

CITY OF FIFE, WASHINGTON

ORDINANCE NO. 1935

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FIFE, PIERCE COUNTY, WASHINGTON, ADDING A NEW CHAPTER 12.09 TO THE FIFE MUNICIPAL CODE TITLED “WORK WITHIN PUBLIC RIGHT OF WAY” AND REPEALING CHAPTER 12.08 OF THE FIFE MUNICIPAL CODE

WHEREAS, the City of Fife has the authority under its police power to regulate work with public rights of way within the City; and

WHEREAS, the City’s right of way use permit regulations were adopted in 1963 and codified in FMC Chapter 12.08; and

WHEREAS, the City desires to update its right of way use regulations and include specific standards for work in the right of way, and additional protections for the City when other entities work in City right of way; now therefore,

THE CITY COUNCIL OF THE CITY OF FIFE, PIERCE COUNTY, WASHINGTON DO ORDAIN AS FOLLOWS:

Section 1. A new chapter 12.09 is hereby added to the Fife Municipal Code to read as follows:

**Chapter 12.09
WORK WITHIN PUBLIC RIGHT-OF-WAY**

Sections:

- 12.09.010 Definitions.
- 12.09.020 Right of Way Work Permit.
- 12.09.030 Application.
- 12.09.040 Permit Fees.
- 12.09.060 Surety Bond.
- 12.09.070 Traffic Control.
- 12.09.080 Clearance for Fire Equipment.
- 12.09.090 Protection of Traffic.
- 12.09.100 Removal and Protection of Utilities.
- 12.09.110 Protection of Adjoining Property.

- 12.09.120 Sidewalk Excavations.
- 12.09.130 Protective Measures.
- 12.09.140 Care of Excavated Material.
- 12.09.150 Damage to Existing Improvements.
- 12.09.160 Property Lines and Easements.
- 12.09.170 Clean-up.
- 12.09.180 Protection of Water Courses.
- 12.09.190 Breaking Through Pavement.
- 12.09.200 Tunnels.
- 12.09.210 Back-Filling.
- 12.09.220 Back-Filling by Water Settling.
- 12.09.230 Dry Back-Filling.
- 12.09.240 Back-Fill Material.
- 12.09.250 Restoration of Surface.
- 12.09.260 City's Right to Restore Surface.
- 12.09.270 Trenches in Pipe Laying.
- 12.09.280 Prompt Completion of Work.
- 12.09.290 Urgent Work.
- 12.09.300 Emergency Action.
- 12.09.310 Noise, Dust and Debris.
- 12.09.320 Preservation of Monuments.
- 12.09.330 Inspections.
- 12.09.340 Maintain Drawings.
- 12.09.350 Chapter Not Applicable To City Work.
- 12.09.360 Insurance.
- 12.09.370 Liability of City.

12.09.010 Definitions.

For the purpose of this chapter, the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

(1) "Applicant" is any person making written application to the City Engineer for a right of way work permit hereunder.

(2) "Construction Debris" means and includes mud, dirt, dust, stumps and vegetation, and shall also include all construction materials including but not be limited to lumber, concrete, sheet rock, masonry, rock, roofing materials, containers and packaging for construction materials and other material used in or arising out of a construction activity.

(3) "Right of Way Work" is the excavation and other work permitted under a right of way work permit and required to be performed under this chapter.

(4) "Permittee" is any person who has been granted and has in full force and effect an excavation permit issued hereunder.

(5) "Person" is any person, firm, partnership, association, corporation, company or organization of any kind.

(6) "Right of way" is any street, highway, sidewalk, alley, avenue, easement made to the City for public use, or other public way or public grounds in the City.

12.09.020 Right of Way Work Permit.

It shall be unlawful for any person to dig up, break, excavate or cause to be made any excavation in or under the surface of the right of way, tunnel, undermine or in any manner obstruct or interfere with the free use of the right of way, unless such person shall first have obtained a right of way work permit therefore from the City Engineer as herein provided.

