

*Title 12*

***ROADS AND RIGHTS-OF-WAY***

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*Chapter 12.08*

***PIERCE COUNTY ROAD CLASSIFICATION PLAN***

**Sections:**

- 12.08.010 Classification of County Roads.**
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**12.08.010 Classification of County Roads.**

All roads within Pierce County shall be classified as major arterials, secondary arterials, collector arterials, local roads or primitive roads pursuant to RCW 36.86.070. All designations and classifications shall be contained in the Pierce County Road Classification Plan as adopted by the Pierce County Council. (Ord. 98-117 § 3 (part), 1998)

**12.08.020 Implementation Authority.**

The County Engineer of Pierce County is directed to implement the arterial designations described in this Chapter through the use of appropriate traffic control devices. (Ord. 98-117 § 3 (part), 1998)

**12.08.030 Plan Available at the Development Center.**

The most recently adopted version of the Pierce County Road Classification Plan shall be available for inspection during normal business hours at the Pierce County Development Center. A copy of the Plan is available for purchase for the sum of \$3.00. (Ord. 98-117 § 3 (part), 1998)



## *Chapter 12.12*

### ***ROAD IMPROVEMENT DISTRICTS***

#### **Sections:**

- 12.12.010 Purpose.**
- 12.12.020 Conformity to RCW Chapter 36.88.**
- 12.12.030 Application.**
- 12.12.040 Guarantee and Escrow Contract Required.**

#### **12.12.010 Purpose.**

The purpose of this Chapter is to regulate the creation of County road improvement districts, and to ensure consistency of such road improvement districts with the County Comprehensive Plan, sound engineering and design standards, health and sanitation regulations, and the public interest. (Ord. 85-34 § 1 (part), 1985; prior Code § 90.39.010)

#### **12.12.020 Conformity to RCW Chapter 36.88.**

All County road improvement districts shall be created in strict conformity to RCW Chapter 36.88. (Ord. 85-34 § 1 (part), 1985; prior Code § 90.39.020)

#### **12.12.030 Application.**

Applications for preliminary investigation of County road improvement districts shall be submitted on the form provided by the Pierce County Public Works Department, and submitted to the Right-of-Way Division of the Public Works Department. There is established a \$500.00 fee for each County road improvement application, said fee to provide reimbursement to the Pierce County Public Works Department for the administrative costs and expenses of processing the application. The separate application for a new County road improvement district is filed with the Right-of-Way Division of the Public Works Department, and shall be nonrefundable. However, should an application fail and the proponents reapply, the Pierce County Director of Public Works, or his/her designee may waive new application fees if the new application is substantially similar to the application previously submitted. (Ord. 88-205 § 1, 1988; Ord. 87-133 § 2, 1987; Ord. 85-34 § 1 (part), 1985; prior Code § 90.39.030)

#### **12.12.040 Guarantee and Escrow Contract Required.**

No County road improvement district shall be created unless all or some of the property owners within a proposed road improvement district first enter a written agreement to provide the moneys necessary to create a guaranty fund to ensure payment of interest to purchasers of the road improvement bonds unless said guaranty fund is created and funded by Pierce County. The decisions of whether or not Pierce County shall participate in said fund shall be made by the Pierce County Council or as delegated from time to time. (Ord. 86-145 § 1, 1986; Ord. 85-34 § 1 (part), 1985; prior Code § 90.39.040)



*Chapter 12.20*

**ROAD VACATION**

**Sections:**

- 12.20.010 Road Vacation by County Council.**
- 12.20.020 Designations of Roads.**
- 12.20.030 Compensation to be Based on Designation.**
- 12.20.040 Compensation Precedent to Vacation.**
- 12.20.050 Administrative Costs.**
- 12.20.060 Apportionment of Compensation Credited to Certain County Funds.**

**Cross-reference: Chapter 36.87 RCW**

**12.20.010 Road Vacation by County Council.**

County road rights-of-way may be vacated by the Pierce County Council either upon a Freeholder petition, or by its own motion, in accordance with the provisions of Chapter 36.87 RCW. After consideration of the County Engineer's Report, if the Council finds that the right-of-way is not useful and the public will be benefitted, the Council may vacate the right-of-way. Pierce County shall receive compensation as provided in this Chapter. (Ord. 90-23 § 2 (part), 1990)

**12.20.020 Designations of Roads.**

Pursuant to the provisions of RCW 36.87.100 and 36.87.110, all County rights-of-way are designated as follows:

**Type E – (Expenditures):** Unimproved or improved where credible evidence exists which supports the conclusion that public expenditures have been made in the acquisition, improvement, or maintenance of the right-of-way, and the County or public has any type of property interest for use as a County road or for the use of the traveling public.

**Type NE – (No Expenditures):** Unimproved or improved where no credible evidence exists which supports the conclusion that public expenditures were made in the acquisition, improvement, or maintenance of the right-of-way, and the County or public has any type of property interest for use as a County road or for the use of the traveling public.

(Ord. 90-23 § 2 (part), 1990)

**12.20.030 Compensation to be Based Upon Designation.**

Compensation to the County for vacation of the right-of-way shall be as follows:

- A. **Type E:** Appraised value of the right-of-way to be vacated which, at the County Engineer's option, may be determined by the County Assessor-Treasurer or by an Appraiser appearing on the current Washington State Department of Transportation Fee Appraiser List. Administrative costs will also be applied.
- B. **Type NE:** Administrative costs only.

(Ord. 90-23 § 2 (part), 1990)

**12.20.040 Compensation Precedent to Vacation.**

The amount of compensation as determined by the Pierce County Council according to the designations above must be paid as a condition precedent to the vacation of any County right-of-way. Compensation for appraised value may, however, when it is in the best interest of the County, include real property of equivalent value to the right-of-way being considered for vacation. (Ord. 90-23 § 2 (part), 1990)

**12.20.050 Administrative Costs.**

A non-refundable application fee of \$1,400.00 shall be paid by the Applicant prior to commencement of the vacation procedure. Also, a non-refundable processing fee of \$100.00 shall be paid when the Applicant returns the completed vacation petition. These fees shall apply to the total administrative costs due if the vacation request is approved by the Pierce County Council. A complete list of vacation procedures shall be printed and made available to prospective Applicants at the Public Works Department. (Ord. 2009-42s § 1, 2009; Ord. 90-23 § 2 (part), 1990)

**12.20.060 Apportionment of Compensation Credited to Certain County Funds.**

Compensation consisting of the appraised value of Type E right-of-way shall be credited to the County Road Fund. Administrative costs shall be credited to the respective County Departments involved in the processing of the vacation. (Ord. 90-23 § 2 (part), 1990)

*Chapter 12.24*

**ACQUISITION OF RIGHTS-OF-WAY**

**Sections:**

- 12.24.010 Records.**
- 12.24.020 Payment – Charging.**
- 12.24.030 District Road Project Number Assignment.**
- 12.24.040 Minimum Width Set.**

**12.24.010 Records.**

The County Executive's Office shall record in the Pierce County Auditor's Office all deeds, waivers, easements or other conveyance of real property with respect to the acquisition of any right-of-way, road or other property right by Pierce County, within ten days after the execution and delivery thereof. (Ord. 84-119 § 1, 1984; prior Code § 90.04.010)

**12.24.020 Payment – Charging.**

As per RCW 36.85.010, all land required for right-of-way by purchase or condemnation shall be paid out of the County Road Fund of the County and charged against the district project for which acquired. (Prior Code § 90.04.020)

**12.24.030 District Road Project Number Assignment.**

It will be the responsibility of the County Engineer to assign a district road project number to the acquisition of any property, and all costs, including acquisition costs, shall be accumulated under this number, regardless if it is a day labor or contract project. (Prior Code § 90.04.030)

**12.24.040 Minimum Width Set.**

Pursuant to Chapter 36.86.010, Revised Code of Washington, the minimum right-of-way width for any County road shall be 60 feet, except a local road may utilize a 50-foot wide right-of-way provided all utilities are located underground.

The minimum right-of-way width for a local road located within an approved plat may be reduced to 40 feet, provided a non-exclusive utility easement is provided abutting the right-of-way on one or both sides so that the total width of right-of-way and easement is no less than 60 feet, or 50 feet when all utilities are located underground.

This Section shall not be construed to require the acquisition of increased right-of-way for any County road already established and the right-of-way for which has been secured. (Ord. 99-24S § 14, 1999)



*Chapter 12.28*

***OBJECTS WITHIN COUNTY RIGHTS-OF-WAY***

**Sections:**

**12.28.010 Permission Required – Removal.**

**12.28.020 Violation – Penalty.**

**12.28.010 Permission Required – Removal.**

- A. No person, organization, or agency shall place, erect, or install any object of any nature whatsoever, within a County road right-of-way without the express permission in writing of the County Engineer, and any such object now in place within a County road right-of-way without written permission of the County Engineer is declared illegal; provided, that this Section shall not apply to mailboxes and attached newspaper boxes, placed on the County right-of-way, where these are placed as far removed from the driving portion of the right-of-way as possible, except that said placement shall be subject to approval of the Pierce County Engineer.
- B. Pierce County may summarily remove any illegally placed, erected or installed object within a County right-of-way at any time.
- C. Any person placing any object within a County right-of-way in violation of this Section shall be responsible for the removal of the object within 48 hours of receipt of written notice from Pierce County.
- D. In addition to removal procedures authorized by subsection B., abatement of any object or encroachment in Pierce County right-of-way which does not interfere with the proper and legitimate use of such right-of-way may be effected through an injunctive suit by Pierce County authorities.
- E. Nuisance Cleanup Special Assessment and Lien.
  1. For purposes of this Chapter, any object situated on or in a County road right-of-way without permission of the County Engineer and not otherwise permitted by PCC 12.28.010 shall be deemed a nuisance.
  2. In addition to any other provision authorized by law, the cost of abating a nuisance shall be a special assessment on the land or premises on which the nuisance is situated. The special assessment shall defray or reimburse the County for the cost of abating the nuisance. This assessment shall constitute a lien against the property that shall be of equal rank with state, county, and municipal taxes. The special assessment and lien shall come into existence and attach upon compliance with the provisions of subsection 3.
  3. Hearing Procedures.
    - a. Should the County seek a special assessment and lien to defray or reimburse the County for the cost of abating a nuisance, the County shall provide a "Notice of Intent to Seek Nuisance Cleanup Special Assessment and Lien" to all persons holding an interest of record in the property abutting the right-of-way upon which the nuisance is situated. Should the County seek reimbursement, this notice shall be mailed no later than 90 days after the nuisance has been abated. The notice shall contain the following information:

- (1) The date, time, and location of the hearing;
- (2) The name of the Hearing Examiner;
- (3) The address of the property on which the nuisance is situated;
- (4) The legal description of the property on which the nuisance is situated;
- (5) A citation to the appropriate definition of nuisance;
- (6) A citation to this ordinance;
- (7) A description of the nuisance;
- (8) A statement substantially the same as the following:

Pierce County seeks a special assessment on the property described in this notice. That special assessment, if granted, shall be a lien upon the property that shall be of equal rank with state, county, and municipal taxes. The special assessment is sought to defray or reimburse the County for the cost of abating the described nuisance located within the right-of-way abutting the described property.

You may contest this special assessment and lien by appearing in person at the hearing or by providing a written statement in advance to the Hearing Examiner. To be considered, the Hearing Examiner must receive the written statement in time for consideration at the hearing.

- b. The notice shall be served by means of personal service or by mailing a copy of the notice by certified mail with a five day return receipt requested. Proof of service shall be made by a written declaration by the person effecting the service, declaring the time and date of service, and the manner by which service was made. Notice shall be given at least 14 days prior to the date set for the hearing.
- c. The notice shall be filed with the County Auditor. The filing of the notice shall have the same force and effect as other lis pendens notices provided by law.
- d. The hearing shall be a non-land use hearing governed by PCC Chapter 1.22. At the hearing, the County has the burden of proving by a preponderance of the evidence each of the following:
  - (1) That a nuisance is described in the notice;
  - (2) That the nuisance exists, or existed at the time abatement commenced;
  - (3) That the nuisance is located on the property described in the notice or was located on the property at the time the abatement commenced; and
  - (4) The cost to Pierce County of abating the nuisance. Should the Hearing Examiner determine that the nuisance exists or existed and that the nuisance is or was located on the property described in the notice, then the Hearing Examiner shall issue an order specially assessing a lien against that property in the amount of the cost to Pierce County of abating that nuisance. The order shall also recite that the special assessment is a lien upon that property.
- e. The order creating the special assessment shall be certified and filed with the County Auditor and with the County Assessor-Treasurer.

