

Ordinance No. _____

AN ORDINANCE OF THE CITY OF OLYMPIA, WASHINGTON, RELATING TO INFRASTRUCTURE AND AMENDING CHAPTERS 4.04, 12.10, 12.20, 12.24, 12.36, 12.44, 12.60, and 12.64 OF THE OLYMPIA MUNICIPAL CODE AND ADOPTING THE 2018 ENGINEERING DESIGN AND DEVELOPMENT STANDARDS.

WHEREAS, the *Olympia Engineering Design and Development Standards* (EDDS) are periodically updated; and

WHEREAS, related City Code is amended simultaneously to update code provisions to be consistent with changes to the EDDS; and

WHEREAS, on December 11, 2018, a public hearing was held to consider and approve amendments to the EDDS; and

WHEREAS, this Ordinance is supported by the staff report and attachments associated with the Ordinance along with documents on file with the City of Olympia; and

WHEREAS, this Ordinance is consistent with the comprehensive plan; and

WHEREAS, the Department of Commerce received a copy pursuant to RCW 36.70A.106 on November 29, 2018; and

WHEREAS, a State Environmental Policy Act DNS was issued on December 24, 2018; and

WHEREAS, the amendments contained in this Ordinance are adopted pursuant to Article 11, Section 11, of the Washington State Constitution and any other legal applicable authority;

NOW, THEREFORE, THE OLYMPIA CITY COUNCIL ORDAINS AS FOLLOWS:

Section 1. Amendment of OMC Chapter 4.04. Olympia Municipal Code Chapter 4.04 is hereby amended to read as follows:

Chapter 4.04
ENGINEERING FEES

4.04.000 Chapter Contents

Sections:

4.04.010 Assessment of fees.

4.04.010 Assessment of fees

A. Commencing January 1, 2014, the following fee schedule shall be in full force and effect.

Application Type

Plan Check Fees**Engineering Fee Schedule**

Water Main Extension (For projects outside city limits, fees will increase by 25%)	\$452.00 + \$0.50 per linear foot or part thereof
Sewer Main Extension (For projects outside city limits, fees will increase by 25%)	\$452.00 + \$0.50 per linear foot or part thereof
Reclaimed Water Main or Service Extension	\$452.00 + \$0.50 per linear foot or part thereof
Streets	\$452.00 + \$0.50 per linear foot or part thereof
Curb and Sidewalk	\$452.00 + \$0.50 per linear foot or part thereof
Storm On-Site	\$600.00 + \$37.00 per Acre Gross Parcel Area
Storm Pipe	\$452.00 + \$0.50 per linear foot or part thereof
Street Lighting (For projects outside city limits, fees will increase by 25%)	\$452.00 + \$0.50 per linear foot or part thereof
Driveway: Commercial	\$678.00 each
STEP Sewer System: Commercial	\$1,355.00 each
Sewer Pump Station	\$1,355.00 each
On-Site Community Septic System (For projects outside city limits, fees will increase by 25%)	\$1,355.00 each
Traffic Signal	\$1,355.00 each
Solid Waste Pad and/or enclosure	\$350.00
Landscape Plan Review	\$450.00
Resubmittal Fee	50% of plan review fee starting with second resubmittal after the initial application

Application Type**Permit/Inspection Fees**

Single Family Residential Erosion Control Inspection (up to and including 5,000 sq ft)	\$205.00 each
Single Family Residential Erosion Control Inspection (5,001 to 20,000 sq ft)	\$255.00
Residential Subdivision and Commercial Site fee	
Erosion Control and LID Inspection (based on lot size) (new building sites only)	
5,001 – 20,000 sq ft	\$255.00

Application Type

Permit/Inspection Fees

20,001 – 40,000 sq ft	\$355.00
40,001 – 220,000 sq ft	\$455.00
Over 220,000 sq ft	\$575.00

*Note: Subdivision is based on total subdivision until all improvements are accepted by the City, then individual lot fees apply if a permit is being issued for work that disturbs ground or requires LID

Streets and/or Alleys	\$2.30 per linear foot or part thereof
Curb and/or <u>sidewalk</u>	\$2.30 per linear foot or part thereof
<u>Sidewalk Fee-in-lieu</u>	<u>City Engineer's estimate of actual cost</u>
Street lighting (For projects outside city limits, fees will increase by 25%)	\$1.60 per linear foot or part thereof
Driveways: Residential	\$158.00 each
Driveways: Commercial	\$788.00 each
Sanitary Sewer Main (For projects outside city limits, fees will increase by 25%)	\$3.10 per linear foot or part thereof plus \$1.00 per linear foot for Television Inspection
STEP Sewer System: Residential (For projects outside city limits, fees will increase by 25%)	\$509.00 each
STEP Sewer System: Commercial (For projects outside city limits, fees will increase by 25%)	\$1,019.00 each
Sewer Pump Station	\$1,019.00 each
On-Site Community Septic System (For projects outside city limits, fees will increase by 25%)	\$1,019.00 each
Sewer Lateral Connection at Main	\$368.00 each
Sewer Lateral Connection on Property	\$147.00 each
Storm Sewer Main	\$3.10 per linear foot or part thereof plus \$1.00 per linear foot for Television Inspection
Storm On-Site System	\$677.00 each
Water Main (For projects outside city limits, fees will increase by 25%)	\$3.10 per linear foot or part thereof
Water Connection (New)	\$200.00 each
Water Purity Sampling Test (Collected for second and	Actual Costs to be Assessed

Application Type

Permit/Inspection Fees

subsequent tests for the same system)

Water Main Shutdown (collected for second or subsequent request for the same system) Actual Costs to be Assessed

Reclaimed Water Main or Service Connection \$3.10 per linear foot or part thereof

Reclaimed Water Connection (new) \$200.00 each

Reclaimed Water Sampling Test (Collected for second and subsequent tests for the same system) Actual Costs to be Assessed

Reclaimed Water Main or Service Connection Shutdown (collected for second or subsequent request for the same system) Actual Costs to be Assessed

Traffic Signal \$1,575.00 each

Solid Waste Pad and/or enclosure \$250.00

Landscape \$375.00

Bicycle Parking \$125.00

Paving of Parking Lots (including re-paving) \$0.06 per square foot or part thereof

Right-of-Way Obstruction Permit (No Traffic Control Plan Required) \$184.00 each

Right-of-Way Obstruction Permit \$562.00 each

Right-of-Way Obstruction Permit (Traffic Control Plan Required, and on-site signage, cones, or flaggers needed)

Right-of-Way Excavation/Restoration (Completion Bond Required before Issuance of a Permit equal to 125% value of the work) \$184.00 each

Right-of-Way Vacation Request \$1,943.00 each

Latecomer Reimbursement Contract \$1,943.00 + 5% Administrative Fee (~~based on total cost of the contract~~5% of the reimbursement amount shall be deducted by the city for administrative fees each time the city collects a latecomer fee from a property owner within the reimbursement area)

UGA City Utility Availability Authorization \$175.00 each

Long Term Right-of-Way Use Authorization for Open \$420.00 per year

Application Type

Permit/Inspection Fees

Right-of-Way Use per Year

Street Closure Permit for Temporary Moving of Structures or Equipment \$850.00 each

Recording Fees for Bills of Sale, Easements, Deeds \$80.00

Recording Fees for Stormwater Maintenance Agreements \$115.00

Private Utilities

Private Utility (power, natural overhead, gas, telecommunications, CATV) (New development of systems):

New Short Plat – (2-9 Lots)

Plan Check: \$158.00

Permit Fees: \$26.00

New Long Plat – (10-25 Lots)

Plan Check: \$315.00

Permit Fees: \$53.00 + \$0.20 per linear foot or part thereof

New Long Plat – (26+ Lots)

Plan Check: \$525.00

Permit Fees: \$79.00 + \$0.20 per linear foot or part thereof

New Commercial:

Plan Check: \$315.00

Permit Fees: \$53.00

New R-O-W Utilities (New or Extension)

Plan Check: \$263.00 + \$0.9 per linear foot or part thereof

Permit Fees: \$26.00

Repair/Replace Existing

Plan Check: \$0.00

Permit Fees: \$26.00 +\$0.10 per linear foot or part thereof

New/Replace Pole: \$26.00 per Each

Resubmittal fees starting with second resubmittal after the initial application 50% plan check fees

Tree Protections and Replacement Ordinance Fee Schedule

Application Type

Permit/Inspection Fees

Tree Plan Review for New Commercial Development	\$1,575.00 each
Tree Plan Review for New Multi-family Residential Development	\$1,575.00 each
Tree Plan Review for New Subdivisions - 9 lots and less	\$525.00 each
Tree Plan Review for New Subdivisions - 10 lots and more	\$1,575.00 + \$26.00 per lot
Tree Plan Field Inspection for New Commercial Development	\$1,575.00 each
Tree Plan Field Inspection for New Multi-family Residential Development	\$1,575.00 each
Tree Plan Field Inspection for New Subdivisions - 9 lots and less	\$525.00 each
Tree Plan Review for New Subdivisions - 10 lots and more	\$1,575.00 +\$26.00 per lot
Tree Plan Review for Tree Trimming by Private Utility	\$210.00 + \$0.10 per linear foot, or part thereof, of project
Tree Plan Field Inspection for Tree Trimming by Private Utility	\$210.00+\$0.10 per linear foot, or part thereof, of project
Tree Conversion Option Harvest	\$150.00 per acre, or part thereof, to \$3,000.00 maximum
Technology Fee – applicable to all permits and plan review fees	3.9% of permit/plan review fee

Section 2. Amendment of OMC Chapter 12.10. Olympia Municipal Code Chapter 12.10 is hereby amended to read as follows:

**Chapter 12.10
OLYMPIA COMMUTE TRIP REDUCTION PLAN**

12.10.000 Chapter Contents

Sections:

- 12.10.010 Definitions.
- 12.10.020 Olympia Commute Trip Reduction Plan.
- 12.10.030 Commute Trip Reduction Coordinator.
- 12.10.040 Applicability and Notification.
- 12.10.050 Record Keeping.

- 12.10.060 Schedule and Process for Employee Commute Trip Reduction Reports.
- 12.10.070 Enforcement.
- 12.10.080 Exemptions and Goal Modifications.
- 12.10.090 Appeals.

12.10.010 Definitions

For the purpose of this Ordinance, the following definitions shall apply in the interpretation and enforcement of this Ordinance:

- A. "Affected Employee" means a full-time employee who begins ~~his or her~~ a regular work day at a single worksite covered by the Commute Trip Reduction Plan between 6:00 a.m. and 9:00 a.m. (inclusive) on 2 or more weekdays for at least 12 continuous months who is not an independent contractor. Seasonal agricultural employees, including seasonal employees of processors of agricultural products, are excluded from the count of affected employees.

- B. "Affected Employer" means an employer that employs one hundred (100) or more full-time employees at a single worksite covered by the Commute Trip Reduction Plan who are scheduled to begin their regular work day between 6:00 a.m. and 9:00 a.m. (inclusive) on 2 or more weekdays for at least 12 continuous months. Construction worksites, when the expected duration of the construction is less than two years, are excluded from this definition. (Also see definition of employer.)

- C. "Alternative Mode" means any means of commute transportation other than that in which the single-occupant motor vehicle is the dominant mode, including telecommuting and compressed work week schedules if they result in reducing commute trips.

- D. "Alternative Work Schedules" mean programs such as compressed work week schedules that eliminate work trips for affected employees.

- E. "Base year" means the 12-month period which commences when a major employer is determined by the jurisdiction to be participating within the CTR program. Olympia uses this 12-month period as the basis upon which it develops commute trip reduction goals.

- F. "Base year survey" or "baseline measurement" means the survey, during the base year, of employees at a major employer worksite to determine the drive-alone rate and vehicle miles traveled per employee at the worksite. The jurisdiction uses this measurement to develop commute trip reduction goals for the major employer. The baseline measurement must be implemented in a manner that meets the requirements specified by Olympia.

