

Subtitle I Street Use Ordinance

**Chapter 15.02
GENERAL PROVISIONS**

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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).

15.02.010Title.

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

15.02.015Chapter 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.)

15.02.020Exercise 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.)

15.02.025Disclaimer of City liability.

A. Issuance of any permit pursuant to the Street Use Ordinance¹ 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.

(Seattle 9-95)

15.02.025 STREET AND SIDEWALK USE

(Ord. 109969 § 3, 1981.)

1. Editor's Note: The Street Use Ordinance is codified in Chapters 15.02 through 15.50 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.

(Seattle 9-95)

(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 Engineering, the Director of Construction and Land Use, 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. 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 Engineering" means the City Director of Engineering and his or her authorized representatives.

B. "Director of Construction and Land Use" means the City Director of the Department of Construction and Land Use, 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.

For current SMC, contact the Office of the City Clerk

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. 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. "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.

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

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

F. "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.

G. "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.

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

I. "Superintendent" or "Superintendent of Parks and Recreation" means the City Superintendent of Parks and Recreation and his or her authorized representatives.

(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;

- 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;

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- 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.

All work to be done under the authority of this title shall be accomplished in compliance with the Seattle Building Code,¹ 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 19.222, 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.

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(Ord. 117569 § 1(part) 1995.)

15.02.080Assemblies 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.)

15.02.085Public fora.

The Director of Engineering 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. 117569 § 1(part), 1995.)

15.02.090Appeals 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.)

15.02.100Effect 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.)

15.02.110Authority 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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15.04.012Nuisances.

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15.04.042Escrow.

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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.

15.04.010 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 Engineering, the Director of Construction and Land Use, 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, sewer or storm drain installation and improvement work authorized by ordinance and administered by the Director of Engineering.

(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 Construction and Land Use 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 C6, 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 Engineering 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 Engineering has authority to issue use and occupation of, and administer this title for, all other public places and for uses other than those authorized to the Director of Construction and Land Use under Chapter 23.76. The Director of Engineering 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 Engineering as to the surfaces or structures maintained by the Engineering Department, 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 ordinance 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 Engineering may receive and forward the materials to the appropriate official.

(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 Construction and Land Use.

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 Engineering.

(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 an appeal pursuant to Chapter 15.90.

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 Construction and Land Use shall be transmitted to the Director for review. The Director of Construction and Land Use shall respond with his or her 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. 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

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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, 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 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. 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—Appeals to Street Use Appeals Board.

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 (\$1,000.00) and/or providing a surety bond under Section 15.04.044 in an amount up to Ten Thousand Dollars (\$10,000.00), 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 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 appeal to the Street Use Appeals Board. (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 Finance Director 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. 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 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.

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(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 Finance Director 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 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. 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

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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 appeal to the Street Use Appeals Board, and unless constitutional liberties prohibit it, may require that the insurance be provided prior to issuance of the permit.

(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 Finance Director, to the credit of the Guaranty Deposit Fund, a minimum sum of at least Five Hundred Dollars (\$500.00) 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 (\$300.00) or less.

(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 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

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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 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.

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If any structure or obstruction, or use or occupancy, is not discontinued on notice from the City to do so, the Director of Engineering 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. 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 Engineering 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 the Engineering Department. The Superintendent shall 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 Construction and Land Use 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 set commensurate with the cost of administration, inspection and policing involved in the issuance and continuance of such permits and the use thereby granted. 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. In order to effectuate collection of such fees the Director of Engineering, 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 permits for filming 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 Engineering 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 purpose without charge; provided, should the street vacation petition be denied, street use fees shall be payable for the full period of use.

D. 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. Fees for the use of public places under the jurisdiction of the Department of Parks and Recreation shall be deposited to the credit of the Park and Recreation Fund; all other fees shall be deposited to the credit of the General Fund. (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 Finance Director, a warrant shall be drawn and paid in the amount of such refund. The necessary appropriations are hereby made and authorized.