4. Copies of the order shall be served upon all persons holding an interest in the property described in the notice. Service shall be by personal service or by mail to such person at that person's last known address. A failure in service of the order shall not affect the validity of the order or the validity of the lien.
5. Special assessments levied pursuant to this Chapter remaining unpaid after 30 days from the date the special assessment was filed with the County Auditor and with the County Assessor-Treasurer shall become delinquent and shall bear interest at the rate of 12 percent per annum from and after said date.
6. The validity of any assessment made under the provisions of this Chapter shall not be contested in any action or proceeding unless the same is commenced within 30 days after the date the special assessment was filed with the County Auditor and with the County Assessor-Treasurer.
7. The remedies provided in this provision are nonexclusive.

(Ord. 2009-21 § 1, 2009; Ord. 2008-56s § 1 (part), 2008; Ord. 2007-44s § 1 (part), 2007; Ord. 2005-39 § 1, 2005; Ord. 84-121 § 1, 1984; prior Code § 90.02.030)

**12.28.020 Violation – Penalty.**

Any person who places, erects or installs a sign in a County right-of-way in violation of PCC 12.28.010 A. shall be subject to a Class 1 civil infraction as defined in Chapter 1.16 PCC. All other violations of PCC 12.28.010, including violations of PCC 12.28.010 C., shall be punishable as a misdemeanor. (Ord. 2007-44s § 1 (part), 2007; prior Code § 90.02.040)



*Chapter 12.32*

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

**Sections:**

- 12.32.010 Purpose.**
- 12.32.020 Franchises Required.**
- 12.32.030 Nonexclusive Grant.**
- 12.32.040 Term of Grant.**
- 12.32.050 Eminent Domain.**
- 12.32.060 Application.**
- 12.32.070 Franchise Fees.**
- 12.32.080 Review of Application – Hearing.**
- 12.32.090 Criteria for Approval – Sewer Districts.**
- 12.32.100 Criteria for Approval – All Other Franchise Applicants.**
- 12.32.105 Standards Adopted.**
- 12.32.110 Utility Right-of-Way Permit Required.**
- 12.32.120 Application.**
- 12.32.130 Utility Right-of-Way Permit Fees.**
- 12.32.140 Utility in Good Standing.**
- 12.32.150 Criteria for Determination – Utility in Good Standing.**
- 12.32.160 Exemption from Permit Fees.**
- 12.32.170 Interference with the Right-of-Way.**
- 12.32.180 Damage to Property.**
- 12.32.190 Relocation or Removal of Facilities.**
- 12.32.200 Removal of Unauthorized Facilities.**
- 12.32.210 Failure to Relocate.**
- 12.32.220 Emergency Removal or Relocation of Facilities.**
- 12.32.230 Damage to Utility's Facilities.**
- 12.32.240 Restoration of Right-of-Way or Other Property.**
- 12.32.250 Duty to Provide Information.**
- 12.32.255 Grantee Insurance.**
- 12.32.256 General Indemnification.**
- 12.32.257 Performance and Restoration Surety.**
- 12.32.258 Restoration Bond.**
- 12.32.260 Penalties.**
- 12.32.270 Other Remedies.**
- 12.32.280 Severability.**

**Cross-reference: Chapter 36.55 RCW**

**12.32.010 Purpose.**

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

**12.32.020 Franchises Required.**

Persons and private or municipal corporations are required, in accordance with RCW 36.55.010, to obtain a right-of-way franchise approved by the Pierce County Council in order to use the right-of-way of County roads for the construction and maintenance of water-works, gas pipes, telephone, telegraph, and electric lines, sewers, cable TV, petroleum products, and any other such public and private utilities, except that the Pierce County Department of Public Works and Utilities and any entity under contract with Pierce County shall be exempted from this requirement. (Ord. 96-128S § 2 (part), 1997; Ord. 89-146 § 1 (part), 1989; prior Code § 81.08.020)

**12.32.030 Nonexclusive Grant.**

No franchise granted hereunder shall confer any exclusive right, or authorization to occupy or use the right-of-way. (Ord. 96-128S § 2 (part), 1997)

**12.32.040 Term of Grant.**

Unless otherwise specified in the franchise, or unless otherwise renewed, a franchise granted hereunder shall be in effect for a term of not more than five years. (Ord. 96-128S § 2 (part), 1997)

**12.32.050 Eminent Domain.**

Nothing herein shall be deemed or construed to impair or affect, in any way or to any extent, the County's power of eminent domain. (Ord. 96-128S § 2 (part), 1997)

**12.32.060 Application.**

Applications for right-of-way franchises shall be submitted in the form approved by the County Engineer to the Pierce County Department of Public Works and Utilities. (Ord. 96-128S § 2 (part), 1997; Ord. 89-146 § 1 (part), 1989; prior Code § 81.08.030)

**12.32.070 Franchise Fees.**

There is established a \$500.00 fee for each franchise application, said fee to provide reimbursement to the Pierce County Department of Public Works and Utilities for the administrative costs and expenses of processing the application. The fee shall be payable in its entirety at the time each separate application for a new franchise or for a franchise renewal, amendment, supplement, or assignment is filed with the Department of Public Works and Utilities and shall be non-refundable. In addition, each applicant shall reimburse Pierce County for public notice advertising and publication costs incurred in respect to each application in addition to the \$500.00 fee. Further, all Grantees, except Telecommunications Grantees, shall, within 30 days after written demand thereof, reimburse Pierce County for all direct and indirect costs and expenses, over and above \$500.00, incurred by the County in connection with any grant, modification, amendment, renewal, or transfer of any franchise. (Ord. 2002-59 § 1 (part), 2002; Ord. 2000-57s § 1 (part), 2001; Ord. 96-128S § 2 (part), 1997; Ord. 89-146 § 1 (part), 1989; Res. 21898 §§ 1, 2, 1979; prior Code § 81.08.040)

**12.32.080 Review of Applications – Hearing.**

- A. The Pierce County Department of Public Works and Utilities shall be responsible for the administration and enforcement of franchises and Right-of-Way Permits.

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

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

**12.32.090 Criteria For Approval – Sewer Districts.**

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

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

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

**12.32.100 Criteria for Approval – All Other Franchise Applicants.**

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

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

(Ord. 2002-59 § 1 (part), 2002; Ord. 2000-57s § 1 (part), 2001; Ord. 96-128S § 2 (part), 1997; Ord. 89-146 § 1 (part), 1989; prior Code § 81.08.080)

**12.32.105 Standards Adopted.**

The "Manual on Accommodating Utilities in Pierce County Right-of-Way," 4th Edition, as published by the Pierce County Engineer is adopted as the policy for the construction, installation, maintenance, and operation of all utilities in Pierce County right-of-way. (Ord. 2004-71 § 1 (part), 2004)

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

Persons and private or municipal corporations are required to obtain a Utility Right-of-Way Permit approved by the Pierce County Engineer in order to work in the right-of-way of County roads for the construction and maintenance of utility facilities as outlined in PCC 12.32.020, except as noted in PCC 12.32.130 and 12.32.160. (Ord. 2000-57s § 1 (part), 2001; Ord. 96-128S § 2 (part), 1997)

### **12.32.120 Application.**

Applications for Utility Right-of-Way Permits shall be submitted in the form approved by the County Engineer to the Pierce County Department of Public Works and Utilities. (Ord. 96-128S § 2 (part), 1997)

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

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

- A. **Class A Work.** Class A work has little or no effect on the right-of-way such as trenching the right-of-way for 25 lineal feet or less outside of the paved area, making an initial pavement cut of 4 square feet or less, or installing 5 or fewer new utility poles. Some examples of Class A work include stringing cables on utility poles; accessing existing manholes, handholes and vaults; installing short side services and hydrants while breaking 4 square feet or less of pavement; raising valves; trimming trees; providing cathodic protection; replacing above-ground meters, transformers, closures and pedestals; installing 2.5 feet by 2.5 feet or smaller splice boxes; using existing conduit across and along right-of-way; and installing water sampling stations. No breaking of any PCC curb, gutter or sidewalk is allowed. No permit or permit fee is required for this type of work.
- B. **Class B Work.** Class B work has a moderate effect on the right-of-way such as installation of between 25 and 100 linear feet of underground utility within the right-of-way, making an initial pavement cut of between 4 and 15 square feet, removing 2 or fewer panels of PCC sidewalk and associated curb and gutter, installing more than 5 new utility poles, or replacing any utility poles. Some examples of Class B work includes installing short side utility services while disturbing between 4 and 15 square feet of pavement, pushing under a road, installing underground vaults, and constructing splice pits. The fee for each permit application for Class "B" work is set at \$200.00, said fee to provide reimbursement to the Pierce County Department of Public Works and Utilities for the administrative and engineering costs and expenses of processing the Utility Right-of-Way Permit and inspecting the permitted work. The maximum length of time allowed for a Class B permit is 30 calendar days.
- C. **Class C Work.** Class C work has a major impact on the right-of-way such as constructing any CRP related work, installation of 100 lineal feet or more of underground utility within the right-of-way, making an initial pavement cut of 15 square feet or more, removing more than 2 panels of PCC sidewalk and associated curb and gutter, or attaching to any bridge structure. Some examples of Class "C" work include constructing a main line or any open cut road crossing. Except as noted in PCC 12.32.130, the fee for each permit application for Class "C" work is set at \$600.00, said fee to provide reimbursement to the Pierce County Department of Public Works and Utilities for the administrative and engineering costs and expenses of processing the Utility Right-of-Way Permit and inspecting of the permitted work.
- D. **Pavement Cutting.** Pierce County promotes a coordinated planning effort between the Department of Public Works and the franchised utility to minimize the need for cutting of pavement which is less than 36 months old. Except as exempted in PCC 12.32.160, the fee for permission to cut pavement which is less than 36 months old is established at \$10.00 per linear foot of disturbed pavement.

Any Utility Right-of-Way Permit fee shall be payable to the Department of Public Works and Utilities – Road Fund in accordance with administrative procedures developed by the Department.

(Ord. 2004-71 § 1 (part), 2004; Ord. 2000-57s § 1 (part), 2001; Ord. 96-128S § 2 (part), 1997)

#### **12.32.140 Utility in Good Standing.**

In order to facilitate installation of utilities within road right-of-way and in order to ensure that the County's program for capital improvements, operation, and maintenance is enhanced, Pierce County establishes the designation of "Utility in Good Standing." All utilities that have less than three violations of the provisions of this Chapter or the Pierce County "Manual on Accommodating Utilities in Pierce County Right-of-Way," as adopted by PCC 17B.10.060 B. during any preceding 12-month period, upon written request to the County Engineer, will be eligible to receive a designation of "Utility in Good Standing" if certified by the County Engineer. (Ord. 2000-57s § 1 (part), 2001; Ord. 96-128S § 2 (part), 1997)

#### **12.32.150 Criteria for Determination – Utility in Good Standing.**

The County Engineer shall keep and review records of performance for each utility to monitor compliance to Pierce County Code.

Noncompliance with the "Utility in Good Standing" certification provisions can include, but is not limited to the following. Failure to:

- A. Comply with the provisions of the franchise agreement;
- B. Comply with the Manual on Accommodating Utilities in Pierce County Right-of-Way;
- C. Comply with the latest edition of the MUTCD;
- D. Comply with Washington State Labor and Industry rules;
- E. Comply with the provisions and conditions on an approved right-of-way permit;
- F. Actively coordinate with County road construction projects, including attending any required design, pre-construction, or project construction meetings;
- G. Actively coordinate with other utilities on utility-initiated projects;
- H. Respond to reasonable requests for relocation information when requested by the County;
- I. Relocate utility facilities, in a timely manner, consistent with approved construction schedules;
- J. Construct utility facilities with an approved deviation when compliance with County standards can not be achieved;
- K. Obtain a permit, as required, before working in the right-of-way;
- L. Notify the Engineer before starting work;
- M. Notify the appropriate fire department of a road closure;
- N. Notify the Engineer of canceled or completed work in a timely manner;
- O. Complete all work within approved working days from the start of work;
- P. Permanently repair a pavement patch within 45 working days after placing temporary patching;
- Q. Restore the roadway and pavement in accordance with approved provisions and conditions;
- R. Leave the project site in a manner which is safe and protected;
- S. Minimize the need for cutting of pavement less than 36 months old;
- T. Maintain temporary pavement restorations;
- U. Remove abandoned above ground facilities in the required time frames;

- V. Pay permit fees in a timely manner.
- W. Restore survey monumentation after removal or destruction in a timely manner.
- X. Comply with applicable State and County environmental and erosion control regulations.