- G. "Carpool" means a motor vehicle, including a motorcycle, occupied by two to six people of at least 16 years of age traveling together for their commute trip, resulting in the reduction of a minimum of one motor vehicle commute trip.

- H. "Commute Trips" mean trips made from a worker's home to a worksite (inclusive) on weekdays.
- I. "CTR" is the abbreviation of Commute Trip Reduction.
- J. "CTR Program" means an employer's strategies to reduce employees' drive alone commutes and average VMT per employee.
- K. "Commute trip vehicle miles traveled per employee" means the sum of the individual vehicle commute trip lengths in miles over a set period divided by the number of full-time employees during that period.
- L. "Compressed Work Week" means an alternative work schedule, in accordance with employer policy, that regularly allows a full-time employee to eliminate at least 1 work day every 2 weeks by working longer hours during the remaining days, resulting in fewer commute trips by the employee. This definition is primarily intended to include weekly and bi-weekly arrangements, the most typical being four 10-hour days or 80 hours in 9 days, but may also include other arrangements.
- M. "Custom Bus/Buspool" means a commuter bus service arranged specifically to transport employees to work.
- N. "Dominant Mode" means the mode of travel used for the greatest distance of a commute trip.
- O. "Drive Alone" means a motor vehicle occupied by 1 employee for commute purposes, including a motorcycle.
- P. "Drive Alone Trips" means commute trips made by employees in single occupant vehicles.
- Q. "Employee Transportation Coordinator (ETC)" means a person who is designated as responsible for the development, implementation and monitoring of an employer's CTR program.
- R. "Employer" means a sole proprietorship, partnership, corporation, unincorporated association, cooperative, joint venture, agency, department, district, or other individual or entity, whether public, non-profit, or private, that employs workers.
- S. "Exemption" means a waiver from any or all CTR program requirements granted to an employer by Olympia based on unique conditions that apply to the employer or employment site.
- T. "Flex-Time" is an employer policy that provides work schedules allowing individual employees flexibility in choosing the start and end time but not the number of their working hours.
- U. "Full-Time Employee" means a person, other than an independent contractor, whose position is scheduled on a continuous basis for 52 weeks for an average of at least 35 hours per week.

V. "Good Faith Effort" means that an employer has met the minimum requirements identified in RCW 70.94.531 and this Ordinance, and is working collaboratively with Olympia to continue its existing CTR program or is developing and implementing program modifications likely to result in improvements to its CTR program over an agreed-upon length of time.

W. "Implementation" means active pursuit by an employer of the CTR goals of RCW 70.94.521-555 and this Ordinance as evidenced by appointment of an Employee Transportation Coordinator (ETC), distribution of information to employees regarding alternatives to drive alone commuting, and commencement of other measures according to its approved CTR program and schedule.

X. "A major employer" means a private or public employer, including state agencies, that employs 100 or more full-time employees at a single worksite who are scheduled to begin their regular work day between 6:00 a.m. and 9:00 a.m. on weekdays for at least 12 continuous months.

Y. "Major employer worksite" or "affected employer worksite" or "worksite" means the physical location occupied by a major employer, as determined by the local jurisdiction.

Z. "Major employment installation" means a military base or federal reservation, excluding tribal reservations, or other locations as designated by Olympia, at which there are 100 or more affected employees.

AA. "Mode" means the means of transportation used by employees, such as single-occupant motor vehicle, rideshare vehicle (carpool or vanpool), transit, ferry, bicycle, walking, compressed work week schedule and telecommuting.

BB. "Notice" means written communication delivered via the United States Postal Service with receipt deemed accepted 3 days following the day on which the notice was deposited with the Postal Service unless the third day falls on a weekend or legal holiday in which case the notice is deemed accepted the day after the weekend or legal holiday.

CC. "Peak Period" means the hours from 6:00 a.m. to 9:00 a.m. (inclusive), Monday through Friday, except legal holidays.

DD. "Peak Period Trip" means any commute trip that delivers the employee to begin ~~his or her~~ regular workday between 6:00 a.m. and 9:00 a.m. (inclusive), Monday through Friday, except legal holidays.

EE. "Proportion of Drive Alone Trips" or "Drive Alone Rate" means the number of commute trips over a set period made by employees in single occupancy vehicles divided by the number of potential trips taken by employees working during that period.

FF. "Ride Matching Service" means a system which assists in matching commuters for the purpose of commuting together.

GG. "Teleworking" or "Telecommuting" means the use of telephones, computers, or other similar technology to permit an employee to work from home, eliminating a commute trip, or to work from a work place closer to home, reducing the distance traveled in a commute trip by at least half.

HH. "Transit" means a multiple-occupant vehicle operated on a for-hire, shared-ride basis, including bus, passenger ferry, rail, shared-ride taxi, shuttle bus, or vanpool.

II. "Transportation Demand Management (TDM)" means a broad range of strategies that are primarily intended to reduce and reshape demand on the transportation system.

JJ. "Transportation Management Association (TMA)" means a group of employers or an association representing a group of employers in a defined geographic area. A TMA may represent employers within specific city limits or may have a sphere of influence that extends beyond city limits.

KK. "Vanpool" means a vehicle occupied by from 5 to 15 people traveling together for their commute trip, resulting in the reduction of a minimum of one motor vehicle trip.

LL. "Vehicle Miles Traveled (VMT) Per Employee" means the sum of the individual vehicle commute trip lengths in miles made by employees over a set period divided by the number of employees during that period.

MM. "Week" means a 7-day calendar period starting on Monday and continuing through Sunday.

NN. "Weekday" means any day of the week except Saturday or Sunday.

OO. "Writing," "Written," or "In Writing" means original signed and dated documents. Facsimile (fax) transmissions are a temporary notice of action that must be followed by the original signed and dated document via mail or delivery.

12.10.020 Olympia Commute Trip Reduction Plan

The CTR Plan for the City of Olympia is set forth in Exhibit A and is wholly incorporated herein by reference as the CTR Plan for the City of Olympia. The City of Olympia may contract with a firm or agency for the implementation of all or part of the CTR Plan. The adoption of the CTR Plan does not commit the City of Olympia to additional funding of the Plan's implementation.

12.10.030 Commute Trip Reduction Coordinator

The Public Works Director is authorized to designate a CTR Coordinator(s) who shall be in charge of implementing this Ordinance. The implementation and enforcement of this chapter and the CTR Plan is dependent on resources and budget appropriation.

12.10.040 Applicability and Notification

The provisions of this Ordinance shall apply to any affected employer within the geographic limits of the CTR Plan adopted in Section 12.10.020.

A. Notification of Applicability

1. In addition to Olympia's established public notification for adoption of an ordinance, a notice of availability of a summary of this Ordinance, a notice of the requirements and criteria for affected employers to comply with the ordinance, and subsequent revisions shall be published at least once in Olympia's official newspaper not more than 30 days after passage of this Ordinance or revisions.
2. Affected employers located in Olympia are to receive written notification that they are subject to this Ordinance. Such notice shall be addressed to the company's chief executive officer, senior official, CTR program manager, or registered agent at the worksite. Such notification shall provide 90 days for the affected employer to perform a baseline measurement consistent with the measurement requirements specified by Olympia.
3. Affected employers that, for whatever reason, do not receive notice within 30 days of passage of the ordinance and are either notified or identify themselves to Olympia within 90 days of the passage of the ordinance will be granted an extension to assure up to 90 days within which to perform a baseline measurement consistent with the measurement requirements specified by Olympia.
4. Affected employers that have not been identified or do not identify themselves within 90 days of the passage of the ordinance and do not perform a baseline measurement consistent with the measurement requirements specified by Olympia within 90 days from the passage of the ordinance are in violation of this Ordinance.
5. If an affected employer has already performed a baseline measurement, or an alternative acceptable to Olympia, under previous iterations of this Ordinance, the employer is not required to perform another baseline measurement.

B. Newly Affected Employers

1. Employers meeting the definition of "affected employer" in this Ordinance must identify themselves to Olympia within 90 days of either moving into the boundaries outlined in the CTR Plan adopted in Section 12.10.020 or growing in employment at a worksite to 100 or more affected employees. Employers who do not identify themselves within 90 days are in violation of this Ordinance.
2. Newly affected employers identified as such shall be given 90 days to perform a baseline measurement consistent with the measurement requirements specified by Olympia. Employers who do not perform a baseline measurement within 90 days of receiving written notification that they are subject to this Ordinance are in violation of this Ordinance.

3. Not more than 90 days after receiving written notification of the results of the baseline measurement, the newly affected employer shall develop and submit a CTR Program to Olympia. The program will be developed in consultation with the CTR Coordinator to be consistent with the goals of the CTR Plan adopted in Section 12.10.020. The program shall be implemented not more than 90 days after approval by Olympia. Employers who do not implement an approved CTR Program according to this schedule are in violation of this Ordinance and subject to the penalties outlined in Section 12.10.070.D below.

C. Change in Status as an Affected Employer

Any of the following changes in an employer's status will change the employer's CTR program requirements:

1. If an employer initially designated as an affected employer no longer employs 100 or more affected employees and expects not to employ 100 or more affected employees for the next 12 months, that employer is no longer an affected employer. It is the responsibility of the employer to notify Olympia that it is no longer an affected employer. The burden of proof lies with the employer.
2. If the same employer returns to the level of 100 or more affected employees within the same 12 months, that employer will be considered an affected employer for the entire 12 months and will be subject to the same program requirements as other affected employers.
3. If the same employer returns to the level of 100 or more affected employees 12 or more months after its change in status to an "unaffected" employer, that employer shall be treated as a newly affected employer and will be subject to the same program requirements as other newly affected employers.
4. This section only applies when the CTR Plan as approved in Section 12.10.020 designates the employer as affected based on location within the geographic limits of the plan. If the CTR Plan affects the employer based on a location within a Growth and Transportation Efficiency Center, and the employer meets the criteria laid out for that Center, then the Center's requirements will apply.

12.10.050 Record Keeping

Affected employers shall maintain a copy of their approved CTR Program Description and Report, their CTR Program Employee Questionnaire results, and all supporting documentation for the descriptions and assertions made in any CTR report to Olympia for a minimum of 48 months. Olympia and the employer shall agree on the record keeping requirements as part of the accepted CTR Program.

12.10.060 Schedule and Process for Employee Commute Trip Reduction Reports

A. Document Review

Olympia shall provide the employer with written notification if a CTR program is deemed unacceptable. The notification must give cause for any rejection. If the employer receives no written notification of extension of the review period of its CTR program or comment on the CTR program or annual report within 90 days of submission, the employer's program or annual report is deemed accepted. Olympia may extend the review period up to 90 days. The implementation date for the employer's CTR program will be extended an equivalent number of days.

B. Schedule

Upon review of an employer's initial CTR program, Olympia shall establish the employer's regular reporting date. This report will be provided in a form provided by Olympia.

C. Modification of CFR Program Elements

Any affected employer may submit a request to Olympia for modification of CTR requirements. Such request may be granted if one of the following conditions exist:

1. The employer can demonstrate it would be unable to comply with the CTR program elements for reasons beyond the control of the employer, or
2. The employer can demonstrate that compliance with the program elements would constitute an undue hardship.

Olympia may ask the employer to substitute a program element of similar trip reduction potential rather than grant the employer's request.

D. Extensions

An employer may request additional time to submit a CTR Program Description and Report, or to implement or modify a program. Such requests shall be via written notice at least 30 days before the due date for which the extension is being requested. Extensions not to exceed 90 days shall be considered for reasonable causes. Olympia shall grant or deny the employer's extension request by written notice within 10 working days of its receipt of the extension request. If there is no response issued to the employer, an extension is automatically granted for 30 days. Extensions shall not exempt an employer from any responsibility in meeting program goals. Extensions granted due to delays or difficulties with any program element(s) shall not be cause for discontinuing or failing to implement other program elements. An employer's regular reporting date shall not be adjusted permanently as a result of these extensions. An employer's annual reporting date may be extended at the discretion of Olympia.

