a review by the Director. (Ord. 121241 § 3, 2003.)

#### **15.90.008 Time to comply.**

When calculating a reasonable time for compliance, the Director shall consider the following criteria:

1. The type and degree of violation cited in the notice;
  2. The stated intent, if any, of an adjacent property owner, occupant or other responsible party to take steps to comply;
  3. The procedural requirements for obtaining a permit to carry out corrective action;
  4. The complexity of the corrective action; and
  5. Any other circumstances beyond the control of the adjacent property owner, occupant or other responsible party.
- (Ord. 121241 § 3, 2003.)

#### **15.90.010 Stop Work Order.**

Whenever a violation of this Code will materially impair the Director's ability to secure compliance with this Code, when the violation threatens the health or safety of the public, or when the violation interferes with the public's use and enjoyment of the public place the Director may issue a Stop Work Order specifying the violation and prohibiting any work or other activity at the site by posting the Stop Work Order in a conspicuous place at the site, if posting is physically possible, or by serving the adjacent property owner, occupant or other person responsible for the use. A failure to comply with a Stop Work Order shall constitute a violation of this Street and Sidewalk Use Code. (Ord. 121241 § 3, 2003.)

#### **15.90.012 Emergency Order.**

Whenever any use or activity in violation of this Code threatens the health and safety of any member of the public, the Director may issue an Emergency Order directing that the use or activity be discontinued and the

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condition causing the threat to the public health and safety be corrected. The Emergency Order shall specify the time for compliance and shall be posted in a conspicuous place at the site, if posting is physically possible, or served on the adjacent property owner, occupant or other person responsible for the use. A failure to comply with an Emergency Order shall constitute a violation of this Street and Sidewalk Use Code.  
(Ord. 121241 § 3, 2003.)

#### **15.90.014 Review by the Director.**

A. Any person aggrieved by a notice of violation issued by the Director pursuant to Section 15.90.006 may obtain a review of the notice by requesting such review in writing within ten (10) days of the date of the notice. When the last day of the period so computed is a Saturday, Sunday or federal or City holiday, the period shall run until five (5:00) p.m. on the next business day. The request shall be in writing, and within thirty (30) days of the request for review the aggrieved person shall submit any additional information to be considered for the review. Before the deadline for submission of information, any person aggrieved by or interested in the notice of violation (including any persons served the notice of violation and the complainant) may submit any additional information in the form of written material to the Director for consideration as part of the review.

B. The review will be made by a representative of the Director who is familiar with the case and the applicable ordinances. The Director's representative will review all additional information received by the deadline for submission of information. The reviewer may also request clarification of information received and a site visit. After review of the additional information, the Director may:

1. Sustain the notice of violation;
2. Withdraw the notice of violation;
3. Continue the review to a date certain for receipt of additional information; or
4. Modify the notice of violation, which may include an extension of the compliance date.

C. The Director shall issue an Order of the Director containing the decision and shall cause the same to be mailed by first class mail to the person or persons named on the notice of violation. The Director may file the Order with the Department of Records and Elections of King County. Appeal of the Order shall be made in accordance with SMC 15.90.006(G).  
(Ord. 121241 § 3, 2003.)

#### **15.90.016 Extension of compliance date.**

The Director may grant an extension of time for compliance with any notice or Order, whether pending or final, upon the Director's finding that substantial progress toward compliance has been made and that the public will not be adversely affected by the extension. An extension of time may be revoked by the Director if it is shown that the conditions at the time the extension was granted have changed, the Director determines that a party is not performing corrective actions as agreed, or if the extension creates an adverse effect on the public. The date of revocation shall then be considered the compliance date.  
(Ord. 121241 § 3, 2003.)

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**15.90.018 Civil penalty.**

A. In addition to any other sanction or remedial procedure which may be available, any person or entity violating or failing to comply with any of the provisions of Title 15 shall be subject to a cumulative penalty of up to Five Hundred Dollars (\$500.00) per day for each violation from the date the violation occurs or begins until compliance is achieved. The City shall also be entitled to recovery of its enforcement costs, including, but not limited to, staff time, administrative expenses and fees, and costs and attorneys' fees.