(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 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.)

Chapter 15.06 DRIVEWAYS

Sections:

15.06.010 Construction.

15.06.010 STREET AND SIDEWALK USE

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 Engineering for public places under the jurisdiction of the Engineering Department, and to the Superintendent of Parks for public places under the jurisdiction of the Department of Parks and Recreation. 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. 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 Engineering, 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. 117569 § 16, 1995; Ord. 109754 § 5, 1981; Ord. 101744 § 1, 1973; Ord. 90047 § 16-A, 1961.)

15.06.060 Driveways by freeway access roads.

The Director of Construction and Land Use shall refer to the Director of Engineering 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.

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The Director of Engineering 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.

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Exhibit 15.06.050
Curb Setback

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(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 Engineering 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. 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.

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 Code¹ 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.)

¹Editor'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 curbline, 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.)

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15.08.060Boiler 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.)

15.08.070Ventilation 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.)

15.08.080Sidewalk 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 Engineering and a permit from the Director of Construction and Land Use to construct and operate the same.

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

15.08.090Metal 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.)

15.08.100Time 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.)

15.08.110Maintenance 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.)

15.08.120Elevators 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.)

**Chapter 15.10
MARQUEES, AWNINGS, CANOPIES, AND
DECORATIVE ELEMENTS**

Sections:

15.10.010Extension—Approval and compliance.

15.10.020Lowest point.

15.10.030Vertical depth.

15.10.040Lighting.

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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 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 feet (8'), or sixteen feet (16') if in an alley, from the surface over which it is constructed, unless an exception to that requirement is approved by the Director of Engineering after a showing that traffic considerations have been satisfied.

(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 inches (30") in vertical depth, unless an exception to that requirement is approved by the Director of Engineering after a showing that the proposed marquee will not obscure the visibility of any sign or traffic control devices in the immediate area.

(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.

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 Construction and Land Use.

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 Engineering.

C. No new signs, barber poles, or street clocks shall be constructed over park drives and boulevards.

(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 foot (1') over or into any public place, or so that the bottom

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thereof will be less than eight feet (8') from the sidewalk.

(Ord. 117569 § 31, 1995; Ord. 90047 § 20, 1961.)

(Ord. 117569 § 33, 1995; Ord. 115994 § 16, 1991; Ord. 90047 § 22, 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.

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

B. No clock shall be more than fifteen feet (15') nor less than twelve and one-half feet (12½') 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 inches (28") nor less than sixteen inches (16") in any dimension, nor which has a dial greater than three feet (3') nor less than two feet (2') 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 Engineering.

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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 Engineering.

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:

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 pub-

lic 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 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 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 are exceeded, or an application is made for a permit under this section, the authorizing 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.

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D. Upon the timely appeal of the issuance or denial by the authorizing official of a permit for a proposed newsstand under this section, the Street Use Appeals Board shall determine: (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 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 Engineering or the Street Use Appeals Board, as the case may be, shall afford the publishers affected a reasonable opportunity to do so voluntarily.

(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 Engineering.

The Director of Engineering 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,

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

15.14.080 Review and hearings—Appeals.

Any person or publisher aggrieved by the placement of a newsstand in a public place under the jurisdiction of the Engineering Department or an action of the Director of Engineering with respect to a newsstand may seek review of such action by filing within ten (10) days after such action, a notice of appeal with the Street Use Appeals Board on a form provided by the Director or the Board. Such notice shall identify the action being appealed, the appellant's objections thereto, and the relief or action desired from the Board. The Street Use Appeals Board shall then conduct a hearing thereon. Unless an emergency or an unsafe condition exists, a newsstand already in place shall remain in place during a timely appeal until the Street Use Appeals Board makes its decision. The Street Use Appeals Board may sustain, modify, prohibit, or reverse any such newsstand placement or action of the Director of Engineering, and its decision shall be final and conclusive, subject to judicial review.