(Ord. 2004-71 § 1 (part), 2004; Ord. 96-128S § 2 (part), 1997)

#### **12.32.160 Exemption from Permit Fees.**

Any utility having a valid designation of "Utility in Good Standing" as certified by the County Engineer shall be exempt from obtaining a permit, and from the permit application fee for Class "B" work, and any pavement cutting fee. Additionally, a "Utility in Good Standing" shall pay one-sixth the fee set for Class "C" work.

Any utility performing work as a result of a County construction or maintenance project shall be exempt from any applicable permit fee.

Any utility performing emergency work shall be exempt from any applicable permit application fee.

(Ord. 96-128S § 2 (part), 1997)

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

No utility may locate or maintain its facilities so as to unreasonably interfere with the use of the right-of-way by the County, by the general public or other persons authorized to use or be present in or upon the right-of-way. All such facilities shall be moved by and at the expense of the utility, temporarily or permanently, as determined by the County. (Ord. 96-128S § 2 (part), 1997)

#### **12.32.180 Damage to Property.**

No utility or any person acting on a utility's behalf shall take any action or permit any action to be done which may impair or damage any right-of-way, including specifically County Property, real or personal, or other property located in, on or adjacent thereto. (Ord. 96-128S § 2 (part), 1997)

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

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

- A. The construction, repair, maintenance or installation of any County or other public improvement in or upon the right-of-way.
- B. The operations of the County or other governmental entity in or upon the right-of-way.

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

#### **12.32.200 Removal of Unauthorized Facilities.**

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

- A. Upon expiration or termination of the Grantee's franchise.
- B. Upon abandonment of a facility within the right-of-way.

- C. If the system or facility was constructed or installed without the prior grant of a franchise.
  - D. If the system or facility was constructed or installed without the prior issuance of a required Utility Right-of-Way Permit.
  - E. If the system or facility was constructed or installed at a location not permitted by the utility's franchise.
  - F. Any such other reasonable circumstances deemed necessary by the County Engineer.
- (Ord. 2001-57s § 1 (part), 2001; Ord. 96-128S § 2 (part), 1997)

**12.32.210 Failure to Relocate.**

If a utility is required to relocate, change or alter the facilities constructed, operated and/or maintained hereunder and fails to do so, the County may cause such to occur and charge the utility for the costs incurred. (Ord. 96-128S § 2 (part), 1997)

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

The County retains the right and privilege to cut or move any facilities located within the right-of-way as the County may determine to be necessary, appropriate or useful in response to any public health or safety emergency. (Ord. 96-128S § 2 (part), 1997)

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

Unless directly and proximately caused by the willful, intentional or malicious acts of the County, the County shall not be liable for any damage to or loss of any facility within right-of-way as a result of or in connection with any public works, public improvements, construction, excavation, grading, filling, or work of any kind in the right-of-way by or on behalf of the County. (Ord. 96-128S § 2 (part), 1997)

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

- A. When a utility, or any person acting on its behalf, does any work in or affecting any right-of-way, or any other property, it shall, at its own expense, promptly remove any obstructions therefrom and restore such ways or property to the same condition which existed before the work was undertaken.
  - B. If weather or other conditions do not permit the complete restoration required hereunder, the utility shall temporarily restore the affected right-of-way or other property. Such temporary restoration shall be at the utility's sole expense and the utility shall promptly undertake and complete the required permanent restoration when the weather or other conditions no longer prevent such permanent restoration.
  - C. A utility or other person acting on its behalf shall use suitable barricades, flags, flaggers, lights, flares and other measures as required for the safety of all members of the general public and to prevent injury or damage to any person, vehicle or property by reason of such work in or affecting right-of-way or any other property.
- (Ord. 2000-57s § 1 (part), 2001; Ord. 96-128S § 2 (part), 1997)

**12.32.250 Duty to Provide Information.**

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

- A. That utility has complied with all requirements of this Chapter.
- B. That all fees due the County in connection with the facilities provided by the utility have been properly collected and paid by the utility.

- C. That all books, records, maps and other documents maintained by the utility with respect to its facilities within right-of-way shall be made available for inspection by the County Engineer at reasonable times and intervals.
- D. That "as-built" drawings have been completed of the work and are on file with the Grantee.

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

### **12.32.255 Grantee Insurance.**

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

- A. Comprehensive general liability insurance with limits not less than:
  - 1. \$2,000,000 for bodily injury or death to each person;
  - 2. \$2,000,000 for property damage resulting from any one accident; and
  - 3. \$2,000,000 for all other types of liability.
- B. Automobile liability for owned, non-owned, and hired vehicles with a limit of \$1,000,000 for each person and \$3,000,000 for each accident.
- C. Worker's compensation within statutory limits and employer's liability insurance with limits of not less than \$1,000,000.
- D. Comprehensive form premises-operations, explosions and collapse hazard, underground hazard and products completed operation hazard policies with limits of not less than \$2,000,000.
- E. The liability insurance policies required by this Section shall be maintained at all times by the Grantee. Each such insurance policy shall contain the following endorsement:

"It is hereby understood and agreed that this policy may not be canceled nor the intention not to renew be stated until 90 days after receipt by the County, by registered mail, of a written notice addressed to the County Risk Manager of such intent to cancel or not to renew."

- F. Within 60 days after receipt by the County of said notice, and in no event later than 30 days prior to said cancellation, the Grantee shall obtain and furnish to the County replacement insurance policies meeting the requirements of this Chapter.
- G. If Grantee can show to the County Risk Manager's satisfaction that an entity is financially able to self insure the exposures, a substitution for insurance will be considered.

(Ord. 2000-57s § 1 (part), 2001)

### **12.32.256 General Indemnification.**

In addition to and distinct from the insurance requirements of this Chapter, each Grantee shall agree in writing to defend, indemnify, and hold the County and its officers, officials, employees, agents, and representatives harmless from and against any and all damages, losses and expenses, including reasonable attorneys' fees and costs of suit or defense, arising out of, resulting from, or alleged to arise out of or result from the acts, omissions, failure to act, or misconduct of the Grantee or its affiliates, officers, employees, agents, contractors, or subcontractors in the construction, operation, maintenance, repair, or removal of its facilities and in providing or

offering services over the facilities or network, whether such acts or omissions are authorized, allowed, or prohibited by this Chapter or by a grant agreement made or entered into pursuant to this Chapter. (Ord. 2000-57s § 1 (part), 2001)

**12.32.257 Performance and Restoration Surety.**

Before a franchise granted pursuant to this Chapter is effective, and as necessary thereafter, the Grantee shall provide and deposit such monies, bonds, letters of credit, or other instruments in form and substance acceptable to the County as may be required by this Chapter, or by an applicable franchise or other applicable code, ordinance, or rules and regulations of the County. (Ord. 2000-57s § 1 (part), 2001)

**12.32.258 Restoration Bond.**

Unless otherwise provided in a franchise, a restoration bond, written by a surety acceptable to the County equal to at least 100 percent of the estimated cost of restoration as required as a result of constructing the Grantee's facilities within rights-of-way shall be deposited before construction is commenced. An applicant's status as a "Utility in Good Standing" pursuant to PCC 12.32.140 may be considered in setting, or reducing below 100 percent of the estimated cost of restoration, the appropriate restoration bond amount.

- A. The restoration bond shall remain in force until 60 days after substantial completion of the work, as determined by the County Engineer or designee, including restoration of all rights-of-way and other property affected by the construction.
- B. The restoration bond shall guarantee, to the satisfaction of the County:
  - 1. timely completion of restoration;
  - 2. restoration in compliance with applicable plans, permits, technical codes, and standards;
  - 3. proper restoration of the facilities as specified by the County; and
  - 4. restoration of the rights-of-way and any other property affected by the construction.

(Ord. 2000-57s § 1 (part), 2001)

**12.32.260 Penalties.**

Any person found violating, disobeying, omitting, neglecting, or refusing to comply with any of the provisions of this Chapter is subject to class one civil infraction pursuant to Chapter 1.16 for each act. Each day constitutes a separate act. (Ord. 2000-57s § 1 (part), 2001; Ord. 96-128S § 2 (part), 1997)

**12.32.270 Other Remedies.**

Nothing in this Ordinance shall be construed as limiting any judicial remedies that the County may have, at law or in equity, for enforcement of this Chapter. (Ord. 96-128S § 2 (part), 1997)

**12.32.280 Severability.**

If any Section, subsection, sentence, clause, phrase, or other portion of this Chapter, or its application to any person is, for any reason, declared invalid, in whole or in part by any court or agency of competent jurisdiction, said decision shall not affect the validity of the remaining portions hereof. (Ord. 96-128S § 2 (part), 1997)



*Chapter 12.34*

**TELECOMMUNICATIONS USERS OF PIERCE COUNTY RIGHTS-OF-WAY**

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**ARTICLE I – TELECOMMUNICATIONS**

**12.34.010 Purpose.**

The purpose of this Chapter is to:

- A. Establish a local policy concerning telecommunications providers and services;
- B. Establish clear and nondiscriminatory local guidelines, standards, and time frames for the exercise of local authority with respect to the regulation of the use of public rights-of-way and/or public property by telecommunications providers;
- C. Minimize unnecessary local regulation of telecommunications providers and services;
- D. Encourage the provision of advanced and competitive telecommunications services on the widest possible basis to the businesses, institutions, and residents of the County;
- E. Permit and manage reasonable access to the public rights-of-way of the County for telecommunications purposes on a competitively neutral basis;
- F. Conserve the limited physical capacity of the public rights-of-way held in public trust by the County;
- G. Assure that the County's current and ongoing costs of granting and regulating private access to and use of the public rights-of-way are fully paid by the persons seeking such access and causing such costs;
- H. Secure fair and reasonable compensation to the County and the residents of the County, consistent with 47 U.S.C. sec. 253, in a non-discriminatory manner, for permitting private use of the public rights-of-way and/or public property;
- I. Assure that all telecommunications carriers placing facilities within the County rights of way comply with the ordinances, rules, and regulations of the County;
- J. Assure that the County can continue to fairly and responsibly protect the public health, safety, and welfare; and
- K. Enable the County to discharge its public trust consistent with rapidly evolving federal and state regulatory policies, industry competition, and technological development.

(Ord. 2002-60 § 1 (part), 2002; Ord. 96-124 § 1 (part), 1997)

**12.34.020 Definitions.**

Terms used in this Chapter shall have the following meanings:

- A. "Affiliate" means a person that (directly or indirectly) owns or controls, is owned or controlled by, or is under common ownership or control with another person.

- B. "Cable Acts" means the Cable Communications Policy Act of 1984, as amended by the Cable Television Consumer Protection and Competition Act of 1992, as amended by portions of The Telecommunications Act of 1996, and as hereafter amended.
- C. "Cable Operator" means a Telecommunications Carrier providing or offering to provide "Cable Service" within the County as that term is defined in the Federal Cable Acts.
- D. "Cable Service" shall have the same meaning as defined in the Federal Cable Acts.
- E. "County" means the County of Pierce, State of Washington.
- F. "County Property" means any real property owned by County, whether in fee or other ownership estate of interest.
- G. "Excess Capacity" means the volume or capacity in any existing or future duct, conduit, manhole, handhole or other Utility Facility within the right-of-way that is or will be available for use for additional Telecommunications Facilities.
- H. "FCC" or "Federal Communications Commission" means the federal administrative agency, or lawful successor, authorized to regulate and oversee Telecommunications Carriers, Services and providers on a national level.
- I. "Grantee" encompasses those franchisees granted certain rights and obligations as more fully described herein.
- J. "Washington Utilities and Transportation Commission" or "WUTC" means the state administrative agency, or lawful successor, authorized to regulate and oversee Telecommunications Carriers, Services, and Providers in the State of Washington to the extent prescribed by law.
- K. "Overhead Facilities" means Utility Facilities and Telecommunications Facilities located above the surface of the ground, including the underground supports and foundations for such facilities.
- L. "Person" includes corporations, companies, associations, joint stock companies, firms, partnerships, limited liability companies, other entities, and individuals.
- M. "Public Ways" includes the surface of and space above and below any real property in County in which County has an ownership interest, or interest as a trustee for the public, including but not limited to all public streets, highways, roads, alleys, sidewalks, tunnels, viaducts, bridges, skyways, or any other public place, area, or property under control of County, and any public or utility easements established, dedicated, or devoted for public utility purposes.
- N. "Rights-of-Way" means all County Property and Public Ways, collectively, within the County.
- O. "State" means the State of Washington.
- P. "Surplus Space" means that portion of the usable space on a utility pole which has the necessary clearance from other pole users, as required by the orders and regulations of regulatory agencies with applicable jurisdiction, to allow its use by a Telecommunications Carrier for a pole attachment.
- Q. "Telecommunications Carrier" includes every person that directly or indirectly owns, controls, operates or manages plant, equipment or property within the County, used or to be used for the purpose of offering Telecommunications Service.
- R. "Telecommunications Facilities or Telecommunications System" means the plant, equipment and property including, but not limited to, cables, wires, conduits, ducts, pedestals, antennae, electronics, and other appurtenances used or to be used to transmit, receive, distribute, provide or offer Telecommunications Service.
- S. "Telecommunications Provider" includes every person who provides Telecommunications Service over Telecommunications Facilities.