E. Implementation of Employer's CTR Program

Unless extensions are granted, the employer shall implement its approved CTR program, including approved program modifications, not more than 90 days after receiving written notice from Olympia that the program has been approved or with the expiration of the program review period without receiving notice from Olympia.

12.10.070 Enforcement

A. Compliance

For purposes of this section, compliance shall mean:

1. Fully implementing in good faith all mandatory program elements as well as provisions in the approved CTR Program Description and Report;
2. Providing a complete CTR Program Description and Report on the regular reporting date; and
3. Distributing and collecting the CTR Program Employee Questionnaire during the scheduled survey time period.

B. Program Modification Criteria

The following criteria for achieving goals for VMT per employee and proportion of drive alone trips shall be applied in determining requirements for employer CTR program modifications:

1. If an employer meets either or both goals, the employer has satisfied the objectives of the CTR plan and will not be required to improve its CTR program;
2. If an employer makes a good faith effort, as defined in RCW 70.94.534(2) and this Ordinance, but has not met the applicable drive alone or VMT goal, no additional modifications are required.
3. If an employer fails to make a good faith effort as defined in RCW 70.94.534(2) and this Ordinance, and fails to meet the applicable drive alone or VMT reduction goal, Olympia shall direct the employer to revise its program within 30 days to come into compliance with the measures defined by RCW [70.94.534\(2\)](#), including specific recommended program modifications. In response to the recommended modifications, the employer shall submit a revised CTR Program Description and Report, including the requested modifications or equivalent measures, within 30 days of receiving written notice to revise its program. Olympia shall review the revisions and notify the employer of acceptance or rejection of the revised program. If a revised program is not accepted, Olympia will send written notice to that effect to the employer within 30 days and, if necessary, require the employer to attend a conference with program review staff for the purpose of reaching a consensus on the required program. A final decision on the required program will be issued in writing by Olympia within 10 working days of the conference.

C. Violations

The following constitute violations if the deadlines established in this Ordinance are not met:

1. Failure to self identify as an affected employer;
2. Failure to perform a baseline measurement, including:
 - a. Employers notified or that have identified themselves to Olympia within 90 days of the ordinance being adopted and that do not perform a baseline measurement consistent with the requirements specified by Olympia within 90 days from the notification or self-identification;
 - b. Employers not identified or self-identified within 90 days of the ordinance being adopted and that do not perform a baseline measurement consistent with the requirements specified by Olympia within 90 days from the adoption of the ordinance;
3. Failure to develop and/or submit on time a complete CTR program;
4. Failure to implement an approved CTR program, unless the program elements that are carried out can be shown through quantifiable evidence to meet or exceed VMT and drive alone goals as specified in ordinance;
5. Submission of false or fraudulent data in response to survey requirements;
6. Failure to make a good faith effort, as defined in RCW 70.94.534 and this Ordinance; or
7. Failure to revise a CTR program as defined in RCW 70.94.534(4) and this Ordinance.

D. Penalties

No affected employer with an approved CTR program, which has made a good faith effort, may be held liable for failure to reach the applicable CTR program goal. Any affected employer violating any provision of this section shall be guilty of a civil infraction and subject to the imposition of civil penalties pursuant to RCW 7.80.

1. Whenever the CTR Coordinator makes a determination that an affected employer is in violation of this Ordinance, the CTR Coordinator shall issue a notice of civil infraction in accordance with RCW Chapter 7.80 as adopted or hereinafter amended.
2. Each infraction shall constitute a separate violation.
3. Each day that an affected employer is in violation shall constitute a separate violation.
4. Penalties will begin to accrue 15 days following the notice of civil infraction. In the event that an affected employer appeals the imposition of penalties, the penalties will not accrue during the appeals

process. Should the appeal be decided in favor of the appellant, all of the monetary penalties will be dismissed.

5. An affected employer shall not be liable for civil penalties if failure to implement an element of a CTR program was the result of an inability to reach agreement with a certified collective bargaining agent under applicable laws where the issue was raised by the employer and pursued in good faith. Unionized employers shall be presumed to act in good faith compliance if they:

a. Propose to a recognized union any provision of the employer's CTR program that is subject to bargaining as defined by the National Labor Relations Act; and

b. Advise the union of the existence of the statute and the mandates of the CTR program approved by the CTR Coordinator and advise the union that the proposal being made is necessary for compliance with state law (RCW 70.94.531).

6. Schedule of Penalties. The violation of any provision of this Ordinance is designated as a Class 2 Civil Infraction pursuant to RCW Chapter 7.80. Additional assessments may be imposed in accordance with RCW 3.62.090 and other applicable statutory requirements.

12.10.080 Exemptions and Goal Modifications

A. Worksite Exemptions

An affected employer may request Olympia to grant an exemption from all CTR program requirements or penalties for a particular worksite. The employer must demonstrate that it would experience undue hardship in complying with the requirements of the ordinance as a result of the characteristics of its business, its work force, or its location(s). An exemption may be granted if and only if the affected employer demonstrates that it faces extraordinary circumstances, such as bankruptcy, and is unable to implement any measures that could reduce the proportion of drive alone trips and VMT per employee. Exemptions may be granted by Olympia at any time based on written notice provided by the affected employer. The notice should clearly explain the conditions for which the affected employer is seeking an exemption from the requirements of the CTR program. Olympia shall grant or deny the request within 30 days of receipt of the request. Olympia shall review annually all employers receiving exemptions, and shall determine whether the exemption will be in effect during the following program year.

B. Employee Exemptions

Specific employees or groups of employees who are required to drive alone to work as a condition of employment may be exempted from a worksite's CTR program. Exemptions may also be granted for employees who work variable shifts throughout the year and who do not rotate as a group to identical shifts. Olympia will use the criteria identified in the CTR Board Administrative Guidelines to assess the validity of employee exemption requests. Olympia shall grant or deny the request within 30 days of receipt of the

request. Olympia shall review annually all employee exemption requests, and shall determine whether the exemption will be in effect during the following program year.

C. Modification of CTR Program Goals

1. An affected employer may request that the Olympia modify its CTR program goals. Such requests shall be filed in writing at least 60 days prior to the date the worksite is required to submit its program description or annual report. The goal modification request must clearly explain why the worksite is unable to achieve the applicable goal. The worksite must also demonstrate that it has implemented all of the elements contained in its approved CTR program.

2. The Olympia will review and grant or deny requests for goal modifications in accordance with procedures and criteria identified in the CTR Board Guidelines. (3) An employer may not request a modification of the applicable goals until one year after city/county approval of its initial program description or annual report.

12.10.090 Appeals

A. CTR Appeals Board. The CTR Coordinator is hereby authorized to develop procedures implementing an appeals process and establish a CTR Appeals Board to review such appeals. Such a board should be composed of both representatives of appropriate local jurisdictions and selected affected employers.

B. Appeals Process. Any affected employer may appeal administrative decisions regarding exemptions, goal modifications, program element modifications, and violations to a CTR Appeals Board. In the event of a violation, the affected employer shall be notified of the intent to impose penalties and the manner in which penalties may be appealed.

The appeal should be addressed to the CTR Coordinator which will refer the matter to the CTR Appeals Board.

The decision of the CTR Appeals Board is final. An affected employer may, within 30 days of the notice of final decision, appeal the CTR Appeals Board's decision to the Thurston County Superior Court.

Section 3. Amendment of OMC Chapter 12.20. Olympia Municipal Code Chapter 12.20 is hereby amended to read as follows:

Chapter 12.20
STREET EXCAVATIONS

12.20.000 Chapter Contents

Sections:

12.20.010 Definitions.

- 12.20.020 Disturbance of public property--Permit required--Emergency excavation.
- 12.20.030 Permit--Application filing requirements.
- 12.20.040 Permit--Conditions of issuance--Contents.
- 12.20.050 Fees for permits.
- 12.20.060 Bond may be required--Insurance requirements --Compliance with state law.
- 12.20.070 Notice for commencement--Notice for inspection.
- 12.20.080 Devices for warning public.
- 12.20.090 Safety provisions to be observed.
- 12.20.100 State safety standards and regulations adopted--Interpretation in case of conflict.
- 12.20.120 Pedestrian and vehicular crossings.
- 12.20.130 Interference with utilities--Protection of apparatus.
- 12.20.140 Vacant.
- 12.20.150 Maintenance of postal service.
- 12.20.160 Monuments not to be disturbed without authorization.
- 12.20.170 Damage to existing improvements.
- 12.20.180 Property lines and easement limits.
- 12.20.190 Excavated soil.
- 12.20.200 Fire apparatus to be unimpeded.
- 12.20.210 Vacant.
- 12.20.220 Cleaning area after construction.
- 12.20.230 Snow and ice removal.
- 12.20.240 Sanitary facilities.
- 12.20.250 Pipe trenches.
- 12.20.260 Removal of water from trenches.
- 12.20.270 Excavations through pavement – New pavement cut prohibition – Pavement restoration fee.
- 12.20.280 Tunnels under pavement--Pipe casings.
- 12.20.290 Compacting of backfill.
- 12.20.300 Restoration of roadway surfaces – Temporary and Permanent.
- 12.20.310 Restoration by city engineer upon default.
- 12.20.320 Plans of use of subsurface street space.
- 12.20.330 Location of utilities.
- 12.20.340 Nuisances designated--Abatement.
- 12.20.350 Applicability of chapter to private utilities.
- 12.20.365 Violations -- Misdemeanor -- Gross Misdemeanor -- Civil Infraction.

12.20.010 Definitions

The following definitions are provided for the sole purpose of proper interpretation and administration of this chapter:

- A. "City engineer" means the city engineer or his~~a~~ duly authorized representative of the city engineer.

- B. "Construction" or "construct" means constructing, laying, maintaining, testing, operating, extending, renewing, removing, replacing, repairing and using any utility system or portion thereof.
- C. "Distribution system and/or lines" used either in the singular or plural means and includes pipes, conduits, poles and wires, sewer, stormwater and water pipe lines, mains, laterals, feeders, regulators, meters, fixtures, connections and all attachments, appurtenances and appliances necessary and incidental thereto, or in any way appertaining to utilities.
- D. "Maintenance," "maintaining" and/or "maintained" means and includes the relaying, repairing, replacing, examining, testing, inspecting, removing, digging, excavating and restoring operations incidental thereto.
- E. "Permittee" means any person, company, partnership or corporation or its successors and assigns who has applied for or holds a permit from the city to construct, lay, maintain and operate over, across, upon, along and under the present and future streets, alleys, sidewalks, curbs, roads, highways, thoroughfares, parkways, bridges, viaducts, public property, public improvements and other places in the city, a system of pipes, pipelines, water mains, power conduits, underground or overhead wiring, gas mains, laterals, conduits, feeders, regulators, meters, fixtures, connections and attachments, appurtenances and appliances incidental thereto or in any way appertaining thereto.
- F. "Person" means any person, firm, association or corporation.
- G. "Public property" means and includes public right-of-way, streets, alleys, sidewalks, curbs, roads, highways, avenues, thoroughfares, parkways, bridges, viaducts, public grounds, public improvements and other public places within the present and/or future corporate limits of the city.
- H. "Roadway" means a paved, improved street or proper driving portion of a public rights-of-way designed or ordinarily used for vehicular travel.
- I. "Standard Specifications" means the current edition of the Washington State Department of Transportation's Standard Specifications for Road, Bridge and Municipal Construction, including all supplements, appendices, and all subsequent additions.
- J. "Utility" or "utility system" means any gas, oil, water, sewer, stormwater, light, power, telephone, telecommunications, television, steam, burglar alarm, distribution system, pipes or pipelines, conduits, poles and wires or other facilities necessary or appertaining thereto, and railroads, both public and private, and whether operating under a franchise or not.