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. 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.

15.16.050 STREET AND SIDEWALK USE

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 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 Construction and Land Use shall provide notice of receipt of an application for a sidewalk cafe permit and of his or her decision to grant, deny, or condition the permit in accordance with the notice provisions of the Master Use Permit Process, SMC Chapter 23.76.

(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 13.20, 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 Engineering 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 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 Engineering may suspend or revoke the permission granted if an applicant violates this ordinance, any implementing rules, or the terms and conditions of the permit.

(Ord. 117569 § 44, 1995: Ord. 109740 § 6(part), 1981: Ord. 99674 § 2 (part), 1977: Ord. 90047 § 49(d), 1961.)

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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 Engineering 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. 115994 § 22, 1991: Ord. 109740 § 6(part), 1981: Ord. 99674 § 2(part), 1977: Ord. 90047 § 49(f), 1961.)

15.16.070 Indemnity.

The applicant for a sidewalk cafe permit shall execute and deliver to the City upon a form supplied by the Director of Engineering 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. 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 Engineering or other appropriate City officer such as the Chief of Police or Fire Chief or their authorized representatives.

(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 Street vending near the Kingdome.

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 6.212, Taxicabs; 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

15.16.050 STREET AND SIDEWALK USE

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 15.17.100 or 15.17.120 (Ord. 117569 § 47, 1995.)

15.17.010 Areas where mobile vending is restricted.

Unless authorized by Section 15.17.020, it is unlawful for any person 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 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 feet (200') of any public park, as defined in the Park Code, Ordinance 106615 as amended (Seattle Municipal Code Chapter 18.12), or within two hundred feet (200') 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.

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(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 pre-arranged 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 in the vicinity of the Kingdome.

(Ord. 117569 § 48(part), 1995: Ord. 109271 § 3, 1980: Ord. 90047 § 50, 1961.)

15.17.050 Street vending near the Kingdome.

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 north margin of South Jackson Street, the east margin of 4th Avenue South, the south margin of South Atlantic Street and the west margin of First Avenue South within two (2) hours of the commencement of any event scheduled at the Kingdome or during the progress of any such event, or within one (1) hour following the conclusion of the event.

Nothing herein shall restrict the sale of publications from newsstands that are located within the area described above in accordance with Chapter 15.14, nor the exercise of liberties guaranteed by the Washington or United States constitutions.

For current SMC, contact the Office of the City Clerk

(Ord. 117569 § 49, 1995; Ord. 109271 § 3, 1980; Ord. 90047 § 50, 1961.)

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 Engineering 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 a single-family or lowrise multifamily 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 Engineering, 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 meters, 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;

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 Engineering, the Chief of Police, or the Fire Chief determine that a clear

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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. 117569 § 50(part), 1995.)

15.17.200 Street fairs and vending by nonprofit organizations.

The Director of Engineering, 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. 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, 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 Construction and Land Use, and, as to park drives and boulevards, the Superintendent of Parks and Recreation, and as to other public places, the Director of Engineering.

B. Whenever the Director of Construction and Land Use 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 Construction and Land Use 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.

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(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 Engineering, 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. 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 Engineering, or, as to park drives and boulevards, the Superintendent of Parks and Recreation. No permit is required for using a single, attended 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.

*For current SMC, contact
the Office of the City Clerk*

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(Ord. 117569 § 52, 1995: Ord. 90047 § 24(A), 1961.)

manner. Hours of operation and/or additional construction may be specified to protect the public from injury or damage.

15.20.020 Permit—Contents; validity.

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

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(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.)

**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; appeal.

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.

15.22.090 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 Engineering 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. 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 Engineering 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. 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

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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.)

15.22.026Insurance; conditions; appeal.

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 Engineering 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 Engineering with respect to the issuance or denial of permits under this chapter are subject to appeal to the Street Use Appeals Board. 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. 117569 § 60(part), 1995; Ord. 115994 § 23, 1991; Ord. 106780 § 2(part), 1977; Ord. 90047 § 25(A), 1961.)