- T. "Telecommunications Service" means the providing or offering for rent, sale or lease, or in exchange for other value received, of the transmittal of voice, data, image, graphic, and video programming information between or among points by wire, cable, fiber optics, laser, microwave, radio, satellite or similar facilities, with or without benefit of any closed transmission medium.
- U. "Underground Facilities" means Utility and Telecommunications Facilities located under the surface of the ground, excluding the underground foundations or supports for Overhead Facilities.
- V. "Usable Space" means the total distance between the top of a utility pole and the lowest possible attachment point that provides the minimum allowable vertical clearance as specified in the orders and regulations of the WUTC.
- W. "Utility Facilities" mean the plant, equipment, and property including, but not limited to, the poles, pipes, mains, conduits, ducts, cables, wires, plant and equipment located under, on or above the surface of the ground within rights-of-way and used or to be used for the purpose of providing utility services or Telecommunications Services including Telecommunication Facilities.

(Ord. 96-124 § 1 (part), 1997)

#### **12.34.040 Franchise and Fees.**

Except as otherwise provided herein, any Telecommunications Carrier who desires to construct, install, operate, maintain, or otherwise locate Telecommunications Facilities in rights-of-way shall first obtain a franchise granting the use of such rights-of-way from the County pursuant to this Chapter and Chapter 36.55 RCW and pay all the fees as provided herein. (Ord. 2002-60 § 1 (part), 2002; Ord. 96-124 § 1 (part), 1997)

#### **12.34.050 Cable Franchise and Fees.**

Except as otherwise provided herein, any Telecommunications Carrier who desires to construct, install, operate, maintain, or locate Telecommunications Facilities in rights-of-way for the purpose of providing Cable Services shall first obtain a cable franchise from the County pursuant to this Chapter and pay all the fees as provided herein and in the cable franchise. (Ord. 2002-60 § 1 (part), 2002; Ord. 96-124 § 1 (part), 1997)

#### **12.34.060 Application to Existing Franchise Ordinances and Agreements.**

This Chapter shall have no effect on any franchise agreement in effect on December 16, 1997, until:

- A. The expiration of said franchise agreement; or
- B. An amendment to an unexpired franchise agreement, unless both parties agree to defer full compliance to a specific date not later than the present expiration date.

(Ord. 2002-60 § 1 (part), 2002; Ord. 96-124 § 1 (part), 1997)

#### **12.34.070 Penalties.**

Any person found violating, disobeying, omitting, neglecting, or refusing to comply with any of the provisions of this Chapter is subject to a class 1 civil infraction pursuant to Chapter 1.16 PCC for each act. Each day constitutes a separate act. (Ord. 2002-60 § 1 (part), 2002; Ord. 2000-57s § 2 (part), 2001; Ord. 96-124 § 1 (part), 1997)

**12.34.080 Other Remedies.**

Nothing in this Chapter shall be construed as limiting any judicial remedies that the County may have, at law or in equity, for enforcement of this Chapter. (Ord. 2002-60 § 1 (part), 2002; Ord. 2000-57s § 2 (part), 2001; Ord. 96-124 § 1 (part), 1997)

**12.34.090 Severability.**

If any Section, subsection, sentence, clause, phrase, or other portion of this Chapter, or its application to any person is, for any reason, declared invalid, in whole or in part by any court or agency of competent jurisdiction, said decision shall not affect the validity of the remaining portions hereof. (Ord. 2002-60 § 1 (part), 2002; Ord. 96-124 § 1 (part), 1997)

**ARTICLE II – RESERVED**

**ARTICLE III – RESERVED**

**ARTICLE IV – FRANCHISE**

**12.34.400 Franchise.**

A franchise shall be required of any Telecommunications Provider who desires to place Telecommunications Facilities in the rights-of-way. (Ord. 2002-60 § 1 (part), 2002; Ord. 96-124 § 1 (part), 1997)

**12.34.405 Franchise Application.**

Any person who desires a franchise hereunder shall file an application in accordance with PCC 12.32.060, 12.32.070 and 12.32.080, which shall include the applicable portions of the required franchise application information. (Ord. 2000-57s § 2 (part), 2001; Ord. 96-124 § 1 (part), 1997)

**12.34.410 Determination by the County.**

As soon as is practicable after receiving a complete application in the form approved by the County Engineer and submitted to the Pierce County Department of Public Works and Utilities pursuant to PCC 12.32.060 hereunder, the County Executive or designee shall make a recommendation to the County Council which, in accordance with PCC 12.32.080 B., shall set a time and place for a public hearing on whether to grant or deny the application in whole or in part. If the decision is to deny, the record shall include the reasons for denial. The standards enumerated herein and in PCC 12.32.100 shall apply when determining whether to grant or deny the application. The criteria which shall be considered are:

- A. The capacity of the rights-of-way to accommodate the applicant's facilities.
- B. The capacity of the rights-of-way to accommodate additional utility and Telecommunications Facilities if the application is granted.
- C. The damage or disruption, if any, of public or private facilities, improvements, service, travel or landscaping if the application is granted, giving consideration to an applicants willingness and ability to mitigate and/or repair same.
- D. The public interest in minimizing the cost and disruption of construction within the rights-of-way.

- E. The availability of alternate routes or locations for the proposed facilities.
  - F. Applicable federal, state, and local laws, regulations, rules, and policies.
- (Ord. 2002-60 § 1 (part), 2002; Ord. 2000-57s § 2 (part), 2001; Ord. 96-124 § 1 (part), 1997)

**12.34.415 Agreement.**

No franchise shall take effect hereunder unless the applicant and the County have executed a written agreement setting forth the particular terms and provisions under which the franchise to occupy and use rights-of-way will be granted and said agreement has been recorded in accordance with RCW 36.55.080. All franchises granted pursuant to this Article shall contain substantially similar terms and conditions, which, taken as a whole and considering relevant characteristics of the applicants, do not provide more or less favorable terms and conditions than those required of similarly situated franchisees. (Ord. 2002-60 § 1 (part), 2002; Ord. 96-124 § 1 (part), 1997)

**12.34.420 Nonexclusive Grant.**

No franchise granted hereunder shall confer any exclusive right, privilege or franchise to occupy or use the rights-of-way for delivery of Telecommunications Services or any other purposes. (Ord. 96-124 § 1 (part), 1997)

**12.34.425 Rights Granted.**

- A. No franchise granted hereunder shall convey any right, title or interest in the rights-of-way but shall be deemed a franchise only to use and occupy the rights-of-way for the limited purposes and term stated in the grant.
  - B. No franchise granted hereunder shall authorize or excuse a franchisee from securing such further easements, leases, permits or other approvals as may be required to lawfully occupy and use Rights-of-Way Excess Capacity in an Underground Facility or Surplus Space in an Overhead Facility.
  - C. No franchise granted hereunder shall be construed as any warranty of title.
- (Ord. 96-124 § 1 (part), 1997)

**12.34.430 Term of Grant.**

Unless otherwise specified in a franchise or unless otherwise renewed, a franchise granted hereunder shall be valid for a term of not more than five years. (Ord. 2000-57s § 2 (part), 2001; Ord. 96-124 § 1 (part), 1997)

**12.34.435 Utility Right-of-Way Permits.**

All franchisees are required to obtain utility right-of-way permits as required in PCC 12.32.110 and pay all fees for Telecommunications Facilities as required in PCC 12.32.130. (Ord. 2000-57s § 2 (part), 2001; Ord. 96-124 § 1 (part), 1997)

**12.34.440 Compensation to County.**

Each franchise granted hereunder is subject to the County's right, which is expressly reserved, to annually fix by ordinance a fair and reasonable compensation for use of property pursuant to a franchise, provided nothing in this Chapter shall prohibit the County and a franchisee from agreeing to the compensation to be paid. (Ord. 96-124 § 1 (part), 1997)

**12.34.455 Amendment of Grant.**

- A. If a Grantee is ordered by the County to locate or relocate its Telecommunications Facilities in rights-of-way not included in a previously granted franchise, the County shall grant a franchise amendment, if necessary, without further application.

(Ord. 2002-60 § 1 (part), 2002; Ord. 96-124 § 1 (part), 1997)

**12.34.460 Renewal Applications.**

A franchisee that desires to renew its franchise hereunder shall, not more than 180 days nor less than 90 days before expiration of the current franchise, file an application with the County for renewal of its franchise which shall include the following information:

- A. The applicable information required pursuant to the franchise.
- B. Any other information required by the County consistent with federal law.

(Ord. 2002-60 § 1 (part), 2002; Ord. 96-124 § 1 (part), 1997)

**12.34.465 Renewal Determinations.**

As soon as is practicable after receiving a complete application in the form approved by the County Engineer and submitted to the Pierce County Department of Public Works and Utilities pursuant to PCC 12.32.060, the County Council, in accordance with PCC 12.32.080 B., and RCW Chapter 36.55, shall set a time and place for a public hearing on whether to grant or deny the renewal application in whole or in part. If the decision is to deny, the record shall include the reasons for non-renewal. When determining whether to recommend granting or denying the application, the following criteria shall be considered:

- A. The standards enumerated in PCC 12.34.410,
- B. The criteria set forth in PCC 12.32.100, and
- C. The applicants compliance with the requirements of this Chapter and the franchise.

(Ord. 2002-60 § 1 (part), 2002; Ord. 2000-57s § 2 (part), 2001; Ord. 96-124 § 1 (part), 1997)

**12.34.470 Obligation to Cure As a Condition of Renewal.**

No franchise shall be renewed until any ongoing violations or defaults in the franchisee's obligations under the franchise, or the requirements of this Chapter, and all applicable laws, statutes, codes, ordinances, rules and regulations have been cured, or a plan detailing the corrective action to be taken by the franchisee has been approved by the County. (Ord. 96-124 § 1 (part), 1997)

**ARTICLE V – CABLE FRANCHISE**

**12.34.500 Grant of Cable Franchise.**

The County may grant one or more cable franchises containing such provisions as are reasonably necessary to protect the public interest, and each such cable franchise shall be awarded in accordance with and subject to the provisions of this Chapter. This Chapter may be amended from time to time, and in no event shall this Chapter be considered a contract between the County and a cable franchisee such that the County would be prohibited from amending any provision hereof, provided no such amendment shall in any way impair any contract right or increase obligations of a cable franchisee under an outstanding and effective cable franchise except in the lawful exercise of the County's police power. (Ord. 2000-57s § 2 (part), 2001; Ord. 96-124 § 1 (part), 1997)

**12.34.505 Cable Franchise Required.**

No person may construct, operate or maintain a cable system or provide Cable Service over a cable system within the County without a cable franchise granted by the County authorizing such activity. No person may be granted a cable franchise without having entered into a cable franchise agreement with the County pursuant to this Chapter. For the purpose of this provision, the operation of part or all of a cable system within the County means the use or occupancy of rights-of-way by facilities used to provide Cable Service.