B. The penalty imposed by this section shall be collected by civil action brought in the name of the City. The Director shall notify the City Attorney in writing of the name of any person subject to the penalty, and the City Attorney shall, with the assistance of the Director, take appropriate action to collect the penalty. In any civil action for a penalty, the City has the burden of proving by a preponderance of the evidence that a violation exists or existed; the issuance of the notice of violation or of an order following a review by the Director is not itself evidence that a violation exists.

C. **Peak Period Penalty Enhancement.** In addition to the cumulative Five Hundred Dollar (\$500.00) penalty per day for each violation set forth in Subsection A, each person or entity that violates any of the provisions enforced by this Chapter during a Peak Period shall be subject to an additional penalty of One Thousand Dollars (\$1,000.00) per day for each violation. The failure to take immediate action to correct the violation as directed by the Director shall constitute a separate violation.  
(Ord. 121925 §§ 4, 5, 2005; Ord. 121241 § 3, 2003.)

**15.90.020 Alternative criminal penalty.**

Any person who violates or fails to comply with any of the provisions of Title 15 shall be guilty of a gross misdemeanor subject to the provisions of Chapters 12A.02 and 12A.04, except that absolute liability shall be imposed for such a violation or failure to comply and none of the mental states described in Section 12A.04.030 need be proved. The Director may request the City Attorney to prosecute such violations criminally as an alternative to the notice of violation procedure outlined in this chapter. Each day any person shall continue to violate or fail to comply with the provisions of this title and each occurrence of a prohibited activity shall be deemed and considered a separate offense.  
(Ord. 121241 § 3, 2003.)

**15.90.022 Additional relief.**

The Director may seek legal or equitable relief to enjoin any acts or practices and abate any condition which constitutes or will constitute a violation of the Street and Sidewalk Use Code when civil or criminal penalties are inadequate to effect compliance. In any such action, the City has the burden of proving by a preponderance of the evidence that a violation exists or will exist; the issuance of the notice of violation or of an order following a review by the Director is not itself evidence that a violation exists or will exist. Nothing in this section shall prevent the Director from abating any use of a public place without a permit or impounding personal property in a public place without a permit pursuant to SMC 15.04.072, 15.18.020, and Chapter 15.38.  
(Ord. 121241 § 3, 2003.)

**Chapter 15.91**

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## CITATIONS

### Sections:

- 15.91.002 Scope.
- 15.91.004 Citation.
- 15.91.006 Response to citations.
- 15.91.008 Failure to respond.
- 15.91.010 Mitigation hearings.
- 15.91.012 Contested hearing.
- 15.91.014 Failure to appear for hearing.
- 15.91.016 Penalties.
- 15.91.018 Alternative criminal penalty.
- 15.91.020 Abatement.
- 15.91.022 Collection of penalties.
- 15.91.024 Each day a separate violation.
- 15.91.026 Additional relief.

### 15.91.002 Scope.

A. Violations of the following provisions of Seattle Municipal Code Title 15 shall be enforced under the citation or criminal provisions set forth in this Chapter 15.91 by the Director of Transportation:

1. Marquees, Awnings, Canopies, and Decorative Elements (SMC Chapter 15.10);
2. Signs, Banners and Street Clocks (SMC Chapter 15.12);
3. Newsstands (SMC Chapter 15.14);
4. Building Cleaning or Painting (SMC Chapter 15.20);
5. Vending (SMC Chapter 15.17);
6. Warning Lights and Barricades (SMC Chapter 15.40);
7. Debris in Public Places (SMC Chapter 15.46);
8. Snow and ice removal (SMC 15.48.010);
9. Barbed wire or electric fence (SMC 15.48.020);
10. Obstruction of utility or traffic facilities prohibited (SMC 15.22.050);
11. Removal of earth and debris (SMC 15.22.060);
12. Mixing of mortar or concrete (SMC 15.22.070);
13. Permit to drive over sidewalk or curb (SMC 15.22.100);
14. Barricades and warning devices (SMC 15.44.010).

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B. Any enforcement action or proceeding pursuant to this Chapter 15.91 shall not affect, limit or preclude any previous, pending or subsequent enforcement action or proceeding taken pursuant to Chapter 15.90.  
(Ord. 121925 § 1, 2005; Ord. 120822 § 12(part), 2002.)