12.09.030 Application.

No right of way work permit shall be issued unless a written application for the issuance of a right of way work permit is submitted to the City Engineer. The written application shall state the name and address of the applicant, the nature, location and purpose of the work, the date of commencement and date of completion of the work, and other data as may reasonably be required by the City Engineer. The application shall be accompanied by plans showing the extent of the proposed work, location of the work, the dimensions and elevations of both the existing ground prior to any excavation and of the proposed excavated surfaces, and such other information as may be prescribed by the City Engineer.

12.09.040 Permit Fees.

A fee for a right of way work permit is as set forth in the city's current fee schedule. The current fee schedule is available at Fife City Hall and at the city of Fife's website. In addition, all applicants will be required to pay for all actual costs of engineering, legal and other professional services performed by city staff or an independent contractor for the city for the processing and/or review of a right of way work permit application, and for project inspection and compliance review after permit issuance. The hourly fee shall be the base salary or contract fee of the engineer or other professional, plus benefits and administrative costs and overhead. An estimate of the cost will be made by the city at the time of application. If the actual cost of processing the application exceeds the estimate, the balance shall be paid prior to issuance of a notice of decision or the project permit. If the actual cost of processing the permit is less than the estimate, a refund shall be provided. Fees for project inspection and compliance review shall be paid within thirty days from date of invoice.

12.09.060 Surety Bond.

Before a right of way work permit as herein provided is issued, the applicant shall deposit with the City Clerk a surety bond in the sum of \$10,000 or 125 percent of the

anticipated cost of the restoration and 24 month maintenance, whichever is greater, payable to the City. The required surety bond must be:

- (a) With good and sufficient surety;
- (b) By a surety company authorized to transact business in the state;
- (c) Satisfactory to the City Attorney in form and substance;
- (d) Conditioned upon the permittee's compliance with this chapter to fill

up, restore and place in good and safe condition as near as may be to its original condition, and to the satisfaction of the City Engineer, all openings and excavations made in the right of way, and to maintain any right of way where excavation is made in as good condition for the period of 24 months after said work shall have been done, usual wear and tear expected, as it was in before said work shall have been done. Any settlement of the surface within said 24 month period shall be deemed conclusive evidence of defective back-filling by the permittee. Nothing herein contained shall be construed to require the permittee to maintain any repairs to pavement made by the City if such repairs should prove defective. Any owner of real estate repairing or engaging another to repair his own sidewalk shall not be required to give such bond. A continuous bond may be given under this provision, in the amount of \$25,000 and in other respects as specified above but applicable as to all excavation work in the right of way by the principle in such bond during the term of the bond.

12.09.070 Traffic Control.

The permittee shall take appropriate measures to assure that during the performance of the right of way work traffic conditions as near normal as practicable shall be maintained at all times so as to cause as little inconvenience as possible to the occupants of the abutting property and to the general public, provided that the City Engineer may permit the closing of streets to all traffic for a period of time prescribed by him if in his opinion it is necessary. The permittee shall route and control traffic including its own vehicles as directed by the City Police Department. The following steps shall be taken before any street may be closed or restricted to traffic:

- (1) The permittee must receive the approval of the City Engineer and the Police Department therefore;
- (2) The permittee must notify the Tacoma Fire Department of any street so closed;
- (3) Upon completion of construction work the permittee shall notify the City Engineer and Police Department before traffic is moved back to its normal flow so that any necessary adjustments may be made;
- (4) Where flaggers are deemed necessary by the City Engineer they shall be furnished by the permittee at its own expense and shall be certified by the state of Washington pursuant to WAC 296-155-305. Through traffic shall be maintained without the aid of detours, if possible. In instances in which this would not be feasible the City Engineer will designate detours. The City shall maintain roadway surfaces of existing streets designated as detours without expense to the permittee

but in case there are no existing streets the permittee shall construct all detours at its expense and in conformity with the specifications of the City Engineer.

12.09.080 Clearance for Fire Equipment.

The right of way work shall be performed and conducted so as not to interfere with access to fire stations and fire hydrants. Materials or obstructions shall not be placed within 15 feet of fireplugs. Passageways leading to fire escapes or fire-fighting equipment shall be kept free of piles of material or other obstructions.