15.22.030Fence 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 Engineering or, as to park drives and boulevards, the Superintendent. (Ord. 117569 § 61, 1995; Ord. 106780 § 2(part), 1977; Ord. 90047 § 25(B), 1961.)

15.22.040Fence or enclosure—Materials and construction.

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.)

15.22.050Obstruction 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 Engineering 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. 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.)

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

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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 (3½') 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.

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 (3½') 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 Engineering 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.

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

15.22.125Covered 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 (3½') high, and wire mesh or other suitable material from the top of the handrail to the roof.

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:

15.24.010Requirements.

15.24.020Permit required.

15.24.030Tarpaulin required.

15.24.010Requirements.

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.)

15.24.020Permit 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 Engineering, 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. 117569 § 72, 1995; Ord. 115994 § 24, 1991; Ord. 90047 § 26(B), 1961.)

15.24.030Tarpaulin required.

A substantial tarpaulin shall be attached to the underside of a scaffold or staging where directed by the Director of Engineering 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. 117569 § 73, 1995; Ord. 90047 § 24(F), 1961.)

**Chapter 15.26
BACKFILLING**

Sections:

15.26.010Authority of City.

15.26.020Billing of costs.

15.26.010Authority of City.

The Director of Engineering, 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. 117569 § 74(part), 1995; Ord. 90047 § 27, 1961.)

15.26.020Billing 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

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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 percent (15%) 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.)

**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 Engineering. 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.

(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 Engineering, 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 (\$10,000.00), 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 Engineering 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 (\$1,000,000.00) 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 (\$150,000.00) 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 Engineering shall be given ten (10) days' notice of any change, cancellation or expiration of such insurance policy.

C. Revocation. The Director of Engineering 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. 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 Engineering 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. 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.

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 Engineering 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. 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 Engineering 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 Engineering 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 Engineering 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 Engineering finds that there would be substantial injury or inconvenience to the public, to public utilities or to owners of

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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 schedule a hearing before the Street Use Appeals Board.

C. Hearings. If a hearing is scheduled, the Director shall notify the applicant and the owners or agents of the properties that may be affected of the date, time, and place of the public hearing before the Street Use Appeals Board 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 Engineering 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 Director of Engineering with respect to such application and the testimony received during its public hearing on such application, the Street Use Appeals Board shall determine whether or not such permit shall be granted.

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

15.28.070Grantee 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 City Engineering, Parks 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. 117569 § 82, 1995; Ord. 108382 § 2(part), 1979; Ord. 90047 § 28-A(G), 1961.)

15.28.080Authority to make rules and regulations.

The Director of Engineering 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.

(Seattle 10-95)

(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:

- 15.32.010Permit—Required.**
- 15.32.020Terms of use and occupancy.**
- 15.32.030Application.**
- 15.32.040Review.**
- 15.32.050Deferment of construction.**
- 15.32.060Payment of fees.**
- 15.32.070Additional ducts or conduits.**
- 15.32.080Joint use poles.**
- 15.32.090City use for governmental communication.**
- 15.32.100Painting poles.**
- 15.32.110Accommodating moving of building and equipment.**
- 15.32.120Displacement for public use.**
- 15.32.130Undergrounding overhead wiring.**
- 15.32.140Removal.**
- 15.32.150Indemnity.**
- 15.32.300Attachments 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 Engineering 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. 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 therefor with the Director of Engineering, 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. 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 Deferment of construction.

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

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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.

(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.)

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

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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.)

15.32.300 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. The City shall reserve one (1) communication space on City-owned poles for its own use.

B. 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 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 approval of the Department of Administrative Services, the Engineering Department and the City Light Department in accordance with the following principles, requirements and procedures:

a. Providing for the safety of the public, City employees, 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.

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, including any permit review and environmental review costs, 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 propor-