**15.91.004 Citation.**

A. Citation. If after investigation the Director determines that the standards or requirements of provisions referenced in Section 15.91.002 have been violated, the Director may issue a citation to the owner and/or other person or entity responsible for the violation. The citation shall include the following information: (1) the name and address of the person to whom the citation is issued; (2) a reasonable description of the location of the property on which the violation occurred; (3) a separate statement of each standard or requirement violated; (4) the date of the violation; (5) a statement that the person cited must respond to the citation within fifteen (15) days after service; (6) a space for entry of the applicable penalty; (7) a statement that a response must be sent to the Hearing Examiner and received not later than five (5:00) p.m. on the day the response is due; (8) the name, address and phone number of the Hearing Examiner where the citation is to be filed; (9) a statement that the citation represents a determination that a violation has been committed by the person named in the citation and that the determination shall be final unless contested as provided in this chapter; and (10) a certified statement of the Director's representative issuing the citation, authorized by RCW 9A.72.085, setting forth facts supporting issuance of the citation.

B. Service. The citation may be served by personal service in the manner set forth in RCW 4.28.080 for service of a summons or sent by first class mail, addressed to the last known address of such person(s). Service shall be complete at the time of personal service, or if mailed, on the date of mailing. If a citation sent by first class mail is returned as undeliverable, service maybe made by posting the citation at a conspicuous place on the property.  
(Ord. 120822 § 12(part), 2002.)

**15.91.006 Response to citations.**

- A. A person must respond to a citation in one (1) of the following ways:
  - 1. Paying the amount of the monetary penalty specified in the citation, in which case the record shall show a finding that the person cited committed the violation; or
  - 2. Requesting in writing a mitigation hearing to explain the circumstances surrounding the commission of the violation and providing a mailing address to which notice of such hearing may be sent; or
  - 3. Requesting a contested hearing in writing specifying the reason why the cited violation did not occur or why the person cited is not responsible for the violation, and providing a mailing address to which notice of such hearing may be sent.

B. A response to a citation must be received by the Office of the Hearing Examiner no later than fifteen (15) days after the date the citation is served. When the last day of the appeal period so computed is a

Saturday, Sunday, or federal or City holiday, the period shall run until five (5:00) p.m. on the next business day. (Ord. 120822 § 12(part), 2002.)

**15.91.008 Failure to respond.**

If a person fails to respond to a citation within fifteen (15) days of service, an order shall be entered by the Hearing Examiner finding that the person cited committed the violation stated in the citation, and assessing the penalty specified in the citation. (Ord. 120822 § 12(part), 2002.)

**15.91.010 Mitigation hearings.**

A. Date and Notice. If a person requests a mitigation hearing, the mitigation hearing shall be held within thirty (30) days after written response to the citation requesting such hearing is received by the Hearing Examiner. Notice of the time, place, and date of the hearing will be sent by first class mail to the address provided in the request for hearing not less than ten (10) days prior to the date of the hearing.

B. Procedure at Hearing. The Hearing Examiner shall hold an informal hearing which shall not be governed by the Rules of Evidence. The person cited may present witnesses, but witnesses may not be compelled to attend. A representative from the Department of Transportation may also be present and may present additional information, but attendance by a representative from the Department of Transportation is not required.

C. Disposition. The Hearing Examiner shall determine whether the person's explanation justifies reduction of the monetary penalty. Factors that may be considered in whether to reduce the penalty include whether the violation was caused by the act, neglect, or abuse of another.

D. Entry of Order. After hearing the explanation of the person cited and any other information presented at the hearing, the Hearing Examiner shall enter an order finding that the person cited committed the violation and assessing a monetary penalty in an amount determined pursuant to this section. The Hearing Examiner's decision is the final decision of the City on the matter. (Ord. 120822 § 12(part), 2002.)

**15.91.012 Contested hearing.**

A. Date and Notice. If a person requests a contested hearing, the hearing shall be held within sixty (60) days after the written response to the citation requesting such hearing is received.