12.20.020 Disturbance of public property –Permit required –Emergency excavation

It is unlawful for any person to place any poles or wires upon or above, or any ducts, conduits or wires below the surface of any public properties, to dig up, break, excavate, tunnel, undermine, cut or in any way obstruct or disturb any public properties in the city, or to fill in, place or leave or deposit in or upon any public

properties any earth, refuse, gravel, rock or other material or thing tending to obstruct, disturb or interfere with the free use of the same for the installation and/or maintenance of a utility system, or portion thereof, or for the purpose of making a utility connection with any premises without having first obtained a permit, or without complying with the provisions of this chapter, or at variance to the terms of any such permit; provided, however, that in case of an emergency arising out of office hours, when an immediate excavation may be necessary for the protection of public or private property, the same shall be reported to the police department, and the necessary excavation may be made upon the express condition that an application be made in the manner provided in this chapter on or before noon of the next following business day.

12.20.030 Permit –Application filing requirements

An application for permit shall be filed in duplicate in the office of the city engineer on such forms as are specified by the city engineer and shall be accompanied by a detailed plan, specifications and profiles of such size and such scale as may be prescribed by the city engineer of pipes or mains and fixtures to be laid or installed underneath public properties, which shall show the centerline of the street or alley, and in relation thereto the position, location and depth of the distribution system, the height of the proposed work, the pipes or mains intended to be laid, the size of the pipes or mains, the location of the manholes leading to the pipes or mains, if any, and the depth of the pipes or mains from the surface, and such other information as he may be required. The permittee, its successors and assigns, shall amend the plans, specifications and profiles in accordance with the orders of the city engineer, before the city issues the permit and before the permittee commences construction or the laying of any pipes or mains, or the construction of any overhead utility service. The permittee shall advise the city engineer in writing of the plan of the excavation, obstruction or other thing desired to be done or constructed, the size thereof, the purpose therefor, the public property to be so excavated and/or obstructed, together with a full description of the nature of such work, the name of the person, firm or corporation for whom or which the work is being done. Whenever additional improvements or extensions are made, additional plans, specifications and profiles shall be filed with the city in the same manner as required above. The application shall contain an agreement that the applicant will comply with all ordinances and laws relating to the work to be done and that no openings shall be made or obstruction erected until necessary fittings and materials are available and on hand to complete the work.

Each application for a permit shall state the length of time it is estimated will elapse from the commencement of the work until the restoration of the surface of the ground or until the refill is made ready for the surface to be put on by the city if the city restores such surface. It is unlawful to fail to comply with this time limitation unless permission for an extension of time is granted by the city engineer. If an extension of time is needed to complete the work beyond the time originally prescribed, a new application for a permit must be filed, and when the application therefor is signed by the city engineer, it shall constitute the permit, provided the bond and insurance is extended for the period of the extension granted.

12.20.040 Permit –Conditions of issuance –Contents

If, after examining such application and map, plans and specifications, the city engineer approves the same and the bond and a workmen's compensation insurance certificate, if required, are filed, a permit may be

issued therefor. Such permit shall specify the name and location of the public properties in front of, through, over, under or near which such acts are to be performed or done, together with a description of the proposed work or acts to be done under such permit, and the length of time allowed for the completion thereof. The permit shall require the repairing and restoring to as good or better condition and in compliance with the conditions and specifications of this chapter, of whatever portion of the public properties and/or private properties that may be obstructed, disturbed or affected in any way within a specified time. The acts and work authorized and/or required under such permit shall at all times be under the supervision and control of the city engineer, or persons acting under the city engineer's direction, but at the expense of the person procuring such permit.

The city engineer may defer the granting of the permit provided for above until such time as deemed proper in all cases in which the public properties where the work desired to be done are occupied or about to be occupied in any work by the city or by some other person having a right to use the same in such manner as to render it seriously inconvenient to the public to permit any further obstruction thereof at such time. The city engineer may in granting such permit so regulate the manner of doing such work as shall cause the least inconvenience to the public in the use of such public properties, and in all cases any work of the city or its contractors or employees shall have precedence over all work of every kind.

12.20.050 Fees for permits

A. Fees for such permits shall be as set forth in Title 4 of this code. The fees as set forth in Title 4 of this code shall apply to excavations made by all private utility companies for utility projects, including natural gas, telephone, power, light and telecommunications.

12.20.060 Bond may be required –Insurance requirements –Compliance with the state law

A. Before the issuance of any permit, permittee shall furnish to the city a bond to insure performance of the permittee's obligations under this chapter. The amount of such bond may be varied from time to time in accordance with the size of the project, or may be entirely excused in case of excavations of a minor nature. Such bond shall be in a form to be approved by the city attorney, and with a surety approved, conditioned that the permittee will comply with all the provisions of this chapter, and that the permittee will keep and save harmless the city from any and all claims, liabilities, judgments, costs, casualties, accidents or damages and expenses arising from any negligence of such permittee on account of any act which the permittee may do or suffer to be done, or omission of the permittee in the performance of the work under the permit, or which may be done by any of the city engineer's agents, servants or employees, or which may arise from any of the city engineer's agents, servants or employees, or which may arise from any negligence of the aforementioned, or in any event in obstructing or in any way disturbing any private or public properties, or by reason of the violation of any of the provisions of this chapter; provided, that the bond shall be required of electric and telephone utilities only when they place wire underground. The permittee shall also indemnify and save harmless the city from all suits and actions of every description brought against the city for or on account of any injuries or damages received or sustained by any person by reason of failure to erect and maintain the required guards, barricades or signals; provided further, that in case the act or acts permitted under such

permit necessitate for any purpose the cutting into or under any public properties in the city, the bond shall be conditioned that the person, firm or corporation applying for and acting under the permit shall replace the portion thereof affected thereby, and shall restore the same at its expense to as good or better condition within the time specified by the city engineer; and further conditioned that the permittee will maintain such public properties so restored for a period of two years from and after such restoration. Settlement within the two-year period mentioned in this section shall be considered conclusive evidence of defective backfilling by the permittee. Acceptance of the work and the release of the same shall not prevent the city from making claim against the permittee for any uncompleted or defective work, if the same is discovered within two years from the date of such release. The fact that an inspector was present during the progress of any construction shall not relieve the permittee from responsibility for defects discovered after completion of the work.

B. The permittee shall also maintain in full force and effect, with an insurance company satisfactory to the city, public liability and property damage insurance meeting the requirements and minimum dollar limits listed in Section 1-07.18 of the Standard Specifications and RCW 48.05.

12.20.070 Notice of commencement –Notice for inspection

The permittee shall give a minimum of twenty-four hour notice to the city, requesting an inspection of the permitted work using the City's permit management software, before it makes any opening in public properties for installations in excess of one hundred feet and two hours' notice of any other openings in public property.

At least two hours ~~Before~~ it commences to backfill any opening of public properties, ~~it~~ the permittee shall give ~~two hour notice to, and obtain approval from~~ the city engineer ~~and obtain his approval.~~

Any delay in giving notice to the officials as required herein shall render the permittee liable to a penalty as set forth in Title 4 of this code, and the permittee shall also be liable for all damages done or suffered by the city or any person, firm or corporation caused by such delay, and the bond provided for in this chapter shall stand as security for such penalty and damages.

12.20.080 Devices for warning public

In case any public property shall be dug up, excavated, undermined, cut, disturbed, or obstructed, or any obstruction placed thereon, the persons, firm, or corporation causing the same shall adhere to all the requirements set forth in Section 1-10, Temporary Traffic Control, of the Standard Specifications.

12.20.090 Safety provisions to be observed

Precaution shall be exercised at all times for the protection of persons (including employees) and property. All safety provisions of applicable state laws, standards, and rules and regulations and city ordinances, including building and construction codes as hereafter revised and/or amended shall be observed.

12.20.100 State safety standards and regulations adopted –Interpretation in case of conflict

The following are adopted by reference: The Safety Standards and Rules and Regulations of the State Department of Labor and Industries, as existing as of the date of the ordinance codified in this chapter; provided, however, that in the event any of the provisions of this chapter conflict with any other provisions of this chapter, with any other ordinances of the city, with the standards embodied in state and federal laws and rules and regulations, the provisions containing the highest standards shall be observed.

12.20.120 Pedestrian and vehicular crossings

To address pedestrian, vehicle and bicycle safety to, through and adjacent to the work zone, the permittee shall adhere to all the requirements set forth in Section 1-10 of the Standard Specifications.

12.20.130 Interference with utilities –Protection of apparatus

A. The permittee shall not interfere with any existing utility without the consent of the city engineer and the utility involved. If it becomes necessary to move an existing utility, this shall be done by the utility charged with the operation of the same, at the expense of the permittee. Whenever the permittee's existing utility, occupying space in the street, interferes with the actual construction of any public improvement, such utility shall be moved by the permittee; provided, that no utility, either publicly or privately owned, shall be moved to accommodate the permittee unless the cost of such work is borne by the permittee.

B. The permittee shall, at its expense, sustain, secure, support, and protect all pipes, mains, conduits, poles, wires, or other apparatus from injury which may be in any way affected by the work, and do everything necessary to support, sustain, and protect the same, under, over, along, or across the work. In case any of the pipes, conduits, poles, wires, or apparatus should be damaged, they shall be repaired by the authorities having control of the same, and the expense of such repairs shall be charged to the permittee and its bond shall be liable therefor.

C. The permittee shall be responsible for any damage done to any public or private property by reason of the breaking of any water pipe, sewer, gas pipe, electric conduit, or other utility and its bond shall be liable therefor.

D. The permittee shall inform itself as to the existence and location of any underground utilities and protect the same against damage.

12.20.140 Vacant

12.20.150 Maintenance of postal service

Postal service shall be maintained in accordance with the instructions of the United States Postal Service. The permittee shall be responsible for moving mail boxes to temporary locations designated by the Postal Service, and upon completion of the work he shall replace them as directed. The permittee shall contact the United States Postal Service to determine its requirements with respect to the maintenance of postal service and shall comply with these requirements.

12.20.160 Monuments not to be disturbed without authorization

The permittee shall protect any survey monuments or hubs found within or adjacent to the work zone. If a monument must be moved or otherwise disturbed during the course of the permitted work, the permittee shall follow the procedures detailed in Chapter 4 of the Engineering Design and Development Standards.

12.20.170 Damage to existing improvements

All damage done to existing improvements during the progress of such work shall be repaired by the permittee. Materials for such repair shall conform to the requirements of applicable ordinances. If, upon being ordered, the permittee fails to furnish the necessary labor and materials for such repairs, the city engineer may cause the necessary labor and materials to be furnished by other parties, and the cost thereof shall be charged against the permittee, which shall be liable on its bond therefor.

12.20.180 Property lines and easement limits

Property lines and limits of easements shall be indicated on the plans, and it shall be the permittee's responsibility to confine its construction activities within these limits. Any damage resulting from trespassing beyond these limits shall be the sole responsibility of the permittee.

12.20.190 Excavated soil

Any excavated soil in the right of way or work zone, if not immediately removed from the site, shall be stored in a manner consistent with the requirements in the City's Drainage Design and Erosion Control Manual.

12.20.200 Fire apparatus to be unimpeded

The work shall be conducted so as not to interfere with access to fire stations, fire hydrants, and water system valves. Material or obstructions shall not be placed within fifteen feet of fire plugs. Passageways leading to fire escapes or firefighting equipment shall be kept free of material piles or other obstructions.

12.20.210 Vacant

12.20.220 Cleaning area after construction

As the construction or maintenance work progresses, all public properties, and private property shall be thoroughly cleaned of all rubbish, excess earth, rock, and other debris resulting from the work of construction. Cleaning up the location of such properties or property shall be accomplished at the expense of the permittee and shall be completed to the satisfaction of the city engineer before final acceptance of the work. From time to time, as may be ordered by the city engineer, and in any event immediately after completion of the work, the permittee shall, at its own expense, clean up and remove all refuse and unused materials of any kind resulting from the work, and upon failure to do so within twenty-four hours after having been notified to do so by the city engineer, the work may be done by the city and the cost thereof charged to the permittee, and the permittee's bond shall be liable for the cost thereof.