Telecommunications Facilities used to provide telephone service which are also used to provide Cable Service shall be subject to this Chapter and shall also require a cable franchise. Use of such facilities to provide services similar to Cable Service, such as Open Video Service, shall be subject to this Chapter to the extent provided by law. A system shall not be deemed as operating within the County even though service is offered or rendered to one or more subscribers within the County, if no rights-of-way by facilities used to provide Cable Service are used or occupied. All cable franchises granted pursuant to this Article shall contain substantially similar terms and conditions, which, taken as a whole and considering relevant characteristics of the applicants, do not provide more or less favorable terms and conditions than those required of other cable franchisees. (Ord. 2000-57s § 2 (part), 2001; Ord. 96-124 § 1 (part), 1997)

**12.34.510 Length of Cable Franchise.**

Unless otherwise specified in a cable franchise, or unless otherwise renewed, no cable franchise shall be granted for a period of more than five years. (Ord. 2000-57s § 2 (part), 2001; Ord. 96-124 § 1 (part), 1997)

**12.34.515 Cable Franchise Characteristics.**

- A. A cable franchise authorizes use of rights-of-way for installing, operating and maintaining cables, wires, lines, optical fiber, underground conduit and other devices necessary and appurtenant to the operation of a cable system to provide Cable Services within the County, but does not expressly or implicitly authorize a cable franchisee to provide service to, or install a cable system on private property without owner consent, or to use publicly or privately owned poles, ducts or conduits without a separate agreement with the owners.
- B. A cable franchise shall not mean or include any exclusive right or authorization for the privilege of transacting and carrying on a business within the County as generally required by the ordinances and laws of the County. A cable franchise shall not confer any authority to provide Telecommunications Services or any other communications services besides Cable Services. A cable franchise shall not confer any implicit rights other than those mandated by federal, state or local law.
- C. A cable franchise is nonexclusive and will not explicitly or implicitly: preclude the issuance of other cable franchises to operate cable systems within the County; affect the County's right to authorize use of rights-of-way by other persons to operate cable systems or for other purposes as it determines appropriate; or affect the County's right to itself construct, operate or maintain a cable system, with or without a cable franchise.
- D. Once a cable franchise has been accepted and executed by the County and a cable franchisee, such cable franchise shall constitute a valid and enforceable agreement between the cable franchisee and the County, and the terms, conditions and provisions of such franchise, subject to this Chapter and all other duly enacted and applicable laws and regulations shall define the rights and obligations of the cable franchisee and the County relating to the cable franchise.

- E. All privileges prescribed by a cable franchise shall be subordinate to any prior lawful occupancy of the rights-of-way and the County reserves the right to reasonably designate where a cable franchisee's facilities are to be placed within the rights-of-way through its generally applicable permit procedures.
  - F. A cable franchise shall be a privilege that is in the public trust and personal to the original cable franchisee. No cable franchise transfer shall occur without the prior written consent of the County upon application made by the cable franchisee pursuant to this Chapter and the cable franchise, which consent shall not be unreasonably withheld, and any purported cable franchise transfer made without application and prior written consent shall be void and shall be cause for the County to revoke the cable franchise.
- (Ord. 2000-57s § 2 (part), 2001; Ord. 96-124 § 1 (part), 1997)

**12.34.520 Cable Franchisee Subject to Other Laws, Police Powers.**

- A. A cable franchisee shall at all times be subject to and shall comply with all applicable federal, state and local laws and regulations, including this Chapter. A cable franchisee shall at all times be subject to all lawful exercise of the police power of the County including, but not limited to, all rights the County may have under the Cable Acts, all powers regarding zoning, supervision of construction, control of rights-of-way and consumer protection.
  - B. The County shall have full authority to regulate cable systems, cable franchisees and cable franchises as may now or hereafter be lawfully permissible.
- (Ord. 2000-57s § 2 (part), 2001; Ord. 96-124 § 1 (part), 1997)

**12.34.525 Interpretation of Cable Franchise Terms.**

- A. In the event of a conflict between this Chapter and a cable franchise, the provisions of this Chapter control except where the conflict arises from the lawful exercise of the County's police power.
  - B. The provisions of this Chapter and a cable franchise will be liberally construed in accordance with generally accepted rules of construction to promote the public interest.
- (Ord. 2000-57s § 2 (part), 2001; Ord. 96-124 § 1 (part), 1997)

**12.34.530 Operation of a Cable System Without a Cable Franchise.**

Any person who occupies rights-of-way for the purpose of operating or constructing a cable system or provides Cable Service over a cable system and who does not hold a valid cable franchise from the County shall be subject to all requirements of this Chapter. At its discretion, the County at any time may by ordinance: require such person to enter into a cable franchise within 30 days of receipt of a written notice to such person from the County that a cable franchise is required; require such person to remove its property and restore the affected area to a condition satisfactory to the County; direct County personnel to remove the property and restore the affected area to a condition satisfactory to the County and charge the person the costs therefor, including by placing a lien on the person's property; or take any other action it is entitled to take under applicable law. In no event shall a cable franchise be created unless it is issued by the County pursuant to this Chapter and subject to a written cable franchise. (Ord. 2000-57s § 2 (part), 2001; Ord. 96-124 § 1 (part), 1997)

**12.34.535 Acts at Cable Franchisee's Expense.**

Any act that a cable franchisee is or may be required to perform under this Chapter, a cable franchise or applicable law shall be performed at the cable franchisee's expense. (Ord. 2000-57s § 2 (part), 2001; Ord. 96-124 § 1 (part), 1997)

**12.34.540 Eminent Domain.**

Nothing herein shall be deemed or construed to impair or affect, in any way or to any extent, the County's power of eminent domain. (Ord. 96-124 § 1 (part), 1997)

**12.34.545 Exclusive Contracts and Anti-Competitive Acts Prohibited.**

- A. No cable franchisee or other multichannel video programming distributor shall enter into or enforce an exclusive contract for the provision of Cable Service or other multichannel video programming with any person, or demand the exclusive right to serve a person or location, as a condition of extending service to that or any other person or location.
- B. No cable franchisee or other multichannel video programming distributor shall engage in acts that have the purpose or effect of limiting competition for the provision of Cable Services or services similar to Cable Service in the County.

(Ord. 96-124 § 1 (part), 1997)

**12.34.550 Cable Franchise Fees.**

Cable franchisees shall be subject to the cable franchise fees, payments and costs provided in their cable franchise and herein. For purpose of cable franchise fees, "Gross revenues" shall mean all revenue derived directly or indirectly by the grantee, its affiliates, subsidiaries, parent and/or any person in which the grantee has a financial interest, from providing cable television services within the County, including, but not limited to, basic subscriber service monthly fees, pay cable fees, installation and reconnection fees, leased channel fees, converter rentals, studio rental, production equipment and personnel fees, and advertising revenues; provided, however, that this shall not include any taxes on services furnished by the grantee which are imposed directly upon any subscriber or user by the State of Washington, local or other governmental unit and collected by the grantee on behalf of said governmental unit. (Ord. 2000-57s § 2 (part), 2001; Ord. 96-124 § 1 (part), 1997)

**ARTICLE VI – CONDITIONS OF GRANT OF FRANCHISE OR CABLE FRANCHISE**

**12.34.600 General Duties.**

- A. All Grantees, before commencing any construction in the rights-of-way shall comply with all requirements of PCC 17B.10.060 B. and Chapter 12.32 PCC.
- B. All Grantees shall provide, upon request, written confirmation sufficient for customary land survey and land title insurance purposes concerning the location of its facilities in rights-of-way and disclaiming any interest in rights-of-way where it has no franchise to construct or operate its facilities.

(Ord. 2000-57s § 2 (part), 2001; Ord. 96-124 § 1 (part), 1997)

**12.34.602 Interference with the Rights-of-Way.**

No Grantee may locate or maintain its Cable or Telecommunications Facilities so as to unreasonably interfere with the use of the rights-of-way by the County, by the general public or other persons authorized to use or be present in or upon the rights-of-way. All such facilities shall be moved by and at the expense of the Grantee, temporarily or permanently, as determined by the County. (Ord. 2002-60 § 1 (part), 2002; Ord. 96-124 § 1 (part), 1997)

**12.34.604 Damage to Property.**

No Grantee or any person acting on a Grantee's behalf shall take any action or permit any action to be done which may impair or damage any rights-of-way, including specifically County Property, real or personal, or Public Ways or other property located in, on or adjacent thereto except in accordance with PCC 12.34.622. (Ord. 2000-57s § 2 (part), 2001; Ord. 96-124 § 1 (part), 1997)

**12.34.606 Notice of Work.**

Unless otherwise provided in a franchise agreement, no Grantee, or any person acting on the Grantee's behalf, shall commence any non-emergency work in or about rights-of-way unless work is conducted in accordance with PCC 12.32.110. Any private property owner whose property will be affected by a Grantee's work shall be afforded ten days advance written notice of such work. (Ord. 2002-60 § 1 (part), 2002; Ord. 2000-57s § 2 (part), 2001; Ord. 96-124 § 1 (part), 1997)

**12.34.608 Repair and Emergency Work.**

In the event of an emergency or an emergency repair necessary to protect the public, restore service or mitigate further damage to the system, a Grantee may commence such repair and emergency response work as required under the circumstances, provided the Grantee shall notify the County Engineer or designee as promptly as possible, before such repair or emergency work or as soon thereafter as possible if advance notice is not practicable, in accordance with PCC 17B.10.060 B. (Ord. 2000-57s § 2 (part), 2001; Ord. 96-124 § 1 (part), 1997)

**12.34.610 Maintenance of Facilities.**

Each Grantee shall maintain its facilities in a good and safe condition and in a manner that complies with all applicable federal, state and local requirements. (Ord. 2000-57s § 2 (part), 2001; Ord. 96-124 § 1 (part), 1997)

**12.34.612 Relocation or Removal of Facilities.**

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

- A. The construction, repair, maintenance or installation of any County or other public improvement in or upon the rights-of-way.
- B. The operations of the County or other governmental entity in or upon the rights-of-way.
- C. The vacation of a street or the release of a utility easement.

(Ord. 2002-60 § 1 (part), 2002; Ord. 2000-57s § 2 (part), 2001; Ord. 96-124 § 1 (part), 1997)

**12.34.614 Removal of Unauthorized Facilities.**

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

- A. Upon expiration or termination of the Grantee's franchise.
- B. Upon abandonment of a facility within the rights-of-way.
- C. If the system or facility was constructed or installed without the prior grant of a franchise.
- D. If the system or facility was constructed or installed without the prior issuance of a required utility right-of-way permit.
- E. If the system or facility was constructed or installed at a location not permitted by the Grantee's franchise.
- F. Any such other reasonable circumstances deemed necessary by the County Engineer or designee.

(Ord. 2002-60 § 1 (part), 2002; Ord. 2000-57s § 1 (part), 2001; Ord. 96-124 § 1 (part), 1997)

**12.34.616 Failure to Relocate.**

If a Grantee is required to relocate, change or alter the Cable or Telecommunications Facilities constructed, operated and/or maintained hereunder and fails to do so, the County may cause such to occur and charge the Grantee for the costs incurred. (Ord. 2002-60 § 1 (part), 2002; Ord. 96-124 § 1 (part), 1997)

**12.34.618 Emergency Removal or Relocation of Facilities.**

The County retains the right and privilege to cut or move any Cable or Telecommunications Facilities located within the rights-of-way as the County may determine to be necessary, appropriate or useful in response to any public health or safety emergency. (Ord. 2002-60 § 1 (part), 2002; Ord. 96-124 § 1 (part), 1997)

**12.34.620 Damage to Grantee's Facilities.**

Unless directly and proximately caused by the willful, intentional or malicious acts of the County, the County shall not be liable for any damage to or loss of any Cable or Telecommunications Facility within rights-of-way as a result of or in connection with any public works, public improvements, construction, excavation, grading, filling, or work of any kind in the rights-of-way by or on behalf of the County. (Ord. 2002-60 § 1 (part), 2002; Ord. 96-124 § 1 (part), 1997)

**12.34.622 Restoration of Rights-of-Way or Other Property.**

Restoration shall comply with the requirements outlined in PCC 12.32.240. (Ord. 2000-57s § 2 (part), 2001; Ord. 96-124 § 1 (part), 1997)

### **12.34.624 Facilities Maps.**

Upon written request from the County Engineer, each Grantee shall provide the County with an accurate as-built map or maps certifying the location of all Cable or Telecommunications Facilities within the County rights-of-way. (Ord. 2002-60 § 1 (part), 2002; Ord. 2000-57s § 2 (part), 2001; Ord. 96-124 § 1 (part), 1997)

### **12.34.626 Duty to Provide Information.**

Within ten days of a written request from the County Engineer or designee, each Grantee shall furnish the County Engineer or designee with information sufficient to demonstrate:

- A. That Grantee has complied with all requirements of this Chapter.
- B. That all fees due the County in connection with the Cable Services and Cable or Telecommunications Facilities provided by the Grantee have been properly collected and paid by the Grantee.
- C. That all books, records, maps and other documents maintained by the Grantee with respect to its facilities within rights-of-way shall be made available for inspection by the County Engineer or designee at reasonable times and intervals.
- D. That "as built" drawings have been completed of the work and are on file with the Grantee.