B. Hearing. Contested hearings shall be conducted pursuant to the procedures for hearing contested cases contained in Section 3.02.090 and the rules adopted by the Hearing Examiner for hearing contested cases, except as modified by this section. The issues heard at the hearing shall be limited to those that are raised in writing in the response to the citation and that are within the jurisdiction of the Hearing Examiner. The Hearing Examiner may issue subpoenas for the attendance of witnesses and the production of documents.

C. Sufficiency. No citation shall be deemed insufficient for failure to contain a detailed statement of the facts constituting the specific violation which the person cited is alleged to have committed or by reason of

defects or imperfections, provided such lack of detail, or defects or imperfections do not prejudice substantial rights of the person cited.

D. Amendment of Citation. A citation may be amended prior to the conclusion of the hearing to conform to the evidence presented if substantial rights of the person cited are not thereby prejudiced.

E. Evidence at Hearing. The certified statement or declaration authorized by RCW 9A.72.085 shall be prima facie evidence that a violation occurred and that the person cited is responsible. The certified statement or declaration authorized under RCW 9A.72.085 and any other evidence accompanying the report shall be admissible without further evidentiary foundation. Any certifications or declarations authorized under RCW 9A.72.085 shall also be admissible without further evidentiary foundation. The person cited may rebut the Department of Transportation evidence and establish that the cited violation(s) did not occur or that the person contesting the citation is not responsible for the violation.

F. Disposition. If the citation is sustained at the hearing, the Hearing Examiner shall enter an order finding that the person cited committed the violation and impose the applicable penalty. The Hearing Examiner may reduce the monetary penalty in accordance with the mitigation provisions in Section 15.91.010. If the Hearing Examiner determines that the violation did not occur, the Hearing Examiner shall enter an order dismissing the citation.

G. Final Decision. The Hearing Examiner's decision is the final decision of the City.  
(Ord. 121925 § 3, 2005; Ord. 120822 § 12(part), 2002.)

#### **15.91.014 Failure to appear for hearing.**

Failure to appear for a requested hearing will result in an order being entered finding that the person cited committed the violation stated in the citation and assessing the penalty specified in the citation. For good cause shown and upon terms the Hearing Examiner deems just, the Hearing Examiner may set aside an order entered upon a failure to appear.  
(Ord. 120822 § 12(part), 2002.)

#### **15.91.016 Penalties.**

A. First Violation. The first time that a person or entity is found to have violated one of the provisions referenced in Section 15.91.002, after the effective date of the ordinance codified in this chapter, the person or entity shall be subject to a penalty of Two Hundred Fifty Dollars (\$250.00).

B. Second and Subsequent Violations. Any subsequent time that a person or entity is found to have violated one of the provisions referenced in Section 15.91.002 within a five (5) year period after the first violation, the person or entity shall be subject to a penalty of Five Hundred Dollars (\$500.00) for each such violation.  
(Ord. 121925 § 2, 2005; Ord. 120822 § 12(part), 2002.)

#### **15.91.018 Alternative criminal penalty.**

Any person who violates or fails to comply with any of the provisions referenced in Section 15.91.002

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shall be guilty of a misdemeanor subject to the provisions of Chapters 12A.02 and 12A.04, except that absolute liability shall be imposed for such a violation or failure to comply and none of the mental states described in Section 12A.04.030 need be proved. The Director may request the City Attorney to prosecute such violations criminally as an alternative to the citation procedure outlined in this chapter.  
(Ord. 120822 § 12(part), 2002.)

**15.91.020 Abatement.**

Any public place on which there continues to be a violation of any of the provisions referenced in Section 15.91.002 after enforcement action taken pursuant to this chapter is hereby declared a nuisance and subject to abatement by the City in the manner authorized by law.  
(Ord. 120822 § 12(part), 2002.)

**15.91.022 Collection of penalties.**

If the person or entity cited fails to pay a penalty imposed pursuant to this chapter, the penalty may be referred to a collection agency. The cost to the City for the collection services will be assessed as costs, at the rate agreed to between the City and the collection agency, and added to the penalty. Alternatively, the City may pursue collection in any other manner allowed by law.  
(Ord. 120822 § 12(part), 2002.)