12.20.230 Snow and ice removal

The permittee must also remove, within twenty-four hours, all snow and ice that may fall or form within the barricade, or, in case there is no barricade, the permittee shall remove all snow and ice upon the street within five feet upon either side of the opening, and keep such space free from snow and ice until the opening is properly refilled, unless otherwise directed by the city engineer.

12.20.240 Sanitary facilities

The permittee shall provide and maintain the work site in a neat and sanitary condition, per Section 1-07 of the Standard Specifications.

12.20.250 Pipe trenches

All pipe installation shall meet the requirements stated in Section 7-08, General Pipe Installation Requirements, of the Standard Specifications.

12.20.260 Removal of water from trenches

Dewatering trenches, when required or necessary to complete the work, shall be accomplished in a manner approved by the city engineer. Disposal of water removed from the trench may require a pretreatment permit, as outlined in Chapter 13.20 OMC. Any damage resulting from the failure of the chosen method to operate properly, however, shall be the responsibility of the permittee, and shall be repaired in a manner satisfactory to the city engineer at the permittee's expense.

12.20.270 Excavations through pavement – New pavement cut prohibition – Pavement restoration fee

- A. Whenever it is necessary to break through existing pavement, the pavement shall be restored in accordance with Chapter 4 of the Engineering Design and Development Standards.
- B. Excavations, including but not limited to potholing, windows for borings, trench cuts, etc., are not permitted in New Pavement, except as approved by the Public Works Director or his/her designee as required in the Engineering Design and Development Standards under Pavement Restoration. New Pavement is defined as pavement that was constructed or rehabilitated – including asphalt overlays, concrete overlays, and chip sealing, but excluding crack sealing – within the previous five-year period. The five-year period is determined using the date of drawing acceptance by the City Surveyor.
- C. When a pavement cut into New Pavement is approved by the Public Works Director or his/her designee, or occurs without such required approval, a pavement restoration fee, in addition to the fees prescribed in this chapter, shall apply. This additional pavement restoration fee shall be assessed per square foot or portion thereof required to restore the pavement pursuant to Chapter 4 of the Engineering Design and Development Standards.

12.20.280 Tunnels under pavement –Pipe casings

Tunnels under pavement shall not be permitted except by permission of the city engineer, and, if permitted, shall be adequately supported by timbering and backfilling under the direction of the city engineer. Where possible, the pipe shall be driven through, or bored under, a roadway, except sidewalks, in a casing of sufficient strength, which casing shall be left in place with the ends closed around the pipe.

12.20.290 Compacting of backfill

Backfilling in all public streets and improved areas, both public and private, shall be compacted in a manner consistent with Section 7-08 of the Standard Specifications.

12.20.300 Restoration of roadway surfaces – Temporary and Permanent

The permittee shall restore the surface of streets as specified in Chapter 4 of the Engineering Design and Development Standards. This includes temporary restoration using hot mix asphalt, cold asphalt patching material or steel plates.

12.20.310 Restoration by city engineer upon default

If the permittee has failed in a timely manner to properly install pipe and/or other structures and/or restore the surface of the public properties to their original and proper condition as required in the Standard Specifications and Engineering Design and Development Standards, the city engineer shall have the right to do all work and things necessary to do so. The permittee shall be liable for the expense thereof upon the bond filed at the time of granting the permit, and the city shall have a cause of action for all fees, expenses, and amounts paid out upon such work; provided, that in any case, it shall be the duty of the permittee to guarantee and maintain the area disturbed for two years after returning it to its original condition; provided further, that if in the judgment of the city engineer it is not expedient to relay the pavement over any cut or excavation made in any public properties upon the completion of the work allowed under such permit, by reason of the looseness of the earth or weather conditions, ~~he the city engineer~~ may direct the permittee to ~~lay a temporary pavement of wood or other place a suitable and pre-approved material designated by him~~ over such cut or excavation, to remain until such time as the repair of the original pavement may be properly made, and in case of the failure of the permittee to commence in good faith the relaying of such temporary pavement within five days after the date of such notice, the city engineer may ~~lay-arrange for and/or place~~ such temporary pavement ~~himself~~ and collect the cost thereof from the permittee in the manner provided for in this chapter.

12.20.320 Plans of use of subsurface street space

Users of subsurface street space shall maintain accurate drawings, plans, and profiles showing the location and character of all underground structures, including abandoned installations. Corrected maps shall be filed with the city engineer periodically, but at least every ninety days after new installations are made.

12.20.330 Location of utilities

All utilities shall be located in accordance with the City Engineering Design and Development Standards.

12.20.340 Nuisances designated –Abatement

If any person erects a structure upon, makes excavations in, or places material upon, public properties, or allows or permits any earth, rock, stones, trees, logs, stumps, or other substances to cave, fall, crumble, slide, accumulate, or be otherwise deposited, or having been so deposited, to be or remain upon any public properties, without a permit therefor having been first obtained, as provided for in this chapter, shall be deemed to have created a public nuisance. In addition to the penalties provided for violation of this chapter, such a nuisance shall be abated with, or without, action, and such other proceedings shall be taken with respect thereto as are authorized by law and the ordinances of the city for the prevention, abatement, and punishment of nuisances; and it shall be no defense to any prosecution or proceeding under this section that the person violating the same has a franchise to use or occupy such public properties.

12.20.350 Applicability of chapter to private utilities

With respect to private utilities operating under franchise, master permit, right of way use authorization, or lease agreement from the city, this chapter shall apply only to those activities which involve the disturbance of the surface of, or the doing of any underground work in public property.

12.20.365 Violations -- Misdemeanor -- Gross Misdemeanor -- Civil Infraction

A. Any person, firm, or corporation who knowingly violates or fails to comply with any term or provision of this chapter shall be deemed to have committed a misdemeanor, and if found guilty, shall be subject to a fine not to exceed One Thousand Dollars (\$1,000), and/or to imprisonment not to exceed ninety (90) days or to both such fine and imprisonment. Each day shall be a separate offense. In the event of a continuing violation or failure to comply, the second and subsequent days shall constitute a gross misdemeanor punishable by a fine not to exceed Five Thousand Dollars (\$5,000) and/or imprisonment not to exceed three hundred and sixty-five (365) days or both such time and imprisonment. Continuing violation shall mean the same type of violation which is committed within a year of the initial violation.

B. As an additional concurrent penalty, it shall be a civil infraction for a person, firm, or corporation to violate or fail to comply with any term or provision of this chapter. Each day shall be a separate infraction. A person, firm, or corporation found to have committed a civil infraction shall be assessed a monetary penalty as stated in OMC Chapter 4.50, Civil Infractions.

See also OMC Chapter 4.44, Uniform Code Enforcement.

Section 4. Amendment of OMC Chapter 12.24. Olympia Municipal Code Chapter 12.24 is hereby amended to read as follows:

Chapter 12.24
OBSTRUCTIONS

12.24.000 Chapter Contents

Sections:

Article I. GENERAL PROVISIONS

- 12.24.010 Building projections prohibited--Exception.
- 12.24.020 Awnings.
- 12.24.030 Retaining wall where yard below grade.
- 12.24.040 Public rubbish dumping prohibited.
- 12.24.050 Rental of public property--Collection of fees.

Article II. STREET OBSTRUCTIONS: PERMITS

- 12.24.090 Applicability.
- 12.24.100 Requirements.
- 12.24.110 Bond required, when.
- 12.24.120 Insurance in lieu of bond.
- 12.24.130 Endorsement of application--Issuance of permit.
- 12.24.140 Exception--Movement of loads.
- 12.24.150 Exception--Public utilities.
- 12.24.160 Violations -- Misdemeanor -- Gross Misdemeanor -- Civil Infraction.

Article I. GENERAL PROVISIONS

12.24.010 Building projections prohibited –Exception

No portion of any building or buildings hereafter to be erected, altered or repaired, shall be allowed to project over into any street or sidewalk; provided, that this section shall not apply to the bases of antes or columns projecting not to exceed eight inches or to cornices or projections placed at least ten feet above the top of the sidewalk.

12.24.020 Awnings

The frames of awnings shall not be less than eight feet and curtains not less than seven feet above the top of the sidewalk, and shall not be supported by post or other supports from the sidewalks, and no awning post or other similar obstruction shall be erected or maintained upon any of the sidewalks or within any of the streets of the city.

12.24.030 Retaining wall where yard below grade

Any person owning or having control of any premises fronting on a public street and below the grade thereof shall, within five days after notice from the public works director, ~~requiring him so to do, at his~~ at their own expense, erect a suitable barricade upon the inner line of the sidewalk, in front of such premises.

12.24.040 Public rubbish dumping prohibited

No person shall throw into or deposit upon or sweep into any public street, highway or other public property, or upon any private premises, any glass, metal, broken ware, yard debris such as leaves or grass clippings, dirt, rubbish or garbage or recyclables, except at such locations and in such containers properly designated by the City as appropriate for such use.

12.24.050 Rental of public property –Collection of fees

The public works director shall have authority to collect such rentals as may accrue under the provisions of this chapter and to institute in the name of the city all necessary actions and legal proceedings for the collection thereof. Any and all money collected by the public works director under any of the provisions of this chapter shall be ~~turned over by him~~ given to the city clerk-treasurer.

Article II. STREET OBSTRUCTIONS: PERMITS

12.24.090 Applicability

Except as otherwise permitted in Article I of this chapter, no person, firm or corporation shall erect or maintain upon any public street, sidewalk or alley or other vacant or public property belonging to the city any obstruction of any kind whatsoever, including but not limited to storage of construction or other materials, the placement of chairs, tables, mailboxes or planters incident to operation of a business, except in compliance with this article; provided, however, that this chapter shall not apply to the erection of signs and billboards; and provided further, that this chapter shall not apply to the placement of moveable items on the untraveled portion of city streets or sidewalks or alleys for a period not exceeding four hours.

12.24.100 Requirements

A. Storage of materials. It is unlawful for any person, firm or corporation to store any materials or things whatsoever by placing or causing them to be placed, piled or stored on any crosswalk, sidewalk, street or alley or other vacant or public property belonging to the city, except merchandise while in the actual course of receipt or delivery, without first obtaining from the Building Official a temporary obstruction permit under such circumstances and in such a manner as the Building Official determines will not hinder or be a detriment to the public. The applicant shall pay a fee at the time of filing the application, and rental for use of the public property, as set forth in Title 4 of this code, and shall comply with the other provisions of this article.

B. Chairs, Tables and Planters. It is unlawful for any person, firm or corporation to erect or maintain upon any public street, sidewalk or alley of the city any chairs or other objects for sitting, tables, or planters incident to the operation of a business adjacent to said street, sidewalk or alley, without first obtaining a permit from the city. Such permit shall be issued by the Director of Community Planning and Development upon a written application describing and depicting accurately the nature and location of the obstruction to be erected and maintained and the period of time contemplated for the maintenance thereof. No such chair table or planter may be erected or maintained within a Pedestrian Walking Lane as defined in OMC Section 9.16.180.B.2 unless

the applicant demonstrates that a walking lane at least six (6) feet wide and clear of vertical obstruction will remain between the area proposed to be occupied by chairs, tables and/or planters and the curb, provided that said six foot walking lane may include up to two (2) feet of a grate adjacent to a street tree or other planting. The applicant for such permit shall pay the Director of Community Planning and Development at the time of the filing of ~~his/her~~the application an application fee as specified by the Director.