(Ord. 2002-60 § 1 (part), 2002; Ord. 2000-57s § 2 (part), 2001; Ord. 96-124 § 1 (part), 1997)

### **12.34.628 Leased Capacity.**

Subject to the provisions of PCC 12.34.642, a Grantee shall have the right to offer or provide capacity to another, provided that the proposed lessee or person complies with all of the requirements of this Chapter and furnishes reasonable information upon request to ensure compliance with this Chapter. (Ord. 2002-60 § 1 (part), 2002; Ord. 2000-57s § 2 (part), 2001; Ord. 96-124 § 1 (part), 1997)

### **12.34.630 Grantee Insurance.**

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

- A. Comprehensive general liability insurance with limits not less than:
  1. \$2,000,000.00 for bodily injury or death to each person;
  2. \$2,000,000.00 for property damage resulting from any one accident; and
  3. \$2,000,000.00 for all other types of liability.
- B. Automobile liability for owned, non-owned and hired vehicles with a limit of \$1,000,000.00 for each person and \$3,000,000.00 for each accident.
- C. Workers' compensation within statutory limits and employer's liability insurance with limits of not less than \$1,000,000.00.
- D. Comprehensive form premises-operations, explosions and collapse hazard, underground hazard and products completed operation hazard policies with limits of not less than \$2,000,000.00.

- E. The liability insurance policies required by this Section shall be maintained at all times by the Grantee. Each such insurance policy shall contain the following endorsement:

"It is hereby understood and agreed that this policy may not be canceled nor the intention not to renew be stated until 90 days after receipt by the County, by registered mail, of a written notice addressed to the County Risk Manager of such intent to cancel or not to renew."

- F. Within 60 days after receipt by the County of said notice, and in no event later than 30 days prior to said cancellation, the Grantee shall obtain and furnish to the County replacement insurance policies meeting the requirements of this Chapter.
- G. If Grantee can show to the County Risk Manager's satisfaction that an entity is financially able to self insure the exposures, a substitution for insurance will be considered.

(Ord. 2000-57s § 2 (part), 2001; Ord. 96-124 § 1 (part), 1997)

#### **12.34.632 General Indemnification.**

In addition to and distinct from the insurance requirements of this Chapter, each Grantee hereby agrees to defend, indemnify and hold the County and its officers, officials, employees, agents and representatives harmless from and against any and all damages, losses and expenses, including reasonable attorneys' fees and costs of suit or defense, arising out of, resulting from or alleged to arise out of or result from the acts, omissions, failure to act or misconduct of the Grantee or its affiliates, officers, employees, agents, contractors or subcontractors in the construction, operation, maintenance, repair or removal of its Cable or Telecommunications Facilities, and in providing or offering Cable Services over the facilities or network, whether such acts or omissions are authorized, allowed or prohibited by this Chapter or by a grant agreement made or entered into pursuant to this Chapter. (Ord. 2002-60 § 1 (part), 2002; Ord. 96-124 § 1 (part), 1997)

#### **12.34.634 Performance and Restoration Surety.**

Before a franchise granted pursuant to this Chapter is effective, and as necessary thereafter, the Grantee shall provide and deposit such monies, bonds, letters of credit or other instruments in form and substance acceptable to the County as may be required by this Chapter, or by an applicable franchise or other applicable code, ordinance, or rules and regulations of the County. (Ord. 2000-37s § 2 (part), 2001; Ord. 96-124 § 1 (part), 1997)

#### **12.34.638 Restoration Bond.**

Unless otherwise provided in a franchise, a restoration bond written by a surety acceptable to the County equal to at least 100 percent of the estimated cost of restoration as required as a result of constructing the Grantee's Cable or Telecommunications facilities within rights-of-way shall be deposited before construction is commenced. An applicant's status as a "Utility in Good Standing" pursuant to PCC 12.32.140 may be considered in setting, or reducing below 100 percent of the estimated cost of restoration, the appropriate restoration bond amount.

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

- B. The restoration bond shall guarantee, to the satisfaction of the County:
    - 1. timely completion of restoration;
    - 2. restoration in compliance with applicable plans, permits, technical codes and standards;
    - 3. proper restoration of the facilities as specified by the County; and
    - 4. restoration of the rights-of-way and any other property affected by the construction.
- (Ord. 2002-60 § 1 (part), 2002; Ord. 2000-37s § 2 (part), 2001; Ord. 96-124 § 1 (part), 1997)

**12.34.640 Coordination of Construction Activities.**

All Grantees are required to cooperate with the County and with each other. Therefore, coordination of all work shall be in accordance with Chapter 12.32 PCC and the project coordination provisions contained in the "Manual on Accommodating Utilities in Pierce County Right-of-Way". (Ord. 96-124 § 1 (part), 1997)

**12.34.642 Assignments or Transfers of Grant of Cable Franchise.**

Ownership or control of a Cable Television System or franchise or any part of transmission capacity may not directly or indirectly, be transferred, assigned or disposed of by sale, lease, merger, consolidation, or other act of the Grantee, by operation of law or otherwise, nor may there be a transfer of working control (which includes not only actual control, but also the ability to affect or influence decisions) without the prior written consent of the County, which consent shall not be unreasonably withheld or delayed, as expressed by ordinance and then on such conditions as may be prescribed therein and:

- A. No grant shall be assigned or transferred in any manner within 12 months after the initial grant of the franchise, unless otherwise provided by law.
- B. Absent extraordinary and unforeseeable circumstances, no grant, system or integral part of a system shall be assigned or transferred before construction of the Cable Television System has been completed, unless otherwise provided by law.
- C. The Grantee and the proposed assignee or transferee of the grant or system shall provide and certify the following information to the County Executive or designee.
  - 1. Information setting forth the nature, terms and conditions of the proposed transfer or assignment;
  - 2. All information required of a franchise applicant pursuant to this Chapter with respect to the proposed transferee or assignee;
  - 3. All information required by federal, state and local law or regulation. [For Example, Federal Communication Commission Form 394];
  - 4. Any other information reasonably required by the County Executive or designee. If the County requests a copy of the deed, agreement, or other written instrument from the Grantee evidencing such sale, merger, consolidation, or other instrument evidencing transfer of actual or working control, such document may be redacted to delete monetary compensation terms. However, this provision does not limit or waive the County's authority to require disclosure of monetary compensation terms or other financial information from the transferee or assignee prior to County consent in order to evaluate its financial condition and ability to meet its compliance obligations under this Chapter and any franchise agreement.
- D. No transfer shall be approved unless the assignee or transferee has the legal, technical, financial, and other qualifications in County's reasonable discretion to own, hold and operate the Cable Television System pursuant to this Chapter.

- E. The Grantee shall reimburse the County for all direct and indirect fees, costs and expenses incurred by the County in considering a request to transfer ownership in or assign a franchise.
- F. Any transfer of ownership in or assignment of a franchise, system or integral part of a system without prior approval of the County under this Chapter shall be void and is cause for revocation of the grant.
- G. Upon receipt of all information required herein, and any other information required by the County, the County shall have 120 days to review and approve or deny the requested assignment or transfer, unless such period is extended by agreement of the County and Grantee.

(Ord. 2002-60 § 1 (part), 2002; Ord. 2000-57s § 2 (part), 2001; Ord. 96-124 § 1 (part), 1997)

#### **12.34.644 Transactions Affecting Control of Grant of Cable Franchise.**

Unless otherwise provided in the franchise, any transaction which results in any change of the ownership or in any manner the working control of the Grantee, of the ownership or working control of a franchise, of the ownership or working control of affiliated entities having ownership or working control of the Grantee or of a Cable Television System, or of control of the capacity or bandwidth or any part of the transmission capacity of the Grantee's Cable Television System, Facilities or any parts thereof, all defined as 5 percent or more ownership or control, shall be considered an assignment or transfer requiring County approval hereunder. Transactions between wholly owned subsidiaries or affiliated entities are exempt from County approval. (Ord. 2002-60 § 1 (part), 2002; Ord. 96-124 § 1 (part), 1997)

#### **12.34.646 Revocation or Termination of Grant.**

A franchise granted by the County to use or occupy rights-of-way may be revoked for any one or more of the following reasons:

- A. Construction or operation at an unauthorized location.
- B. Unauthorized transfer of control of the Grantee of a cable franchise.
- C. Unauthorized assignment of a cable franchise.
- D. Unauthorized sale, assignment or transfer of the Grantee's cable franchise assets or an interest therein.
- E. Misrepresentation by or on behalf of a Grantee in any application to the County.
- F. Abandonment of Telecommunications Facilities in the rights-of-way.
- G. Failure to relocate or remove facilities as required in this Chapter.
- H. Failure to pay taxes, compensation, fees or costs when and as due the County.
- I. Insolvency or bankruptcy of the Grantee.
- J. Violation of a material provision of this Chapter.
- K. Violation of a material term of a franchise.

(Ord. 2002-60 § 1 (part), 2002; Ord. 96-124 § 1 (part), 1997)

#### **12.34.648 Notice and Duty to Cure.**

In the event that the County Executive or designee believes that grounds exist for revocation of a franchise, the Grantee shall be given written notice of the apparent violation or noncompliance, be provided a short and concise statement of the nature and general facts of the violation or noncompliance, and be given a reasonable period of time not exceeding 30 days to furnish evidence:

- A. That corrective action has been, or is being actively and expeditiously pursued, to remedy the violation or noncompliance.

- B. That rebuts the alleged violation or noncompliance.
- C. That it would be in the public interest to impose some monetary damages, penalty or sanction less than revocation.

(Ord. 2000-57s § 2 (part), 2001; Ord. 96-124 § 1 (part), 1997)

#### **12.34.650 Hearing.**

In the event that a Grantee fails to provide evidence reasonably satisfactory to the County Executive or designee as provided hereunder, the County Executive or designee shall refer the apparent violation or noncompliance to the Pierce County Hearing Examiner. The Pierce County Hearing Examiner shall provide the Grantee with notice and a reasonable opportunity to be heard concerning the matter. (Ord. 2000-57s § 2 (part), 2001; Ord. 96-124 § 1 (part), 1997)

#### **12.34.652 Standards for Revocation or Lesser Sanctions.**

If persuaded that the Grantee has violated or failed to comply with a material provision of this Chapter or of a franchise or applicable codes, ordinances, statutes, rules, or regulations, the Pierce County Hearing Examiner shall determine whether to revoke the franchise, and issue a written decision relating thereto, or to establish some monetary damages, penalty, lesser sanction and cure, considering the nature, circumstances, extent and gravity of the violation as reflected by one or more of the following factors:

- A. Whether the misconduct was egregious.
- B. Whether substantial harm resulted.
- C. Whether the violation was intentional.
- D. Whether there is a history of prior violations of the same or other requirements.
- E. Whether there is a history of overall compliance.
- F. Whether the violation was voluntarily disclosed, admitted or cured.

(Ord. 2000-57s § 2 (part), 2001; Ord. 96-124 § 1 (part), 1997)

## **ARTICLE VII – CONSTRUCTION**

#### **12.34.700 Construction Standards.**

No person shall commence or continue with the construction, installation or operation of Cable or Telecommunications Facilities within the County except as provided in Chapter 12.32 PCC. (Ord. 2002-60 § 1 (part), 2002; Ord. 2000-57s § 2 (part), 2001; Ord. 96-124 § 1 (part), 1997)

#### **12.34.705 Construction Codes.**

Cable or Telecommunications Facilities shall be constructed, installed, operated and maintained in accordance with all applicable federal, state and local codes, rules and regulations including, but not limited to, the National Electrical Safety Code. (Ord. 2002-60 § 1 (part), 2002; Ord. 96-124 § 1 (part), 1997)

#### **12.34.710 Utility Right-of-Way Permits.**

No person shall construct or install any Cable or Telecommunications Facilities within the County without first obtaining a utility right-of-way permit therefore, provided, however:

- A. No permit shall be issued for the construction or installation of Cable or Telecommunications Facilities within the County unless the Grantee has filed a registration statement with the County pursuant to this Chapter.

- B. No permit shall be issued for the construction or installation of Cable or Telecommunications Facilities in rights-of-way unless the Grantee has applied for and received a franchise pursuant to this Chapter.
- C. No permit shall be issued for the construction or installation of Cable or Telecommunications Facilities without payment of all fees pursuant to this Chapter.

(Ord. 2002-60 § 1 (part), 2002; Ord. 96-124 § 1 (part), 1997)

#### **12.34.715 Applications.**

Applications for permits to construct Cable or Telecommunications Facilities shall be submitted in accordance with Chapter 12.32 PCC. The applicant shall pay all associated fees and shall include any additional information necessary to process the permit as requested by the County Executive or designee. The application shall be accompanied by drawings, plans, and specifications in sufficient detail to demonstrate:

- A. That the facilities will be constructed in accordance with all applicable codes, rules and regulations.
- B. The location and route of all facilities to be installed on existing utility poles.
- C. The location and route of all facilities to be located under the surface of the ground, including the line and grade proposed for the burial at all points along the route which are within the rights-of-way.
- D. The location of all other facilities to be constructed within the County, but not within rights-of-way.
- E. The construction methods to be employed for protection of existing structures, fixtures and facilities within or adjacent to rights-of-way.

(Ord. 2002-60 § 1 (part), 2002; Ord. 2000-57s § 2 (part), 2001; Ord. 96-124 § 1 (part), 1997)

#### **12.34.720 Construction Surety.**

Prior to issuance of a utility right-of-way permit, the permittee shall provide a restoration bond, as provided in PCC 12.34.638. (Ord. 2000-57s § 2 (part), 2001; Ord. 96-124 § 1 (part), 1997)

#### **12.34.725 Location of Facilities.**

Unless otherwise specified in a franchise or cable franchise, all facilities shall be constructed, installed and located in accordance with the following terms and conditions:

- A. Cable or Telecommunications Facilities shall be installed within an existing County owned underground duct or conduit whenever Excess Capacity exists. Otherwise, installation of such facilities shall be done using methods consistent with the standards, codes, and regulations applicable to the type of facilities being installed and Pierce County's "Manual on Accommodating Utilities in Pierce County Right-of-Way".
- B. A franchisee with written authorization to install Overhead Facilities shall install its facilities on pole attachments to existing utility poles only, and then only if Surplus Space is available. Installation of new poles may be approved by the County Engineer on a case-by-case basis.
- C. Whenever all existing telephone, electric utilities, cable facilities and Cable or Telecommunications Facilities are located underground within rights-of-way a restricted franchisee with written authorization to occupy the same rights-of-way must also locate its Telecommunications Facilities underground.

- D. Whenever all new or existing telephone, electric utilities, cable facilities and Telecommunications Facilities are located or relocated underground within rights-of-way, a franchisee that currently occupies the same rights-of-way shall concurrently relocate its facilities underground at its expense.

(Ord. 2002-60 § 1 (part), 2002; Ord. 96-124 § 1 (part), 1997)

#### **12.34.730 Conduit Occupancy.**

In furtherance of the public purpose of reduction of right-of-way excavation, it is the goal of the County to encourage both the shared occupancy of underground conduit as well as the construction, whenever possible, of excess conduit capacity for occupancy of future right-of-way occupants. (Ord. 2002-60 § 1 (part), 2002; Ord. 96-124 § 1 (part), 1997)

#### **12.34.735 Franchisee Occupancy of County Owned Conduit.**

If the County owns conduit in the path of Franchisee's proposed Cable or Telecommunications Facilities, and provided it is technologically feasible for Franchisee to occupy the conduit owned by County, Franchisee shall be required to occupy the conduit owned by the County in order to reduce the necessity to excavate the right-of-way. Franchisee shall pay to the County a fee for such occupancy which shall be the cost Franchisee would have expended to construct its own conduit from the outset, as certified by the Franchisee's engineer and approved by the County Engineer. The County and the Franchisee may agree to amortize the fee through annual payments to the County over the term of the Franchise, including the time value of money. (Ord. 2002-60 § 1 (part), 2002; Ord. 96-124 § 1 (part), 1997)

### **ARTICLE VIII – FEES**

#### **12.34.810 Application and Review Fee.**

Any applicant for a franchise pursuant to this Chapter shall pay an application review and processing fee pursuant to PCC 12.32.070. This fee covers the costs incurred by the Pierce County Department of Public Works and Utilities in reviewing and processing a franchise application. (Ord. 2000-57s § 2 (part), 2001; Ord. 96-124 § 1 (part), 1997)

#### **12.34.850 Reserved Compensation for Use of Rights-of-Way.**

The County reserves its right to fix a fair and reasonable compensation to be paid for the authorization granted to a Grantee. Nothing in this Chapter shall prohibit the County and a Grantee from agreeing to said compensation. (Ord. 2000-57s § 2 (part), 2001; Ord. 96-124 § 1 (part), 1997)

#### **12.34.860 Compensation for County Property.**

If the right is granted by lease, franchise or other manner, to use and occupy County Property for the installation or use of Cable or Telecommunications Facilities, the compensation to be paid shall be fixed solely by the County. (Ord. 2002-60 § 1 (part), 2002; Ord. 2000-57s § 2 (part), 2001; Ord. 96-124 § 1 (part), 1997)

#### **12.34.865 Standards Adopted.**

The "Manual on Accommodating Utilities in Pierce County Right-of-Way," 4th Edition, as published by the Pierce County Engineer is adopted as the policy for the construction, installation, maintenance, and operation of all utilities in Pierce County right-of-way. (Ord. 2004-71 § 2, 2004)

**12.34.870 Utility Right-of-Way Permit Fee.**

Prior to issuance of a utility right-of-way permit, the permittee shall pay a permit fee in accordance with PCC 12.32.130. (Ord. 2000-57s § 2 (part), 2001; Ord. 96-124 § 1 (part), 1997)

**12.34.880 Regulatory Fees and Compensation Not a Tax.**

The regulatory fees and costs provided for in this Chapter, and any compensation charged and paid for use of rights-of-way provided for herein, are to the extent provided by law, separate from, and additional to, any and all federal, state, local and County taxes as may be levied, imposed or due from a Cable or Telecommunications Carrier or Provider, its customers or subscribers, or on account of the lease, sale, delivery or transmission of Cable Services. (Ord. 2002-60 § 1 (part), 2002; Ord. 96-124 § 1 (part), 1997)

<b>ARTICLE IX – MISCELLANEOUS</b>
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**12.34.900 Context.**

When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number.

This Chapter shall be in full force and effect from and after its passage, approval and publication in form as provided by law.

(Ord. 2000-57s § 2 (part), 2001; Ord. 96-124 § 1 (part), 1997)



*Chapter 12.40*

***REFUSE ON RIGHT-OF-WAY***

**Sections:**

- 12.40.010 Vehicles – Escape of Load.**
- 12.40.020 Unlawful to Deposit Material on Right-of-Way.**
- 12.40.030 Identification of Owner – Evidence of Dumping Material.**
- 12.40.040 Violation – Penalty.**

**12.40.010 Vehicles – Escape of Load.**

No vehicle shall be driven or moved on an public highway of Pierce County unless such vehicle is so constructed or loaded as to prevent any of its load from dropping, sifting, leaking or otherwise escaping therefrom, except that sand may be dropped for the purpose of securing traction, or water may be sprayed on roadways in the cleaning and maintaining of such roadways by public authority having such jurisdiction. Any person operating a vehicle from which any objects have fallen or escaped shall immediately cause the highway to be cleaned of all such objects. (Ord. 84-123 § 1 (part), 1984; prior Code § 46.15.010)

**12.40.020 Unlawful to Deposit Material on Right-of-Way.**

It is unlawful for any person to deposit or allow to be deposited any material upon any public right-of-way of Pierce County or upon private or public property adjoining the highway on either side of the right-of-way, except at duly designated dumping places as set out and so marked and authorized by the County Council or otherwise permitted by the owners of adjoining private property or by constituted public authority. Any person violating this Section shall be responsible for the removal of the material within 24 hours of the receipt of written notice from Pierce County. If the materials are not removed within 24 hours, the violator shall be responsible for all costs incurred by Pierce County in removing the materials. (Ord. 84-123 § 1 (part), 1984; prior Code § 46.15.020)

**12.40.030 Identification of Owner – Evidence of Dumping Material.**

Identification of the owner and location of any material of any nature found upon private or public property adjoining or on any public highway of this County shall be considered as prima facie evidence of its having been illegally deposited upon the public or private property or public highway by the identified owner of the material, as designated in Section 12.40.020. (Ord. 84-123 § 1 (part), 1984; prior Code § 46.15.040)

**12.40.040 Violation – Penalty.**

Any violation of the provisions of this Chapter shall constitute a misdemeanor. (Ord. 84-123 § 1 (part), 1984; prior Code § 46.15.050)



*Chapter 12.42*

***ADOPT-A-ROAD LITTER CONTROL PROGRAM***

**Sections:**

- 12.42.010 Purpose and Intent.**
- 12.42.020 Definitions.**
- 12.42.030 Volunteer Organization Eligibility Requirements.**
- 12.42.040 Program Requirements.**
- 12.42.050 Rights and Activities of Adjacent Landowners.**
- 12.42.060 Severability.**

**12.42.010 Purpose and Intent.**

It is the purpose and intent of the Pierce County Council to establish a Pierce County Adopt-A-Road Litter Control Program to enable volunteer organizations to supplement county litter control efforts by allowing such volunteer organizations to adopt portions of county roads for the purpose of picking up litter along such roads. This partnership between the County and volunteer organizations is further intended to reduce roadside litter and build civic pride in attaining the goal of a litter free Pierce County. (Ord. 92-119S § 1 (part), 1992)

**12.42.020 Definitions.**

- A. "Adopt-A-Road Agreement" means a contractual agreement between Pierce County and a volunteer organization that delineates the obligations and responsibilities of both parties.
- B. "Department" means the Pierce County Department of Public Works.
- C. "Director" means the Director of Public Works, or the director's designee.
- D. "Volunteer organization" means any organization empowered by law to enter into contractual agreements which volunteers to participate in the Adopt-A-Road Litter Control Program.
- E. "Solid Waste Division" means the Solid Waste Division of the Department of Public Works and Utilities, or successor organization, responsible for solid waste management planning pursuant to RCW 70.95.

(Ord. 99-36S § 2 (part), 1999; Ord. 92-119S § 1 (part), 1992)

**12.42.030 Volunteer Organization Eligibility Requirements.**

- A. Any volunteer organization may apply to participate in the Adopt-A-Road Litter Control Program. The Director shall determine eligibility. A volunteer organization shall not be eligible to participate in the Adopt-A-Road Litter Control Program if the name of the volunteer organization:
  - 1. Endorses or opposes a particular candidate for public office;
  - 2. Advocates a position on a specific political issue, initiative, referendum, or piece of legislation; or
  - 3. Includes a reference to a political party.

- B. Any eligible volunteer organization wanting to participate in the Adopt-A-Road Litter Control Program shall execute an Adopt-A-Road Agreement with Pierce County, which delineates the obligations, responsibilities, and terms and conditions governing both parties. The Adopt-A-Road Agreement shall be consistent with the requirements of PCC 12.42.040.

(Ord. 92-119S § 1 (part), 1992)

**12.42.040 Program Requirements.**

- A. In administering the Adopt-A-Road Litter Control Program, the department shall:
  - 1. Provide a standardized application form, registration form, and contractual agreement for all volunteer groups. Such forms shall notify the prospective participants of the risks and responsibilities to be assumed by either the department and/or the volunteer groups;
  - 2. Require all volunteers to be at least 15 years of age;
  - 3. Require parental consent for all minors;
  - 4. Require at least one volunteer adult supervisor for every eight minors;
  - 5. Require one designated leader for each volunteer organization;
  - 6. Assign each volunteer organization a section of county road for a specified period of time;
  - 7. Recognize the efforts of a participating organization by erecting and maintaining signs with the organization's name on both ends of the organization's section of roadway;
  - 8. Provide on loan: two "Volunteer Litter Crew Ahead" signs for each volunteer organization; safety vests, and safety caps for each member of the volunteer organization. A refundable deposit for signs, vests and caps may be required by the department. All equipment issued to volunteer organizations by the Department must be returned to the Department after each use for reuse by other volunteer groups;
  - 9. Provide safety training for all volunteers;
  - 10. Pay appropriate insurance premiums or assessments required by Pierce County Risk Management and Insurance Department for all volunteers participating in the program;
  - 11. Maintain records of all injuries and accidents that are reported by the volunteer organization to the department;
  - 12. Obtain permission from property owners who lease right-of-way from the County before allowing a volunteer organization to adopt a section of roadway on such leased property.
- B. If the Solid Waste Division refers a volunteer organization or individual to the Department pursuant to PCC 8.31.060 D., the following provisions apply:
  - 1. The Department may authorize the volunteer organization or individual to collect litter from along the roadside on a limited basis if the section of the road is not already included within the Adopt-a-Road Litter Control Program;
  - 2. The requirements of PCC 12.42.040 A.1. through 6. and 8. through 12. shall continue to apply to the volunteer organization or individual.
  - 3. The requirement of PCC 12.42.040 A.7. shall not apply.

4. The Department and the Solid Waste Division will enter into a written agreement pursuant to PCC 8.31.050 A. to coordinate activity required by this Section. (Ord. 99-36S § 2 (part), 1999; Ord. 92-119S § 1 (part), 1992)

**12.42.050 Rights and Activities of Adjacent Landowners.**

Nothing in this Chapter affects the rights or activities of, or agreements with, adjacent landowners, including the use of rights of way and crossings, nor impairs these rights and uses by the placement of signs. (Ord. 92-119S § 1 (part), 1992)

**12.42.060 Severability.**

If any provision of this Chapter, or its application to any person or legal entity or circumstances is held invalid, the remainder of this Chapter or the application of its provisions to other persons or legal entities or circumstances shall not be affected. (Ord. 92-119S § 1 (part), 1992)



*Chapter 12.44*

***PARADES, MOTORCADES, RUNS AND ASSEMBLIES***

**Sections:**

- 12.44.010**     **Definitions.**
- 12.44.020**     **Application Submittal.**
- 12.44.030**     **Private Profit Prohibited.**
- 12.44.040**     **Insurance Required.**
- 12.44.050**     **Performance Bond.**
- 12.44.060**     **Application Review.**
- 12.44.070**     **Approval/Denial of Application.**
- 12.44.080**     **Appeal Procedure.**
- 12.44.090**     **Officials to be Notified.**
- 12.44.100**     **Revocation of Permit.**

**12.44.010 Definitions.**

As used in this Chapter:

- A. "A private/commercial purpose" exists when the sole purpose of the sponsor of an assembly, motorcade, parade or run is to advertise a product, person or event and the event is designed to be held purely for private profit, except political and religious events.
- B. "Assembly" means a gathering of people for the purpose of presenting or viewing an exhibition, theatrical presentation, dance, fundraising event or other authorized public event, except political and religious events, held on any public street, highway, alley, sidewalk or publicly owned parking lot.
- C. "Motorcade" means an organized procession containing ten or more motor vehicles, except funeral processions, upon any public street, highway, sidewalk, alley, or publicly owned parking lot.
- D. "Parade" means a march or procession consisting of people, animals, bicycles, vehicles, or any combination thereof except funeral processions, upon any public street, highway, sidewalk, alley or publicly owned parking lot which does not comply with normal and usual traffic regulations or controls.
- E. "Run" means an organized racing event comprised of ten or more persons on foot, bicycles, wheelchairs, beds, or any other nonmotorized vehicles or combinations thereof upon a public street, highway, sidewalk, alley or publicly owned parking lot.

(Ord. 2008-88 § 1 (part), 2008; Ord. 84-144 § 1 (part), 1984; prior Code § 8.24.010)

**12.44.020 Application Submittal.**

Any individual or organization planning any parade, motorcade, run or assembly which will or may disrupt normal traffic flow or usage of any public street, highway, sidewalk, alley or publicly owned parking lot within Pierce County, shall obtain a permit from Pierce County. The permit application shall be submitted no less than 90 days prior to the start of the event unless the 90-day time period is reduced by the Executive due to unusual circumstances. The application shall be on a form provided by Pierce County and shall include, but not be limited to, the following:

- A. The name and address of the sponsoring organization;

- B. The name, address and telephone number of person or persons in charge of the event;
- C. The nature and purpose of the event;
- D. Estimated number of persons, participants, vehicles and spectators;
- E. The number of persons and/or vehicles furnished by the sponsoring organization to patrol the event;
- F. A time schedule and description of the event or events;
- G. A map or scale drawing showing the boundaries of the event, the route of the event, the direction of travel, and all areas to be utilized by participants, officials and spectators of the event.

(Ord. 84-144 § 1 (part), 1984; prior Code § 8.24.020)

#### **12.44.030 Private Profit Prohibited.**

No permit shall be issued for a parade, motorcade, run or public assembly to be held for private/commercial purposes. (Ord. 84-144 § 1 (part), 1984; prior Code § 8.24.030)

#### **12.44.040 Insurance Required.**

The person or organization sponsoring the parade, motorcade, run or public assembly shall, prior to obtaining authorization from the County Executive, provide a certificate of insurance showing that the person or organization has obtained public liability and property damage insurance in amounts not less than the minimum set by the Executive. Pierce County shall be named as an additional insured and shall be notified by the insurer at least 20 days prior to the cancellation of this insurance. (Ord. 84-144 § 1 (part), 1984; prior Code § 8.24.040)

#### **12.44.050 Performance Bond.**

No permit shall be issued for any parade, motorcade, run or assembly until the permittee shall file with Pierce County a bond to pay for any costs reasonably anticipated to be incurred in removing debris, litter or papers from the street, highway, sidewalk, alley, or publicly owned parking lot as a result of the parade, motorcade, run or public assembly, provided that the Executive may make a specific finding that such a bond is not necessary for a specific event and waive the bond. (Ord. 84-144 § 1 (part), 1984; prior Code § 8.24.050)

#### **12.44.060 Application Review.**

Each application for permit to hold a parade, motorcade, run or assembly shall, when applicable, be reviewed by the Sheriff's Department, Parks Department, Risk Management and Public Works Department to determine compliance with the following requirements:

- A. The proposed parade, motorcade, run or assembly will not jeopardize life and/or property;
- B. The event as described on the application requires no supervision or patrol; or the event requires supervision or patrol and the application adequately describes the method of providing same without cost or participation from the County.

(Ord. 84-144 § 1 (part), 1984; prior Code § 8.24.060)

#### **12.44.070 Approval/Denial of Application.**

- A. The Executive shall approve, approve as amended, or disapprove all applications not less than 45 days prior to the proposed event.

- B. As a condition of approval, the sponsor may be required to post notice in a local newspaper and/or at the proposed site of the event. The Executive may close for general use any public street, highway, alley, sidewalk or publicly owned parking lot in whole or in part, for the purpose of the event.
- C. A permit may be denied upon a finding that:
  - 1. The time, route and size of the assembly, motorcade, parade or run will disrupt to an unreasonable extent the movement of other traffic;
  - 2. The assembly, motorcade, parade or run is of a size or nature that requires the diversion of so great a number of sheriff's deputies of the County to properly police the line of movement and the areas contiguous thereto that allowing the assembly, motorcade, parade or run would deny reasonable sheriff's protection to the County;
  - 3. Such assembly, motorcade, parade or run will interfere with another assembly, motorcade, parade or run for which a permit has been issued.

(Ord. 84-144 § 1 (part), 1984; prior Code § 8.24.070)

#### **12.44.080 Appeal Procedure.**

The applicant may appeal the denial of an application made pursuant to this Chapter within five days of the denial by filing written notice of appeal with the Pierce County Hearing Examiner. The Hearing Examiner shall set a hearing date within 12 days of written notice of appeal. Upon such appeal and according to the procedures set forth in Chapter 1.22 PCC, the Hearing Examiner may reverse, confirm or modify in any regard the determination of the Executive. (Ord. 2008-88 § 1 (part), 2008; Ord. 84-144 § 1 (part), 1984; prior Code § 8.24.080)

#### **12.44.090 Officials to be Notified.**

Immediately upon the granting of a permit for a parade, motorcade, run or public assembly, the Executive shall send a copy thereof to the Sheriff's Department, Public Works and Utilities, Risk Management and other appropriate agencies such as local fire districts and the Washington State Patrol. (Ord. 2008-88 § 1 (part), 2008; Ord. 84-144 § 1 (part), 1984; prior Code § 8.24.090)

#### **12.44.100 Revocation of Permit.**

Any permit for a parade, motorcade, run or public assembly issued pursuant to this Chapter may be summarily revoked by the Executive at any time the Executive determines that public safety and protection of property requires such revocation. Notice of such action revoking a permit shall be delivered in writing to the permittee by personal service or certified mail at the address specified by the permittee in his application. (Ord. 84-144 § 1 (part), 1984; prior Code § 8.24.100)



*Chapter 12.48*

***STREET BANNERS***

**Sections:**

- 12.48.010 Permit – Required.**
- 12.48.020 Permit – When Authorized.**
- 12.48.030 Permit – Application – Liability Insurance.**
- 12.48.040 Permit – Conditions.**
- 12.48.050 Violation – Penalty.**

**12.48.010 Permit – Required.**

It is unlawful for any person, firm or corporation to erect or maintain any street banner or decoration over or across the roadway portion of any County road or alley except when authorized by a special temporary street banner permit issued pursuant to a proper application and subject to the conditions and regulations stated in this Chapter. (Prior Code § 35.16.010)

**12.48.020 Permit – When Authorized.**

The County Engineer is authorized to issue a special temporary street banner permit for the temporary erection of street banners or decorations used to advertise or promote projects of community or sectional or regional fairs or celebrations, Christmas decorations or projects of community clubs or other affairs that may be of interest to the entire community. (Prior Code § 35.16.020)

**12.48.030 Permit – Application – Liability Insurance.**

- A. Before any special temporary street banner permit shall be issued, the applicant shall file an application for the same with the County Engineer, together with a detailed plan of the proposed street banner showing its location, size, height above roadway, materials of construction, size of supporting cables and anchors, and the proposed wording and/or display of the banner; provided, however, that a special temporary street banner permit may be issued for the erection of Christmas or similar decorations without a detailed plan when a general description of the decorations and their method of support is filed with the application.
- B. Before any special temporary street banner permit shall be issued, the applicant must file with the County Engineer a Certificate of Insurance issued by a company authorized to do business in the State of Washington, naming Pierce County as an additional insured with minimum public liability bodily injury limits of \$500,000.00 per person and per occurrence and minimum property damage limits of \$250,000.00 per occurrence that will protect the applicant and Pierce County for injury, death or damage arising out of any one accident or occurrence caused by the erection or maintenance of such street banner or decoration. The Certification of Insurance must be approved by the Risk Management and Insurance Department.

(Ord. 91-51 § 1, 1991; prior Code § 35.16.030)

**12.48.040 Permit – Conditions.**

Any special temporary street banner permit issued pursuant to this Chapter shall be subject to the following regulations, in addition to any specially recommended by the County Engineer after studying the plan:

- A. Such street banners or decorations shall not advertise or promote the sale of any product or commodity.
- B. The street banners or decorations shall be erected and maintained with a minimum clearance of 20 feet from the road below.
- C. The street banners or decorations shall not interfere with the clear view of any traffic light or traffic control sign or device.
- D. A special temporary street banner permit shall be valid only for a period of 15 days following the date of issuance; provided, however, that the County Engineer may extend the time, not more than 30 days, if inspection indicates that the original installation of the banner and the condition of the banner is safe for continued use.
- E. Such street banners shall be constructed from a good grade of canvas or similar material that will not stretch or distort out of shape. They shall be supported by steel cables of sufficient size to safely support a wind load of 30 pounds per square foot of exposed area. Such cable shall be anchored to safely carry the loads imposed. They shall not be anchored to any fire escape, existing sign, utility pole, window frame or parapet wall.

(Prior Code § 35.16.040)

**12.48.050 Violation – Penalty.**

Any person who violates or fails to comply with any of the provisions of this Chapter is guilty of a misdemeanor. (Prior Code § 35.16.050)

*Chapter 12.50*

***ENFORCEMENT***

**Section:**

**12.50.010 General Enforcement Provisions.**

**12.50.010 General Enforcement Provisions.**

It shall be the duty of the Public Works and Utilities Department to enforce the provisions of Pierce County Code 12.28.010 A. (Ord. 2008-56s § 2, 2008)