**15.91.024 Each day a separate violation.**

Each day a person or entity violates or fails to comply with a provision referenced in Section 15.91.002 may be considered a separate violation for which a citation may be issued.  
(Ord. 120822 § 12(part), 2002.)

**15.91.026 Additional relief.**

The Director may seek legal or equitable relief at any time to enjoin any acts or practices that violate the provisions referenced in Section 15.91.002 or abate any condition that constitutes a nuisance.  
(Ord. 120822 § 12(part), 2002.)

**Appendix I to Title 15**

**Description of Park Drives and Boulevards**

**(Developed roadways across park property are shown in brackets.)**

Editor's Note: This appendix is set out in an attachment to Ordinance 117569.

**ALASKAN WAY** -- The westerly 20 feet of **Alaskan Way** from the northerly margin of University Street to a point approximately 136 feet south of Vacated Virginia Street; and

all of that portion of **Alaskan Way** from the northerly margin of Broad Street to the northerly margin of Bay Street, except for the railroad franchise rights-of-way granted and described in section 4 of Ordinance 117481.  
(Ord. 121721 § 3, 2005.)

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**BALLARD PARKWAY**--Beginning at the intersection of 2nd Avenue Northwest and Northwest 56th Street;  
thence east along **Northwest 56th Street** to Palatine Place North;  
thence northeasterly along **Palatine Place North** to Northeast 57th Street;  
thence easterly along **North 57th Street** to Phinney Avenue North.

**CHEASTY BOULEVARD**--Beginning at Beacon Avenue South north of South Alaska Street;  
thence northeasterly along **Cheasty Boulevard South**, bordering Jefferson Park to 24th Place South;  
thence northerly along **Cheasty Boulevard South** to South Winthrop Street;  
thence east along **South Winthrop Street** to Martin Luther King Jr. Way South.

**CONDON WAY WEST**--From West Blaine Street to West McGraw Street (Median and triangle only).

**EAST DENNY BLAINE PLACE**--A circular roadway east of Lake Washington Boulevard East within Denny-Blaine Park.

**SOUTH HORTON STREET (AKA HORTON HILL CORRIDOR)**--**South Horton Street** from 36th Avenue South to 37th Place South.

**HUNTER BOULEVARD**--Beginning at the intersection of South Spokane Street and 38th Avenue South;  
thence north along Hunter Boulevard South to South Hanford Street (median only).

**LAKE WASHINGTON BOULEVARD**--Northerly along **Lake Washington Boulevard South**, beginning at the east end of South Juneau Street (at the entrance of Seward Park) and continuing to the south margin of South College Street;

[thence across Colman Park];

thence northerly along **Lake Washington Boulevard South** from Colman Park (180 feet south of South Massachusetts Street) to Frink Park (100 feet north of South Lane Street);

[thence across **Frink** and Leschi Parks to East Yesler Street];

thence northeasterly along **Lake Washington Boulevard** from East Yesler Street to Lakeside Avenue and continuing northerly along **Lake Washington Boulevard** to East Olive Street;thence northerly along **Lake Washington Boulevard** from East Olive Street to East Howell Street;

thence northerly along **Lake Washington Boulevard East** from East Howell Street to McGilvra Boulevard

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East;

[thence northwesterly across Lake View Park from McGilvra Boulevard East to East Harrison Street];

thence northwesterly along **Lake Washington Boulevard East** from East Harrison Street to East Madison Street;

thence across Washington Park to 26th Avenue East;

thence northerly along **Lake Washington Boulevard East** (the extension of 26th Avenue East) to East Lake Washington Boulevard;

thence westerly along **East Lake Washington Boulevard** to East Montlake Place.

**LAKESIDE AVENUE SOUTH**--From the north margin of South Main Street to the north line of Leschi park (AKA the production east of the north margin of South Yesler Street).

**LYNN STREET-END PARK (AKA LYNN STREET PARK)**--East **Lynn Street** west of Fairview Avenue East.

**MAGNOLIA BOULEVARD**--Beginning at West Emerson Street and Magnolia Boulevard West;

thence southwesterly and southerly along **Magnolia Boulevard West** from West Emerson Street to West Montfort Place;

thence southerly along **Magnolia Boulevard West** from West Montfort Place to 34th Court West and continuing northerly to the west end of the West Howe Street;

thence easterly along **West Howe Street** to Clise Place West (except bridge structure);

[thence southerly across Magnolia Park property from West Howe Street to 29th Avenue West];

thence west along **West Galer Street** from 29th Avenue West to Magnolia Way West;

thence northerly along **Magnolia Way West** and across Park property to Thorndyke Avenue West at West Howe Street.