C. Garbage cans, mailboxes, and other miscellaneous obstructions. Garbage cans, mailboxes (whether incident to an adjacent or other business or not) and other miscellaneous obstructions may be placed on upon any public street, sidewalk or alley of the city, without need for a permit under this article; provided, however, that no such obstruction shall be erected, placed or maintained within a Pedestrian Walking Lane as defined in OMC Section 9.16.180.B.2, unless such restriction is preempted by applicable state or federal law.

12.24.110 Bond required, when

As a condition to issuance of any permit under Section 12.24.100.A of this article, the person with authority to grant the permit may require the applicant to first execute and deliver a bond in the sum of fifty thousand dollars, or in some other amount determined by the permit issuer executed by the applicant and a surety, authorized to do business in the state as surety, conditioned that the applicant will keep and save harmless the city from any and all damages, claims, judgments and expenses arising from any acts which the applicant may do or suffer to be done under such permit, or which may be done by any of its agents, servants or employees, or which may arise from any negligence of ~~himself~~the permittee, or ~~his-its~~ agents, servants, contractors or employees, or any of them, severally or jointly, in the erection or maintenance of such obstruction. It is further provided that in the event the erection of such obstruction shall necessitate the disturbing of any street, sidewalk or alley, or the cutting into of the same, or necessitate the disturbing of any utilities, the bond shall be further conditioned that at the termination of such permit, such street, alley, sidewalk or utility shall be restored to the condition that it or they were in prior to the granting of the permit.

12.24.120 Insurance in lieu of bond

In lieu of the bond described in Section 12.24.110, the applicant for permit shall be allowed to obtain and deliver to the city and file with permit issuer policy of comprehensive general liability insurance, to be approved by the city attorney in the sum of one million dollars (\$1,000,000) per occurrence and \$2,000,000 in the general aggregate, for bodily injury, including personal injury or death, products liability and property damage, or in such other amounts as approved by the city engineer and city risk manager, which policy of comprehensive general liability insurance shall be conditioned that the person, firm or corporation receiving such permit and the insurance company shall pay all damages to persons and property, including the city, to the extent of the limits in the insurance policy set forth, growing out of the issuance of the permit and the permission granted by the city to do the things set forth in the permit, including the defense of all suits growing out of claims filed against the city by reason of the granting of the permit, and doing the things in the permit described, and shall hold the city harmless from all claims, costs, expenses, damages and injuries growing out of the granting of the permit, or doing of the things therein authorized, including damages, claims, costs or expenses sustained by property of the city itself.

12.24.130 Endorsement of application –Issuance of permit

Application for such a permit shall be made on a form to be provided by the Director of the Community Planning and Development department of the city, which form shall have space thereon for the endorsement of such restrictions or modifications as the fire department, police department or street department of the city shall deem necessary for public safety. Upon securing such application, the applicant shall thereupon secure the endorsement thereon of the head of each of the foregoing departments, or some authorized representative thereof, who shall endorse on the application such restrictions or modifications, if any, as such department shall deem to be in the public safety in connection with the particular permit applied for. After securing such endorsements, the applicant shall return the written application to the department of public works, which department shall thereupon after payment of the applicant of the permit fee and the deposit of the bond or policy of liability insurance as set forth in this article, issue a permit for the work applied for and shall endorse upon the face of such permit the restrictions or modifications, if any, called for by the police, fire or street department.

12.24.140 Exception –Movement of loads

Movement of over width or over length loads along the streets, sidewalks or alleys of the city shall not be deemed to be a street or alley obstruction within the meaning of this chapter.

12.24.150 Exception –Public utilities

The provisions of this chapter shall not apply to persons, firms or corporations operating public utilities under regular franchise from the city.

12.24.160 Violations -- Misdemeanor -- Gross Misdemeanor -- Civil Infraction

A. Any person, firm, or corporation who knowingly violates or fails to comply with any term or provision of this chapter shall be deemed to have committed a misdemeanor, and if found guilty, shall be subject to a fine not to exceed One Thousand Dollars (\$1,000), and/or to imprisonment not to exceed ninety (90) days or to both such fine and imprisonment. Each day shall be a separate offense. In the event of a continuing violation or failure to comply, the second and subsequent days shall constitute a gross misdemeanor punishable by a fine not to exceed Five Thousand Dollars (\$5,000) and/or imprisonment not to exceed three hundred and sixty-five (365) days or both such time and imprisonment. Continuing violation shall mean the same type of violation which is committed within a year of the initial violation.

B. As an additional concurrent penalty, it shall be a civil infraction for a person, firm, or corporation to violate or fail to comply with any term or provision of this chapter. Each day shall be a separate infraction. A person, firm, or corporation found to have committed a civil infraction shall be assessed a monetary penalty as follows:

1. First offense: Class 3 (\$50), not including statutory assessments.

2. Second offense arising out of the same facts as the first offense: Class 2 (\$125), not including statutory assessments.
3. Third offense arising out of the same facts as the first offense: Class 1 (\$250), not including statutory assessments.

See also OMC Chapter 4.44, Uniform Code Enforcement.

Section 5. Amendment of OMC Chapter 12.28. Olympia Municipal Code Chapter 12.28 is hereby amended to read as follows:

Chapter 12.28 MOVING BUILDINGS

12.28.000 Chapter Contents

Sections:

- 12.28.010 License and permit required.
- 12.28.020 License--Application requirements and fee.
- 12.28.030 Permit--Application requirements and fee.
- 12.28.040 General provisions.
- 12.28.050 Violations -- Misdemeanor -- Gross Misdemeanor -- Civil Infraction.

12.28.010 License and permit required

No person or persons, firm or corporation shall move any building or part of a building over, along or across any street, alley, or other public property within the city without first obtaining a valid house mover's license as set forth in Section 12.28.020 and a permit from the public works office as set forth in Section 12.28.030 and shall comply with all other sections of this chapter.

12.28.020 License --Application requirements and fee

Applications for a house mover's license shall be accompanied by the following:

- A. A policy of public liability and property damage, or approved certificate thereof, issued by a responsible insurance company, authorized to do business under the laws of the state. The policy shall insure the permittee and shall inure to the benefit of any and all persons suffering loss or damage either to person or property by reason of any operations of the mover. The policy shall also contain a clause or special endorsement indemnifying and saving harmless the city against any loss, damage, cost and/or expenses which may in any way accrue against the city in consequence of the granting of the permit for moving any building. Such policy shall insure against loss from the liability imposed by law for injury to, or death of, any person in the amount or limit of twenty-five thousand dollars as to any one claim and fifty thousand dollars for all claims

arising from any one accident, and against claims for property damage in the amount or limit of fifteen thousand dollars.

B. A bond in the penal sum of one thousand dollars issued by a surety company authorized to do business in the state, or cash security in such sum, the bond or security to be approved by the city attorney and to be kept on file by the city clerk-treasurer at the city hall and to be conditioned that in the relocation and reestablishment of any building that is to be moved the principal will make and complete such relocation and reestablishment in accordance with plans and specifications submitted with application for permit and in accordance with the provisions of all applicable city ordinances and that in case the principal fails to make and complete such relocation and reestablishment within the time limit set forth in subsection C of Section 12.28.040 then the surety upon such bond will be liable to the city of Olympia in a sum not exceeding one thousand dollars and if cash security be deposited in lieu of a surety bond then the council may demand forfeit of such deposit.

C. An annual license fee as set forth in Title 4 of this code shall be paid to the clerk-treasurer in advance on the first day of January each year; provided, however, that licenses applied for within the last six months of the year by any person, firm or corporation not in business prior to the last day of the sixth month may be issued for a fee of fifty percent of the annual fee. If any person, firm or corporation, not holding a valid house mover's license issued by the city desires to move any building or structure from outside the boundary of the city through any portion of the city to another area outside the city limits, a temporary license may be issued for one-half the annual license fee. This temporary license will be valid only for the duration of the one move. Issuance of a temporary license does not relieve the licensee from the responsibility of conforming to all the provisions of this chapter.

In addition to the above, an additional sum as set forth in Title 4 of this code shall be assessed for any new license issued under this chapter for the initial first year thereof. This assessment is necessary to defray the initial administrative costs in reviewing an initial application and issuance of a license therefor.

12.28.030 Permit –Application requirements and fee

No building shall be moved over, along or across any street, alley or public property without first obtaining a permit to do so from the office of public works. Applicants for permits must conform to the following requirements:

A. A written application for such permit shall be filed with the commissioner of public works at least seven days before the date on which the person, firm or corporation filing the application, proposes or intends to move the building or portion thereof, and the application shall include the following information:

1. Name and address of the owner of the building;
2. Present location of building;

3. Proposed location of building with plot plan;
4. Legal description of new location and zone designation;
5. Type of building, approximate age, width, length and height when loaded for moving;
6. The use or purpose for which building was designed;
7. The proposed use or occupancy of building;
8. Name and address of the person, firm or corporation engaged to move the building;
9. The means or manner in which the building is to be moved and the type of equipment used therefor;
10. The route over or along which the building is to be moved;
11. The time that will be required to move the building, including the day and hour when any part will enter any street and the approximate date and hour when every part of the building will be off of public rights-of-way, and the approximate time that will be required to complete the reestablishment and relocation of the building on its new site;
12. Such other information as the commissioner of public works may deem necessary.

B. There shall be attached to the application signed statements from each person, firm or corporation owning or operating any public utility maintaining any wires, conduits, cables, poles, or other appliances, or appurtenances thereto, along, over or across any street, alley or highway along the route over which the building or structure is to be moved, which statement shall state that the moving of such building will not molest, damage, or interfere with, or interrupt the service of any such wires, conduits, cables, poles, or other appliances, or appurtenances, or that the applicant has made appropriate arrangements for clearing the same at the time the building is to be moved. In case any building is to be moved over, across or along any railroad tracks laid in any street a similar statement from the railway company, or its authorized agent, shall be furnished.

C. No permit will be issued until the application therefor is approved by the chief of police, fire chief, city electrician, traffic engineer, city engineer and building inspector.

D. No permit shall be issued to move any building to a new location within the corporate limits of the city which is so constructed or is in such condition as to be dangerous; or which is infested with pests or is unsanitary; or which, if it is a dwelling or habitation, is unfit for human habitation; or which is so dilapidated, defective, or in such a condition of deterioration or disrepair that its relocation at the proposed site would cause appreciable damage to or be materially detrimental to the property or improvements in the district within

the immediate vicinity of the proposed new location; or if the proposed use is prohibited by the zoning laws of this city; or if the applicant is in default in paying any damages occasioned in moving any building; or if the structure is of a type prohibited at the proposed location, by any law or ordinance of the city; provided, however, that if the condition of the building or structure, in the judgment of the ~~commissioner~~director of public works or his-authorized representative admits of practicable and effective repair, the permit may be issued upon terms and conditions set forth by the ~~commissioner~~director of public works.

E. All buildings or structures to be moved into, through or outside the city limits, in addition to conforming with all the provisions of this code, will adhere strictly to all applicable state laws.

F. Before a permit is issued to move any building or structure outside the city a clearance from the jurisdictional authority of governmental unit controlling access to and from the corporate limits of the city shall be furnished by the mover. The clearance shall state that all arrangements have been made to complete such move through the area.

G. The public works director is authorized and empowered to issue such permit upon compliance by such applicant with the provisions of this chapter and upon payment of a fee as set forth in Title 4 of this code.

12.28.040 General provisions

All buildings to be moved for which a permit has been issued shall comply to the following general provisions in addition to all other requirements of this chapter.

A. After a building or any part thereof extends over or into or is upon any part of any street, alley or highway by virtue of the moving thereof, the person, firm or corporation moving the same shall diligently and continuously employ ~~himself, his, their or itself and~~ its agents, employees and facilities in the moving of such buildings until the same reaches its destination or is moved from any and all streets, alleys or highways, and, except when the mover has the permission of the commissioner of public works, it is unlawful for any such mover to leave standing or abandon the moving of such building while the same or any part thereof is in or upon any part of any street, alley or highway.