12.09.090 Protection of Traffic.

The permittee shall erect and maintain suitable timber barriers to confine earth from trenches or other excavations in order to encroach upon streets as little as possible. The permittee shall construct and maintain adequate and safe crossings over excavations and across streets under improvement to accommodate vehicular and pedestrian traffic at all street intersections. Vehicular crossings shall be constructed and maintained with steel sheets sized to support the traffic load. The sheets may be pinned to avoid movement during traffic and temporary hot mix asphalt placed at the transition to provide a smooth transition between the steel sheet and existing asphalt.

12.09.100 Removal and Protection of Utilities.

The permittee shall not interfere with any existing utility without the written consent of the City Engineer and the utility company or person owning the utility pursuant to RCW 19.122. No utility owned by the City shall be moved to accommodate the permittee unless the cost of such work be borne by the permittee. The cost of moving privately owned utilities shall be similarly borne by the permittee unless it makes other arrangements with the entity owning the utility. The permittee shall support and protect all pipes, conduits, poles, wires or other apparatus which may be in any way affected by the excavation work, and do everything necessary to support, sustain and protect them under, over, along or across said work. In case any of said pipes, conduits, poles, wires or apparatus should be damaged, they shall be repaired by the agency or person owning them and the expense of such repairs shall be charged to the permittee, and his or its bond shall be liable therefore. The permittee shall be responsible for any damage done to any public or private property by reason of the breaking of any water pipes, sewer, gas pipe, electric conduit or other utility and its bond shall be liable therefore. The permittee shall inform itself as to the existence and location of all underground utilities and protect the same against damage.

12.09.110 Protection of Adjoining Property.

The permittee will notify private property owners adjoining or in proximity to the right of way when such property is exposed to the possibility of injury or damage through performance of the work. The permittee shall at all times and at its own expense preserve and protect from injury any adjoining property by providing proper foundations and taking other measures suitable for the purpose. Where in the

protection of such property it is necessary to enter upon private property for the purpose of taking appropriate protective measures, the permittee shall obtain a license from the owner of such private property for such purpose. The permittee shall, at its own expense shore up and protect all buildings, walls, fences or other property likely to be damaged during the progress of the right of way work and shall be responsible for all damage to public or private property or streets resulting from its failure properly to protect and carry out said work. Whenever it may be necessary for the permittee to trench through any lawn area, the sod shall be carefully cut and rolled and replaced after ditches have been backfilled as required in this chapter. All construction and maintenance work shall be done in a manner calculated to leave the lawn area clean of earth and debris and in a condition as near as possible to that which existed before such work began. The permittee shall not remove even temporarily any trees or shrubs which exist in parking strip areas or easements across private property without first having notified and obtained the consent of the property owner, or in the case of public property the City Engineer.

12.09.120 Sidewalk Excavations.

Any excavation made in any sidewalk or under a sidewalk shall be provided with a substantial and adequate footbridge over said excavation on the line of the sidewalk, which bridge shall be at least four feet wide, securely railed on each side and ADA compliant so that foot and wheel chair bound passengers can pass over safely at all times unless the sidewalk is closed at the request of the City Engineer. In the alternative, an adequate detour path around said excavation, at least four feet wide, and ADA compliant so that foot and wheel chair bound passengers can pass around the excavation safely at all times.

12.09.130 Protective Measures.

The permittee shall erect such fence, railing or barriers about the site of any excavation work as shall prevent danger to persons using the right of way, and such protective barriers shall be maintained until the work shall be completed or the danger removed. At twilight there shall be placed upon such place of excavation and upon any excavated materials or structures or other obstructions to right of way suitable and sufficient lights in accordance with the standards set forth in the Manual on Uniform Traffic Devices, which shall be kept burning throughout the night during the maintenance of such obstructions. It shall be unlawful for anyone to remove or tear down the fence or railing or other protective barriers or any lights provided there for the protection of the public.

12.09.140 Care of Excavated Material.

All material excavated from trenches and piled adjacent to the trench or in any street shall be piled and maintained in such a manner as not to endanger those working in the trench, pedestrians or users of the right of way, and so that as little inconvenience as possible is caused to those using right of way and adjoining property. Where the

confines of the area being excavated are too narrow to permit the piling of excavated material beside the trench, such as might be in the case in a narrow alley, the City Engineer shall have the authority to require that the permittee haul the excavated material to a storage site and then rehaul it to the trench site at the time of back-filling. It shall be the permittee's responsibility to secure the necessary permission and make all necessary arrangements for all required storage and disposal.

12.09.150 Damage to Existing Improvements.

All damage done to existing improvements during the progress of the right of way work shall be repaired by the permittee. Materials and workmanship for such repair shall conform with the requirements of any applicable code or ordinance. If upon being ordered the permittee fails to furnish the necessary labor and materials for such repairs, the City Engineer shall have the authority to cause said necessary labor and materials to be furnished by the City and the cost shall be charged against the permittee, and the permittee shall also be liable on its bond therefore.

12.09.160 Property Lines and Easements.

Property lines and limits of easements shall be indicated on the plan submitted with the application for a right of way permit and it shall be the permittee's responsibility to confine work within these limits.

12.09.170 Clean-up.

As the right of way work progresses all right of way and private properties shall be thoroughly cleaned of all rubbish, excess earth, rock and other debris resulting from such work. All clean-up operations at the location of such work shall be accomplished at the expense of the permittee and shall be completed to the satisfaction of the City Engineer. From time to time as may be ordered by the City Engineer and in any event immediately after completion of said work, the permittee shall at its own expense clean up and remove all refuse and unused materials of any kind resulting from said work and upon failure to do so within 24 hours after having been notified to do so by the City Engineer, said work may be done by the City Engineer and the cost thereof charged to the permittee, and the permittee shall also be liable for the cost thereof under the surety bond provided hereunder.

12.09.180 Protection of Water Courses.

The permittee shall provide for the flow of all water courses, sewers or drains intercepted during the right of way work and shall replace the same in as good condition as it found them or shall make such provisions for them as the City Engineer may direct. The permittee shall not obstruct the gutter of any street but shall use all proper measures to provide for the free passage of surface water. The permittee shall make provisions to take care of all surplus water, muck, silt, slicking or other run-off pumped from excavations or resulting from sluicing or other operations and shall be responsible for any damage resulting from its failure to so provide.

12.09.190 Breaking Through Pavement.

Whenever it is necessary to break through existing pavement for excavation purposes and where trenches are to be 4 feet or over in depth, the pavement in the base shall be removed to at least 6 inches beyond the outer limits of the subgrade that is to be disturbed in order to prevent settlement, and a 6 inch shoulder of undisturbed material shall be provided in each side of the excavated trench. The face of the remaining pavement shall be approximately vertical. A power-driven concrete saw shall be used so as to permit complete breakage of concrete pavement or base without ragged edges. Asphalt paving shall be scored or otherwise cut in a straight line. A jackhammer may be used in breaking up the pavement.

12.09.200 Tunnels.

Tunnels under pavements shall not be permitted except by permission of the City Engineer. Where pipes or cables are placed under main thoroughfares, concrete streets, State Highways, first grade asphalt streets, or wherever designated by the City Engineer, such work shall be done by jacking or boring casings under street surfaces and placing said pipes or cables inside of the casing.

12.09.210 Back-Filling.

Back-filling in any street opened or excavated pursuant to an excavation permit issued hereunder shall be compacted to a minimum of 95% relative density based on ASTM D1557 (Modified Proctor), or as directed by the project documents. Compacting shall be done by mechanical tappers or vibrators, by rolling in layers, as required by the soil in question and sound engineering practices generally recognized in the construction industry, or as directed by the project documents. When water is taken from a hydrant the permittee shall obtain a hydrant permit in accordance with FMC 13.04.140 and assign one person to operate the hydrant and shall make certain that said person has been instructed in the operation of the hydrant. The City shall likewise be notified at both the beginning and end of the job so that the condition of the fire hydrants can be checked on both occasions. Any damage done to the hydrant during the excavation shall be the responsibility of the permittee. Water shall be paid for by the permittee on the terms in the hydrant permit.

12.09.220 Back-Filling by Water Settling.

Back-filling by water settling or jetting is not allowed.

12.09.230 Back-Filling Methods – Pipe Zone and Trench Backfill.

Back-filling up to the first 18 inches above the top of the utility pipes or similar installations shall be done with thin layers. Each layer is to be tamped by manual or mechanical means. Layers that are hand tamped shall not exceed 4 inches in thickness. Layers that are power tamped shall not exceed 18 inches in thickness. The same requirements shall apply to the remainder of the back-filling if tamping is

the method used for back-filling. Back-filling of all pipes of over 24 inches in diameter shall be carried up to the spring line of the pipe in three-inch layers, with each layer moistened and thoroughly tamped with suitable mechanical equipment. The back-fill around all pipes 24 inches or less in diameter shall be tamped as specified above to a depth of 18 inches above the top of the pipe before any additional backfilling is placed thereon. Care should be taken to not damage pipes during back-filling and compaction operations. Any deviation from the method set forth above shall have been described in the permit documents or have prior written approval of the City Engineer.

12.09.240 Back-Fill Material – Pipe Zone and Trench Backfill.

Whenever any excavation for the laying of pipe is made, the pipe shall be laid 6 inches above the trench bottom of the trench and the space around and 6 inches above the pipe shall be back-filled with clean crushed rock, in accordance with Gravel Backfill for Pipe Zone Bedding provisions of the current WSDOT Standard Specifications for Road, Bridge and Municipal Constructions at the time of permit application, or as described in the permit documents; provided sand back filling shall be allowed for a utility if it is the utility's standard practice. Broken Pavement, Large stones, and debris shall not be used in the back-fill.

12.09.250 Restoration of Surface.

The permittee shall restore the surface of all right of way, broken into or damaged as a result of the right of way work, to its original condition in accordance with the specifications of the City Engineer. The permittee may be required to place a temporary surface over openings made in paved traffic lanes. Except when the pavement is to be replaced before the opening of the cut to traffic, the fill above the bottom of the paving slab shall be made with suitable material well tamped into place and this fill shall be topped with a minimum of at least one inch of bituminous mixture which is suitable to maintain the opening in good condition until permanent restoration can be made. The crown of the temporary restoration shall not exceed one inch above the adjoining pavement. The permittee shall exercise special care in making such temporary restorations and must maintain such restorations in safe traveling condition until such time as permanent restorations are made. The asphalt which is used shall be in accordance with the specifications of the City Engineer. If in the judgment of the City Engineer it is not expedient to replace the pavement over any cut or excavation made in the street upon completion of the work allowed under such permit, by reason of the looseness of the earth or weather conditions, the City Engineer may direct the permittee to lay a temporary pavement of wood or other suitable material designated by him over such cut or excavation to remain until such time as the repair of the original pavement may be properly made.

Permanent restoration of the street shall be made by the permittee in strict accordance with the specifications prescribed by the City Engineer to restore the street to its original and proper condition, or as near as may be.

Acceptance or approval of any excavation work by the City Engineer shall not prevent the City from asserting a claim against the permittee and its surety under the surety bond required hereunder for incomplete or defective work if discovered within 24 months from the completion of the excavation work. The City Engineer's presence during the performance of any excavation work shall not relieve the permittee of its responsibilities hereunder.

12.09.260 City's Right to Restore Surface.

If the permittee fails to restore the surface of the street to its original and proper condition upon the expiration of the time fixed by such permit or fails to prosecute the work in accordance with the requirements of this Ordinance or otherwise has failed to complete the excavation work covered by such permit, the City Engineer, if he deems it advisable, shall have the right to do all work and things necessary to restore the street and to complete the excavation work. The permittee shall be liable for the actual cost thereof, plus any legal or administrative expenses incurred by the City. The City shall have a cause of action for all fees, expenses and amounts paid out and due it for such work and the City shall also enforce its rights under the permittee's surety bond provided pursuant to this chapter.

It shall be the duty of the permittee to guarantee the site of the excavation work in the same condition it was in prior to the excavation for two years after restoring it to its original condition.

12.09.270 Trenches in Pipe Laying.

Except by special permission from the City Engineer, no trench shall be excavated more than 250 feet in advance of pipe laying nor left unfilled more than 500 feet where pipe has been laid. The length of the trench that may be opened at any one time shall not be greater than the length of pipe and the necessary accessories which are available at the site ready to be put in place. Trenches shall be braced and sheathed according to generally accepted safety standards for construction work. No timber bracing, lagging, sheathing or other lumber shall be left in any trench.

12.09.280 Prompt Completion of Work.

The permittee shall prosecute with diligence and expedition all excavation work covered by the excavation permit and shall promptly complete such work and restore the street to its original condition, or as near as may be, as soon as practicable and, in any event, not later than the date specified in the excavation permit therefore.

12.09.290 Urgent Work.

If in the City Engineer's judgment, traffic conditions, the safety or convenience of the traveling public or the public interest require that the right of way work be performed as emergency work, the City Engineer shall have full power as a condition of granting the permit, that a crew of employees and adequate facilities be employed by the permittee 24 hours a day to the end that such right of way work may be completed as soon as possible.

12.09.300 Emergency Action.

In the event of any emergency in which a sewer, main, conduit or utility in or under any street breaks, bursts or otherwise is in such condition as to immediately endanger the property, life, health or safety of any individual, the person owning or controlling such sewer, main, conduit or utility, without first applying for and obtaining a right of way permit hereunder, shall immediately take proper emergency measures to cure or remedy the dangerous conditions for the protection of property, life, health and safety of individuals. However, such person owning or controlling such facility shall apply for a right of way work permit not later than the end of the next succeeding day during which the City Hall is open for business, and shall not proceed with permanent repairs without first obtaining right of way work permit hereunder.

12.09.310 Noise, Dust and Debris.

Each permittee shall conduct and carry out the excavation work in such manner as to avoid unnecessary inconvenience and annoyance to the general public and occupants of neighboring property. The permittee shall take appropriate measures to reduce to the fullest extent practicable in the performance of the excavations work, noise, dust and unsightly debris, and between the hours of 10:00 p.m. and 7:00 a.m. shall not use, except with the express written permission of the City Engineer or in case of an emergency as herein otherwise provided, any tool, appliance or equipment producing noise of sufficient volume to disturb the sleep or repose of occupants of the neighboring property.

12.09.320 Preservation of Monuments.

The permittee shall not disturb any surface monuments or hubs found on the line of excavation work until ordered to do so by the City Engineer. All street monuments, property corners, bench marks and other monuments disturbed during the progress of the work shall be replaced by the City Engineer and the cost of the same shall be paid by the permittee.

12.09.330 Inspections.

The City Engineer shall make such inspections as are reasonably necessary in the enforcement of this Ordinance. When so made, the permittee shall pay for such inspections in accordance with FMC 12.09.040. The City Engineer shall have the authority to promulgate and cause to be enforced such rules and regulations as may be reasonably necessary to enforce and carry out the intent of this chapter.

12.09.340 Maintain Drawings.

Users of sub-surface right of way space shall maintain accurate drawings, plans, and profiles showing the location and character of all underground structures including abandoned installations. Corrected maps shall be filed with the City Engineer within 60 days after new installations, changes or replacements are made. Such surety bond

as required under FMC 12.09.060 shall not be released until as-built drawings are submitted to the City.

12.09.350 Chapter Not Applicable To City Work.

The provisions of this chapter shall not be applicable to any right of way work under the direction of competent City authorities by employees of the City or by any contractor of the City performing work for and on behalf of the City necessitating work in the right of way.