**MCGILVRA BOULEVARD**--**McGilvra Boulevard East** from 38th Avenue East to East Prospect Street (median only).

**MONTLAKE BOULEVARD**--**Montlake Boulevard East** from East Shelby Street to SR-520 Freeway (median only).

**MOUNT BAKER BOULEVARD**--East and northeasterly along **South Mount Baker Boulevard** from

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Rainier Avenue South to South McClellan Street.

**NEWTON STREET-END PARK (AKA TERRY PETTUS PARK)**--East Newton Street west of Fairview Avenue East.

**PUGET BOULEVARD**--Puget Boulevard Southwest from the alley west of 26th Avenue Southwest to 16th Avenue Southwest, except the street crossings for 21st Avenue Southwest, Delridge Way Southwest, and 26th Avenue Southwest.

**QUEEN ANNE BOULEVARD** (A continuous path comprised of the following streets.)--Beginning at Bigelow Avenue North and Prospect Street;

thence northeasterly and northerly along **Bigelow Avenue North** from Prospect Street to Wheeler Street;

thence west along **Wheeler Street** from Bigelow Avenue North to Nob Hill Avenue North;

thence south along **Nob Hill Avenue North** from Wheeler Street to McGraw Street;

thence west along **McGraw Street** from Nob Hill Avenue North to 2nd Avenue North (except bridge structure);

thence northwest along **McGraw Place** from 2nd Avenue North to Warren Avenue North;

thence west along **Smith Street** from Warren Avenue North to Queen Anne Avenue North;

thence west along **West Smith Street** from Queen Anne Avenue North to West McGraw Place;

thence southwesterly along **West McGraw Place** to West McGraw Street;

thence west along **West McGraw Street** from 2nd Avenue West to 3rd Avenue West (West McGraw Place);

thence northwest along **West McGraw Place** from 3rd Avenue West to 5th Avenue West;

thence north along **5th Avenue West** from West McGraw Place to West Raye Street;

thence west along **West Raye Street** from 5th Avenue West to 8th Avenue West;

thence north along **8th Avenue West** from West Raye Street to West Fulton Street;

thence west along **West Fulton Street** from 8th Avenue West to 10th Avenue West;

thence south along **10th Avenue West** from West Fulton Street to West Wheeler Street;

thence east along **West Wheeler Street** from 10th Avenue West to 8th Avenue West;

thence south along **8th Avenue West** from West Wheeler Street to West McGraw Street;

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thence east along **West McGraw Street** from 8th Avenue West to 7th Avenue West;

thence south along **7th Avenue West** from West McGraw Street to West Blaine Street;

thence west along the upper roadway of **West Blaine Street** from 7th Avenue West to 8th Avenue West;

thence south along the upper roadway of **8th Avenue West** from West Blaine Street to West Galer Street and continuing south and southeasterly along the upper roadway of **8th Place West** to West Highland Drive; and **West Highland Drive** from 8th Place West to 7th Avenue West.

**RAVENNA BOULEVARD--Northeast Ravenna Boulevard** from East Green Lake Way North to Ravenna Avenue Northeast (median only).

**ROANOKE STREET-END PARK (AKA ROANOKE STREET PARK)--East Roanoke Street** west of Fairview Avenue East.

**SCHMITZ BOULEVARD--Southwest Stevens Street** from beneath the Admiral Way Southwest bridge (Schmitz Park) to 58th Avenue Southwest (Alki Playfield).

**SOUND VIEW TERRACE--**The landscaped portion of **11th Avenue West** at West Wheeler Street.

**TILIKUM PLACE--**The landscaped portion of **Cedar Street** bounded by the southeasterly margin thereof, the east curb line of 5th Avenue North extended south and southwesterly the curb line of 5th Avenue.

**VOLUNTEER PARKWAY--14th Avenue East** from East Prospect Street to approximately 100 feet south of Roy Street;

**East Roy Street** from 14th Avenue East to approximately 90 feet east thereof;

**East Valley Street** from 14th Avenue East to approximately 90 feet east thereof;

**East Aloha Street** from 14th Avenue East to approximately 90 feet east thereof and 120 feet west thereof;

**East Ward Street** from 14th Avenue East to approximately 90 feet east thereof; and

**East Prospect Street** from 14th Avenue East to approximately 90 feet east and 100 feet west thereof.

**3RD AVENUE WEST STREET-END PARK (AKA EWING STREET PARK)--**3rd Avenue West north of West Ewing Street.

**17TH AVENUE NORTHEAST--from Northeast 45th Street to Northeast Ravenna Boulevard** (median only).

\* NAMED AND UN-NAMED ROADWAYS, STREETS, WALKS, ETC. WITHIN PARK PROPERTY.

Streets and roadways within City parks are under the jurisdiction of the Department of Parks and Recreation as provided under Seattle Municipal Code Ch. 18.12 and Ordinance 106615. Examples of such streets are as follows but not limited to: Interlaken Boulevard in Interlaken Park, portions of Lake Washington Boulevard within Washington Park, Lake Washington Boulevard within Madrona Park, Lake Washington Boulevard, Lake Washington Boulevard South, South Frink Place within Leschi Park and Frink Park, Lake Washington Boulevard South within Colman Park, Puget Boulevard within Puget Park, 43rd Avenue East within Madison Park, Schmitz Boulevard and Southwest Stevens Street with Schmitz Park, Lakeside Avenue South in Leschi Park, Northwest Carkeek Park Drive within Carkeek Park and various streets, walks, etc. within Golden Gardens Park, Discovery Park, Viretta Park and other City parks.

**Appendix II to Title 15  
Corresponding Maps of  
Park Drives and Boulevards**

Editor's Note: This appendix is set out in an attachment to Ordinance 117569.

GRAPHIC UNAVAILABLE: Alaskan Way

GRAPHIC UNAVAILABLE: Alaskan Way (Ordinance 121721)  
(Ord. 121721 § 4, 2005.)

GRAPHIC UNAVAILABLE: Ballard Parkway

GRAPHIC UNAVAILABLE: Cheasty Boulevard

GRAPHIC UNAVAILABLE: Condon Way West

GRAPHIC UNAVAILABLE: East Denny Blaine Place

GRAPHIC UNAVAILABLE: Horton Hill Corridor

GRAPHIC UNAVAILABLE: Hunter Boulevard

GRAPHIC UNAVAILABLE: Lake Washington Boulevard, Sht. 1

GRAPHIC UNAVAILABLE: Lake Washington Boulevard, Sht. 2

GRAPHIC UNAVAILABLE: Lake Washington Boulevard, Sht. 3

GRAPHIC UNAVAILABLE: Lake Washington Boulevard, Sht. 4

GRAPHIC UNAVAILABLE: Lakeside Avenue South

GRAPHIC UNAVAILABLE: Lynn Street-End Park

GRAPHIC UNAVAILABLE: Magnolia Boulevard

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GRAPHIC UNAVAILABLE: McGilvra Boulevard

GRAPHIC UNAVAILABLE: Montlake Boulevard

GRAPHIC UNAVAILABLE: Mount Baker Boulevard

GRAPHIC UNAVAILABLE: Newton Street-End Park

GRAPHIC UNAVAILABLE: Puget Boulevard

GRAPHIC UNAVAILABLE: Queen Anne Boulevard

GRAPHIC UNAVAILABLE: Ravenna Boulevard

GRAPHIC UNAVAILABLE: Roanoke Street-End Park

GRAPHIC UNAVAILABLE: Schmitz Boulevard

GRAPHIC UNAVAILABLE: Sound View Terrace

GRAPHIC UNAVAILABLE: Tilikum Place

GRAPHIC UNAVAILABLE: Viretta Right-of-Way

GRAPHIC UNAVAILABLE: Volunteer Parkway

GRAPHIC UNAVAILABLE: 17th Avenue Northeast

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