

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 permission is presumed for signs meeting the requirements of PCC 18B.10.030 B.2.m. but permission may be retracted without notice by the County Engineer or their designee upon examination of said signs*; provided further, 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.

Code Revisor's Note: Ordinance No. 2008-56s adopted interim regulations as shown by the italicized language in this Section. These interim regulations will sunset on April 1, 2009, unless reauthorized by the Pierce County Council.

(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)