12.09.360 Insurance.

A permittee shall procure and maintain for the duration of the permitted operation, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the permittee, their agents, representatives, employees or subcontractors.

The permittee shall provide a Certificate of Insurance evidencing:

Commercial General Liability (CGL) insurance written on an occurrence basis with limits no less than \$1,000,000 per occurrence and \$2,000,000 general aggregate for personal injury, bodily injury and property damage, along with a \$2,000,000 products-completed operations aggregate limit. Coverage shall include but not be limited to: contractual; property damage; explosion, collapse and underground (XCU) if applicable; and stop gap (employer's) liability.

Automobile liability insurance covering all owned non-owned, hired and leased vehicles. Coverage should be written with a minimum combined single limit for bodily injury and property damage of \$1,000,000 per occurrence.

The Contractor shall provide a Pollution Liability policy, providing coverage for claims involving bodily injury, property damage (including loss of use of tangible property that has not been physically injured), cleanup costs, remediation, disposal or other handling of pollutants, including costs and expenses incurred in the investigation, defense, or settlement of claims arising out of:

Contractor's operations related to this project; and/or

Remediation, abatement, repair, maintenance or other work with lead-based paint or materials containing asbestos; and/or

Transportation of hazardous materials away from any site related to this project. Such Pollution Liability policy shall provide the following minimum coverage: \$1,000,000 each loss and annual aggregate.

The City Engineer may, in his or her discretion, require additional amounts or types of insurance sufficient to cover potential claims for bodily injury, death, or disability, and/or property damage. This shall be determined prior to issuance of a

permit, based upon the use proposed by the applicant, in order to reasonably protect the City's interests and the health, safety, and welfare of the public.

The City shall be named as an additional insured on the CGL insurance policy, including product/completed operations, as respect work performed by or on behalf of the permittee and a copy of endorsement ISO Additional Insured-State or Political Subdivisions-Permit CG 20 12 05 09 or substitute form providing equivalent or better coverage, naming the City as additional insured shall be attached to the Certificate of Insurance.

The City shall have the right require the permittee to produce complete, certified copies of all required insurance policies at any time.

In the event that any insurance policy required by this Chapter is cancelled, the permittee shall have two business days after learning of the cancellation to give notice to the City.

After learning that the permittee has failed to maintain insurance as required by this Chapter, the City may, after giving five business days' notice to the permittee, immediately terminate the permit or, in its discretion, procure or renew such insurance and pay any and all premiums in connection therewith, with any sums expended repaid to the City upon demand.

12.09.370 Liability of City.

The permittee is responsible for the work performed in the right-of-way. This chapter shall not be construed as imposing upon the City or any official or employee any liability or responsibility for damages to any person injured by the performance of any right of way work for which a right of way work permit is issued hereunder; nor shall the City or any official or employee thereof be deemed to have assumed any such liability or duty by reason of inspections authorized hereunder, the issuance of any permit or the approval of any right-of-way work.

All permit applications shall include the following language: "The Permittee shall defend, indemnify, and hold the City, its officers, officials, employees, consultants, and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of or in connection with activities or operations performed by the Permittee or on the Permittee's behalf out of issuance of this Permit, including the procurement of adequate insurance as required by the City, except for injuries and damages caused by the sole negligence of the City."

Section 2. Repealer. Chapter 12.08 of the Fife Municipal Code is hereby repealed.

Section 3. Each and every provision of this Ordinance shall be deemed severable. In the event that any portion of this Ordinance is determined by final order of a court of competent jurisdiction to be void or unenforceable, such determination shall not affect the validity of the remaining provisions thereof provided the intent of this Ordinance can still be furthered without the invalid provision.

Section 4. This Ordinance shall be in full force and effect five (5) days after publication as required by law. A summary of this Ordinance may be published in lieu of the entire Ordinance, as authorized by State law.

Introduced the 27th day of September, 2016.

Passed by the City Council on the 11th day of October 2016.


Subir Mukerjee, City Manager

ATTEST:


Carol Egen, City Clerk

APPROVED AS TO FORM:


Loren D. Combs, City Attorney

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