B. The mover shall provide such barricades, lights, flares and traffic officers as deemed necessary by the chief of police or his-designated representative to safeguard the traffic and persons using the street.

C. All buildings moved into a zone more restrictive than its original location shall be made to conform with the requirements of the more restrictive zone.

D. Upon completion of the moving of the building, the owner shall proceed immediately to bring the building into compliance with all requirements of the zoning provisions, Chapter 16.32 and those portions of Chapters 16.04, 16.20, and 16.24 as outlined by the ~~commissioner~~director of public works or his-authorized representative and all such work shall be completed within three months from the date of the moving permit.

The owner of the building shall secure all necessary permits for required work prior to commencement of reestablishment.

12.28.050 Violations -- Misdemeanor -- Gross Misdemeanor -- Civil Infraction

A. Any person, firm, or corporation who knowingly violates or fails to comply with any term or provision of this chapter shall be deemed to have committed a misdemeanor, and if found guilty, shall be subject to a fine not to exceed One Thousand Dollars (\$1,000), and/or to imprisonment not to exceed ninety (90) days or to both such fine and imprisonment. Each day shall be a separate offense. In the event of a continuing violation or failure to comply, the second and subsequent days shall constitute a gross misdemeanor punishable by a fine not to exceed Five Thousand Dollars (\$5,000) and/or imprisonment not to exceed three hundred and sixty-five (365) days or both such time and imprisonment. Continuing violation shall mean the same type of violation which is committed within a year of the initial violation.

B. As an additional concurrent penalty, it shall be a civil infraction for a person, firm, or corporation to violate or fail to comply with any term or provision of this chapter. Each day shall be a separate infraction. A person, firm, or corporation found to have committed a civil infraction shall be assessed a monetary penalty as follows:

1. First offense: Class 3 (\$50), not including statutory assessments.
2. Second offense arising out of the same facts as the first offense: Class 2 (\$125), not including statutory assessments.
3. Third offense arising out of the same facts as the first offense: Class 1 (\$250), not including statutory assessments.

See also OMC Chapter 4.44, Uniform Code Enforcement.

Section 6. Amendment of OMC Chapter 12.36. Olympia Municipal Code Chapter 12.36 is hereby amended to read as follows:

Chapter 12.36 SIDEWALK MAINTENANCE

12.36.000 Chapter Contents

Sections:

- 12.36.010 Unfit sidewalk--Order to repair.
- 12.36.020 Service of notice.
- 12.36.030 Contents of notice.
- 12.36.040 Assessment roll showing costs--Protests against assessment.
- 12.36.050 Assessment of abutting property for sidewalk improvements.

12.36.060 Adjacent owners to clean sidewalks.

12.36.010 Unfit sidewalk –Order to repair

Whenever, in the judgment of the public works director of the city, the condition of any sidewalk is such as to render the same unfit or unsafe for the purposes of public travel, the public works director shall thereupon serve a notice on the owner of the property immediately abutting upon the portion of the sidewalk of the condition thereof, instructing the owner to clean, repair or renew such portion of the sidewalk.

12.36.020 Service of notice

The notice provided for in Section 12.36.010 shall be deemed sufficiently served if delivered in person to the owner of the property or ~~his-the owner's~~ authorized agent, or by leaving a copy of the notice at the home of the owner or authorized agent, or if the owner is a nonresident, by mailing to ~~his-the owner's~~ last known address or if the owner of the property is unknown or if ~~his-the owner's~~ address is unknown then such notice shall be addressed to the general delivery office of the city wherein the improvement is to be made.

12.36.030 Contents of notice

Such notice shall specify a reasonable time within which such cleaning, repairs or renewal shall be executed by the owner, and shall state that in case the owner fails to do such cleaning or make such repairs or renewal within the time therein specified, then the public works director will proceed to clean the sidewalk or to make such repairs or renewals forthwith and shall charge the full cost thereof to the abutting property.

12.36.040 Assessment roll showing costs –Protests against assessment

Upon the completion of any improvements undertaken by the public works director, as provided for in this chapter, public works director shall report to the city council at its next regular meeting or as soon thereafter as possible, an assessment roll showing the lot or parcel of land immediately abutting on that portion of the sidewalk so improved, the cost of such improvement or repair and the name of the owner, if known. The city clerk-treasurer shall give notice to the owner or owners at least ten days before the meeting of the city council, that the roll has been properly filed ~~with him~~ and the council will hear any or all protests against the proposed assessments at its next regular meeting, the date of the meeting to be definitely stated in the notice.

12.36.050 Assessment of abutting property for sidewalk improvements

The council shall at the time in such notice designated, or at an adjourned time or times, assess the cost of such work against the property in accordance with the benefits derived therefrom, which charge shall become a lien upon the property and shall be collected by due process of law. For the purposes of this chapter all property having a frontage upon the sides or margin of any street shall be deemed to be abutting property and such property shall be chargeable as provided by this chapter, for all costs or maintenance, repairs or renewals of any form of sidewalk improvements between the street margin and the roadway lying in front of and adjacent to the property, and the term "sidewalk," as intended for the purposes of this chapter, shall be taken

to include any and all structures or forms of street improvements included in the space between the street margin and the roadway.

12.36.060 Adjacent owners to clean sidewalks

Each and every occupant or owner of property within the city along or adjoining which property are sidewalks are required to keep the sidewalks free from all snow, ice, mud or other obstructions.

Section 7. Amendment of OMC Chapter 12.44. Olympia Municipal Code Chapter 12.44 is hereby amended to read as follows:

**Chapter 12.44
STREET TREES**

12.44.000 Chapter Contents

Sections:

- 12.44.010 Scope.
- 12.44.020 Uniformity of variety--Distance between trees.
- 12.44.030 Determination by council where property owners do not agree.
- 12.44.040 Types of tree to be planted.
- 12.44.050 Shrubbery and small trees in parking strips.
- 12.44.060 Trees are public property.
- 12.44.070 Trimming or pruning of trees.

12.44.010 Scope

On all streets within the city which have been paved, or may hereafter be paved, with some permanent material, wherever there is a parking strip, trees shall be planted as provided for in this chapter and the Engineering Design and Development Standards.

12.44.020 Uniformity of variety –Distance between trees

Trees planted as provided for in Section 12.44.010 shall be uniform on each street, and where it is possible for the property owners to agree as to the variety of trees to be planted each property owner may proceed to plant such trees in front of ~~his~~their own property, the trees to be planted not closer than forty feet apart.

12.44.030 Determination by council where property owners do not agree

Where the property owners cannot agree, the matter may be determined by the city council, and in the event property owners along any street do not provide for trees as stated in Section 12.44.020 the city council shall provide therefor under the local improvement statutes of the state by resolution and ordinance duly enacted.

12.44.040 Types of tree to be planted

No maples or other such spreading trees shall be planted, but ash, poplar, and such similar trees shall be used.

12.44.050 Shrubbery and small trees in parking strips

Shrubbery and small trees such as holly may be planted in the parking strip, provided not more than one is planted between each two trees, and further provided, any such shrubbery shall be planted uniformly and of similar character throughout one entire street.

12.44.060 Trees are public property

All ornamental, shade or other trees which have been planted and are now situated in the streets or parking strips within the city are declared to be public property and subject to the control of the city.

12.44.070 Trimming or pruning of trees

No such trees shall be trimmed or pruned except in a symmetrical and even manner according to the most approved plans for the trimming and pruning of such trees. Such trimming and pruning or cutting thereof shall only be done under the supervision and by the permission of the street superintendent.

Section 8. Amendment of OMC Chapter 12.60. Olympia Municipal Code Chapter 12.60 is hereby amended to read as follows:

**Chapter 12.60
PARK REGULATIONS**

12.60.000 Chapter Contents

Sections:

- 12.60.001 Enforcement.
- 12.60.010 Advertising signs and posters--Structures of any kind.
- 12.60.030 Regulations and Violations Relating to Pet Animals.
- 12.60.040 Feeding, Harassing, Injuring animals unlawful.
- 12.60.050 Fireworks Prohibited in City Parks.
- 12.60.060 Soliciting or peddling unlawful.
- 12.60.080 Sales unlawful without concession contract.
- 12.60.090 Groups or Assemblies - Reservations.
- 12.60.100 Bicycles--Horses--Motor vehicles in Designated Areas Only.
- 12.60.110 Camping or parking unlawful except where designated.
- 12.60.120 Ball games and other sports.
- 12.60.130 Smoking or Vaping Prohibited in City Parks and Trails.
- 12.60.160 Building fires permitted only in designated areas.
- 12.60.300 Violation--Penalty.

12.60.001 Enforcement

The Park Ranger is hereby authorized to enforce this code, including the issuance of notices of infraction.

12.60.010 Advertising signs and posters –Structures of any kind

It is a civil infraction to use, place, or erect any signboard, sign, billboard, bulletin board, post, pole or device of any kind for commercial advertising in any park; or to attach any notice, bill poster, sign, wire or cord to any tree, shrub, railing, post or structure within any park in a manner which dents, mars, defaces, breaks, punctures or injures it in any way or to place or erect in any park a structure of any kind, without the written consent of the Director of the Olympia Parks, Arts and Recreation Department or ~~his or her~~ authorized designee.

12.60.030 Regulations and Violations Relating to Pet Animals

The following sections of code are incorporated from OMC Title 6, Animal Services.

OMC 6.04.050 Regulations and Violations Relating to Pet Animals.

Any person who harbors, keeps, possesses, maintains, or has temporary custody of a pet animal shall be responsible for the behavior of such animal whether the owner knowingly permits the behavior or not. Such person shall violate the terms of this chapter if:

- A. Pet animal at large. Such person's animal is at large as defined in Section 6.04.030(D); provided, however, this section shall not prohibit the owner and the pet animal from participating in an organized show or training, exercise, or hunting session in locations designated and authorized for that purpose.
- B. Nuisance pet animal. Such person's pet animal constitutes a nuisance pet animal as defined in OMC Section 6.04.030(T).
- C. Pet animal on public property. Such person's pet animal is on public property such as a public park, beach, or school ground and is not on a leash by a person who is able to maintain physical control, or proper safeguards have not been taken to protect the public and property from injury or damage from said animal, or the presence of the animal on such property is in violation of additional specific restrictions which have been posted. Such restrictions shall not apply to guide dogs of the visually impaired, service animals for the physically handicapped, or to dogs on public property specifically designated by the City of Olympia as areas for dogs without the requirement of a leash. Pet animals on public property is a civil infraction as defined in Section 6.04.120(B).
- D. Intentionally not incorporated.
- E. Failure to possess removal equipment or to remove fecal material. Such person (1) fails to possess in a public park the equipment or material necessary to remove animal fecal matter when accompanying a pet

animal, or (2) fails to remove animal fecal material when accompanying a pet animal off the owner's property. Failure to possess removal equipment or to remove fecal material is a civil infraction as defined in Section 6.04.120 (B).

F. Intentionally not incorporated.

G. Intentionally not incorporated.

H. Intentionally not incorporated.

I. Menacing behavior. Such person's animal engaged in menacing behavior as defined in Section 6.04.030(R). Violation of this subsection is a civil infraction as defined in Section 6.04.120(A).

The following penalties apply to any violation of the designated section of 12.60.030.

A. Violation of the following sections of this chapter shall constitute a Class 3 civil infraction. A second infraction for certain offenses within an 18-month period will constitute a Class 2 civil infraction. A third infraction for certain offenses within an 18-month period will constitute a civil infraction. "Within an 18-month period" means the violation date for a prior offense occurred within 18 months of the date of the subsequent violation.

1. Section 12.60.030 (A) Failure to license; provided that the infraction shall be dismissed if, within 14 days of the date of issuance of the infraction, the person cited shows evidence of licensing of the subject animal to the Olympia Court Clerk. The Court Clerk, at the direction of the Olympia Municipal Court, may assess court administrative costs up to \$25.00 at the time of the dismissal;

2. Section 12.60.030 (A) Pet animal at large (first violation; second violation is a Class 2 civil infraction; third violation is a Class 1 civil infraction).

3. Section 12.60.030 (B) Nuisance pet animal (first violation; second violation is a Class 2 civil infraction; third violation is a Class 1 civil infraction).

4. Section 12.60.030 (I); Menacing Animal (first violation; second violation is a Class 2 civil infraction; third violation is a Class 1 civil infraction).

B. Violation of the following sections of this chapter shall constitute a Class 4 civil infraction:

1. Section 12.60.030 (C) Pet animals on public property.

2. Section 12.60.030 (E) Failure to remove fecal material; failure to possess removal equipment.

12.60.040 Feeding, Harassing, Injuring animals unlawful

It is unlawful in any manner to purposely tease, annoy, disturb, harass, catch, injure or kill or to throw anything at or strike any animal, bird, fowl or fish within a park, or to feed any fowl, fish or animal within any park.

12.60.050 Fireworks Prohibited in City Parks

It is unlawful to shoot, fire or explode any fireworks, firecracker, torpedo or explosive of any kind in a City park.

12.60.060 Soliciting or peddling unlawful

It is unlawful to take up collections, or to act as or apply the vocation of solicitor or peddler within a park; provided, that it shall not be a violation of this section for a nonprofit or charitable organization or group to conduct a fund-raising event in a park or facility under the control of the City's Parks, Arts and Recreation Department with the approval of the Parks, Arts and Recreation Department and upon the payment of a reasonable fee for the use thereof. Such fund-raising events shall solicit donations only. The ability of park patrons to visit park facilities or to use the nonreserved portions of the facility shall not be denied or conditioned upon the payment of a donation.

12.60.080 Sales unlawful without permit or concession contract

It is unlawful to sell food, refreshments or merchandise within a park from a fixed stand, table or booth without a concession contract with the City. This section shall not apply to festival events set forth in the Olympia Municipal Code.

12.60.090 Groups or Assemblies - Reservations

City parks and recreational facilities shall be available for any group or assembly on a first come, first serve basis. Groups or assemblies calculated to attract a large number of people, relative to the size and capacity of the park or facility must, prior to the event, reserve the space by filling out an application from the Parks, Arts and Recreation Department ten (10) days prior to the event to reserve the space. Approval may be conditioned as to the time and place of such assembly so as not to unreasonably interfere with other lawful activities within the park and subject to compliance with all park rules.

12.60.100 Bicycles –Horses –Motor vehicles in Designated Areas Only

It is a civil infraction to ride or drive any motorized or non-motorized vehicle over or through any park except along and upon the park drives, parkways, or designated bicycle lanes; or to ride any animal through a park except upon the park drives, parkways, or designated areas.

12.60.110 Camping or parking unlawful except where designated

It is a civil infraction to camp or stay overnight in any vehicle within any park or within any public parking lot adjacent to a park except at places set aside for such purposes and so designated by signs.

12.60.120 Ball games and other sports

The following activities are not permitted unless they are a part of a Parks, Arts & Recreation Program: golf, paintball, tennis, badminton or other games of like character or to hurl or propel any airborne or other missiles, except at places set apart for such purposes and so designated by signs.

12.60.130 Smoking or Vaping Prohibited in City Parks and Trails

It is unlawful for any person to smoke or light cigarettes, cigars, tobacco, or other smoking material, including electronic nicotine delivery devices including, but not limited to, electronic cigarettes, vapor cigarettes, or similar products, within city parks or on city trails.

12.60.160 Building fires permitted only in designated areas

It is a civil infraction to build any fires in any City park except in designated areas so designated by signs.

12.60.300 Violation -- Penalty

A. Unless stated otherwise, it shall be a civil infraction for a person, firm, or corporation to violate or fail to comply with any term or provision of this chapter. Each day shall be a separate infraction. A person, firm, or corporation found to have committed a civil infraction shall be assessed a monetary penalty as follows:

1. First offense: Class 3 (\$50), not including statutory assessments.
2. Second offense arising out of the same facts as the first offense: Class 2 (\$125), not including statutory assessments.
3. Third offense arising out of the same facts as the first offense: Class 1 (\$250), not including statutory assessments.

See also OMC Chapter 4.44, Uniform Code Enforcement.

B. Penalties for violations of Section 12.60.030 shall be the same as those provided under Olympia Municipal Code 6.04.120 for the same offense.

Section 9. Amendment of OMC Chapter 12.64. Olympia Municipal Code Chapter 12.64 is hereby amended to read as follows:

Chapter 12.64
HARBOR REGULATIONS

12.64.000 Chapter Contents

Sections:

12.64.010 Harbor defined.

- 12.64.020 Harbor master--Appointment and duties.
- 12.64.060 Rat control while moored.
- 12.64.070 Explosives unlawful without permission from harbor master.
- 12.64.080 Lighted material on port property prohibited.
- 12.64.090 Authority to impound.
- 12.64.100 Impoundment--Expenses.
- 12.64.110 Impoundment--Sale of impounded craft –Collection of charges.
- 12.64.120 Impounding--In-place.
- 12.64.130 Impoundment--Liability.
- 12.64.140 Deposit of wastes and materials into harbor.

12.64.010 Harbor defined

For the purpose of this chapter, the word "harbor" means all the water and waterways in the city.

12.64.020 Harbor master –Appointment and duties

The chief of police, or ~~his or her~~ authorized designee within the police department, shall act as harbor master for the city, whose duties it will be to carry out the provisions of this chapter.

12.64.060 Rat control while moored

All boats, vessels, tugs, launches of any kind and nature, must, while lying or anchored against a dock or wharf for the purpose of loading or unloading, be equipped in such a manner as to prevent the escape therefrom of any rats, and such precautions must at all times be taken as are necessary to prevent rats from leaving the boat while the boat, vessel, tug or launch is lying against a wharf or dock within the limits of the city.

12.64.070 Explosives unlawful without permission from harbor master

It is unlawful for any boats, vessels, tugs or launches of any kind or nature to enter the harbor of the city with explosives or high combustibles on board without first having obtained a written permission from the harbor master, and no vessel, boat, tug or launch shall be permitted to load, transfer or discharge such a cargo of explosives or other combustibles within the harbor of the city without first having obtained such permission from the harbor master.

12.64.080 Lighted material on port property prohibited

It is unlawful for any person to smoke cigars, cigarettes, or tobacco, or to throw any lighted tobacco, cigars, cigarettes, matches, firecrackers, or other lighted material, on or within thirty feet of the wharves, plank roadways, warehouses, sheds, or other structures, maintained or operated within the city by the Port of Olympia, or within thirty feet of any lumber or other commodities stored or piled on the lands owned, leased, or used by the Port of Olympia in connection with its scheme of port development as adopted and in use.

12.64.090 Authority to impound

The harbor master may take immediate possession of and/or impound and remove any vessel, watercraft or obstruction, when:

- A. The operator or master of the same reasonably appears incapable of safely operating the same or appears incapable of directing the disposition of the same; or
- B. The operator or master of the same refuses to sign a citation, or refuses or neglects to obey an order of the harbor master to proceed from or to an area following a citation or in an emergency; or
- C. The operator or master operates a vessel, watercraft or obstruction in a negligent, reckless or other manner so as to endanger the safety of others or to unreasonably interfere with the navigation of other watercraft and vessels, and the harbor master believes such operation of the vessel, watercraft or obstruction would continue unless possession be taken of the same; or
- D. The vessel, watercraft or obstruction appears unsafe for water transportation; or
- E. The vessel, watercraft or obstruction appears abandoned, or is anchored or moored in an anchorage, waterway or submerged street area after expiration, cancellation, or violation of a permit, or in violation of this chapter without a permit seventy-two hours after an order to remove the same has been given by the harbor master; or
- F. The vessel, watercraft or obstruction is obstructing a launch ramp area or public dock, or has remained at a facility under the jurisdiction of the department of parks and recreation longer than the maximum mooring or anchoring time.

The harbor master may remove the same, using such methods as ~~in his or her judgment will necessary to~~ prevent unnecessary damage to said vessel, watercraft or obstruction and/or assign the removal and impounding of the vessel, watercraft or obstruction to a private corporation.

12.64.100 Impoundment expenses

In the event possession is taken of any vessel, watercraft or obstruction as authorized in Section 12.64.090, the expenses incurred by the harbor master in the removal, towing, impounding and moorage of the same shall be paid by such vessel, watercraft or obstruction or the owner or other person in charge thereof. When a vessel, watercraft or obstruction is moored or impounded at a city facility, the harbor master shall assess a reasonable moorage charge therefor, which shall be paid by such vessel, watercraft or obstruction or the owner or other person in charge thereof. The harbor master may decline to release possession of any vessel, watercraft, or obstruction until all charges are paid.

12.64.110 Impoundment –Sale of impounded craft –Collection of charges

In the event a vessel, watercraft or obstruction remains impounded for ninety days and the charges of towing and impounding remain unpaid, the harbor master may sell the same at public auction. The city may maintain an action against the owner or person in charge of the vessel, watercraft or obstruction for the recovery of the expenses of towing and impounding, or the remaining balance thereof, in the event of sale of the same.

12.64.120 Impounding –In-place

When taking possession as authorized in Section 12.64.090, the harbor master may impound the vessel, watercraft or obstruction in place by posting the same with one or more signs or notices in conspicuous places stating "POLICE IMPOUND-KEEP OFF" and notifying the owner, master or person in charge of the impounding. The harbor master may ~~in his discretion~~ appoint as custodian the owner or master, the owner or operator of the facility or property where the vessel is moored or anchored. Upon the posting of such signs, it shall be unlawful for any person:

- A. To move, load or unload, rebuild, or enter upon such vessel, watercraft or obstruction without written permission from the harbor master, other than for necessary maintenance and repair to prevent deterioration of the same or sinking;
- B. To remove, mutilate, destroy or conceal any notice or sign posted by the Harbor Master or the public works director pursuant to the provisions of this chapter.

12.64.130 Impoundment –Liability

The harbor master shall not be held responsible for damages incurred as a result of the impoundment of a vessel or watercraft so long as all reasonable and safe practices are employed in said operation.

12.64.140 Deposit of wastes and materials into harbor

- A. It is unlawful for any person, firm, corporation, sawmill, shingle mill, veneer plant, or any manufacturing company, boat, vessel, tug, launch or watercraft of any kind or description to deposit any fuel or other combustible oil, waste, vegetable or animal matter, sawdust, lumber or timber, in any quantity within the harbor of the city, under any circumstances or in such manner or quantities which may tend to endanger property adjacent thereto, to jeopardize the health, peace and safety of any person, or in such quantity as to be a menace and danger to any boats of any kind using the harbor.
- B. A violation of this section is a misdemeanor.

Section 10. Amendment of OMC 12.02.020. Olympia Municipal Code Section 12.02.020 is hereby amended to read as follows:

12.02.020 Engineering design and development standards

There is hereby adopted by reference "2017-2018 Engineering Design and Development Standards," one (1) copy of which shall be kept on file in the office of the City Clerk and the Olympia Public Works Department. These standards shall be considered a part of this ordinance as though fully set forth herein.

Section 11. Corrections. The City Clerk and codifiers of this Ordinance are authorized to make necessary corrections to this Ordinance, including the correction of scrivener/clerical errors, references, ordinance numbering, section/subsection numbers and any references thereto.

Section 12. Severability. If any provision of this Ordinance or its application to any person or circumstance is held invalid, the remainder of the Ordinance or application of the provisions to other persons or circumstances shall remain unaffected.

Section 13. Ratification. Any act consistent with the authority and prior to the effective date of this Ordinance is hereby ratified and affirmed.

Section 14. Effective Date. This Ordinance shall take effect five (5) days after publication, as provided by law.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:



DEPUTY CITY ATTORNEY

PASSED:

APPROVED:

PUBLISHED: