



CITY OF EDGEWOOD COUNCIL STUDY SESSION AGENDA

Tues., April 30, 2019 – 7:00 PM ♦ City Hall – 2224 104th Avenue East ♦ Edgewood, WA

1. CALL TO ORDER

Pledge of Allegiance & Roll Call

2. COUNCIL BUSINESS

A. **Discussion (no material)** - Council Highlight

B.  **Discussion** - Dangerous Tree Removal

C.  **Discussion** - Street Use Permits

3. OTHER COUNCIL ITEMS

4. ADJOURN

Study Sessions are meetings for Council to review upcoming and pertinent business of the City, no action is taken by the City Council. Study Sessions are open to the public, but public input is reserved for the regular Council meetings



City Of Edgewood Council Agenda Summary Sheet

SUBJECT: Dangerous Tree Removal – Frances Nix, 11704 32 nd Street East		Agenda Item #: 2B	
		For Agenda of: April 30, 2019	
		Prepared by: Jeremy Metzler	
ATTACHMENTS (list): ☒ Notice of Violation dated January 30, 2019 ☒ Written response provided by F. Nix, dated March 21, 2019			
Approval of Materials:			
Mayor, Daryl Eidinger	☒	Expenditure Required:	up to \$1,500
Asst. City Administrator, Dave Gray	☒	Amount Budgeted:	N/A
City Attorney, Carol Morris	☒	Appropriation Required:	Up to \$1,500
City Clerk, Rachel Pitzel	☒	Timeline: N/A	
Community Development Director, Darren Groth	☒		
Public Works, Jeremy Metzler	☒		
Police Chief, Micah Lundborg	☒		
Fiscal Note/Consideration: The estimated cost to cut down and remove the dangerous tree in question is \$1,500. If Council elects to follow the process stated in EMC 8.15, there will be costs associated with filing a lien and enforcing a against the property to recover the tree removal expenses. These costs may exceed the amount required to remove the tree.			
SUMMARY STATEMENT: At least one tree from the subject property fell across 32 nd Street East during a windstorm on Sunday, January 6, 2019, and said tree was removed by emergency work crews. Staff performed a site visit on January 23, 2019 to determine if there are any other dead or dangerous trees in the area that might also injure someone or cause damage to public or private property in a future windstorm. During that visit, staff took measurements and determined the trees in question (one that fell on January 6, and one that appears dead and dangerous) are located outside and south of the public right-of-way and on private property. Even though the remaining dangerous tree is located on private property, it is likely to fall on public right of way similar to the tree that fell on January 6, 2019. Under the City's code, a private property owner is responsible for the condition of the trees on his/her property. <i>"All landowners within the City shall maintain their property in a manner that does not pose a hazard to the public health, safety or welfare"</i> (EMC 8.15.020). A Notice of Violation (attached) was sent to the property owner, Frances Nix, on January 30, 2019 to inform her of the apparent code violation and requirement to correct the situation. A written response was received by City Hall on March 25, 2019 (attached), wherein Ms. Nix requests the City remove the dangerous tree as she is unable to. EMC 8.15.030 states, <i>"the city council may initiate proceedings against the landowner by resolution... (describing) the subject property and the hazardous condition(s), and shall require the landowner to remove or destroy the same by the deadline established therein."</i> EMC 8.15.040 continues, <i>"If the landowner fails to remove or destroy the dangerous condition(s) identified in the city council resolution by the deadline established thereby, the city may cause the removal or destruction of such condition(s)."</i> Finally, EMC 8.15.050 states, <i>"The costs incurred by the city under this chapter shall become a charge to the landowner and a lien against the subject property. Notice of such lien shall be in substantially the same form, filed with the same officer, and within the same time and manner, and enforced and foreclosed as provided by law for liens for labor and materials."</i>			

That being said, the City of Edgewood has a duty to all persons, whether negligent or fault free, to build and maintain roadways in a condition that is “*reasonably safe for ordinary travel.*” *O’Neill v. City of Port Orchard, 194 Wash. App. 759, 771 (2016)*. If the City has notice of an unsafe condition that it did not create and has a reasonable opportunity to correct it – but fails to do so – the City could have liability. Here, the City has notice of an unsafe condition that it did not create, and we have a reasonable opportunity to correct the situation (i.e., the property owner has given written permission for the City to remove the dead tree). We don’t know when the next windstorm may occur and cause this tree to fall. For these reasons, staff recommends that action be taken by the City to cut down and remove this tree as soon as practical. Staff asks that the Council provide authority for this action even though we haven’t yet implemented the procedure for recover of the City’s costs.

The Council may either direct us to proceed with the process outlined in EMC 8.15, or direct staff to simply remove the tree at the City’s expense on the basis of risk prevention.

COUNCIL COMMITTEE REVIEW AND RECOMMENDATION: N/A

RECOMMENDED ACTION: Discuss removal of the dangerous tree in question, and whether or not to bring forward a resolution as described in EMC 8.15 to the next Regular Council Meeting for action.

ALTERNATIVES TO RECOMMENDED ACTION:

- 1) Forward to next Regular Council Meeting for action
- 2) Forward to Study Session for further review and discussion
- 3) Take no action



City of Edgewood

2224 104th Avenue E., Edgewood, WA 98372-1513

Phone: (253)952-3299

www.cityofedgewood.org

NOTICE OF VIOLATION

January 30, 2019

SENT VIA REGULAR AND CERTIFIED MAIL

Frances Nix
11704 – 32nd Street E.
Edgewood, WA 98372-2042

Re: Premises located at: 11704 – 32nd Street E, Edgewood
Parcel No. 0420151030

Dear Ms. Nix:

As you may recall, there was at least one tree that fell across 32nd Street East near your property during a windstorm on Sunday, January 6, 2019. On January 23, 2019, we performed a site visit to your property in order to determine whether there are any other dead trees in the area that might also injure someone or cause damage to public or private property in a future windstorm.

During that site visit, we took some field measurements to determine the location of the dead trees in relation to the City's right-of-way. Pierce County Assessor-Treasurer mapping and available right-of-way records indicate there is a 60-foot-wide public right-of-way for 32nd Street East adjacent to your property, being 30 feet on each side of the centerline. The attached pictures show a wooden stake being placed just beyond 30' south of the road centerline, also being just north of the trees on your property. Based on these measurements, it appears that the trees in question are located outside and south of the public right-of-way and on your private property.

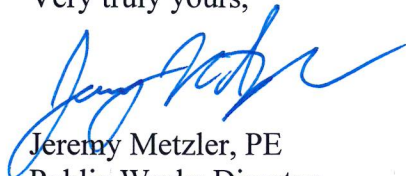
Under the City's code, the property owner is responsible for the condition of the trees on his/her property. "All landowners within the City shall maintain their property in a manner that does not pose a hazard to the public health, safety or welfare." Edgewood Municipal Code Section 8.15.020. You are responsible for removing the dead tree on your property which constitutes a hazard or menace to the public health, safety or welfare.

CORRECTIVE ACTION REQUIRED:

You must remove the tree on or before February 27, 2019 to prevent additional enforcement action. If the tree is not removed by this date, the City's code allows the City Council to initiate proceedings to abate this nuisance by the passage of a resolution, which requires you to remove the tree by a date certain. The date established by the Council will be no later than 10 days after passage of the resolution. If you fail to take action by this deadline, the City will remove the tree at your cost. This cost incurred by the City will become a lien against your property, which can be enforced and foreclosed in the same manner as a lien for labor and materials. EMC 8.15.030, .040, .050.

This letter has been written to provide you with advance notice of the City's proposed action, so that you will have adequate time to find someone to remove the tree. If you have any questions about this, or the procedure that the City will be using to require you to remove the tree, please give me a call at 253-952-3299 x114.

Very truly yours,



Jeremy Metzler, PE
Public Works Director

cc: Carol Morris, Edgewood City Attorney



Closeup of measurement from centerline of 32nd St E to orange stake



Standing at centerline of 32nd St E, looking East-Southeast toward fallen tree location



3-21-19

City of Edgewood.

I did not open this letter until today, thinking it had to do with the Parr family.

They have been so hurtful to me in the past 4 years or so.

You say I have a dead tree on the edge of my property on 32nd St. E.

If it is dead, about 50 years ago the City or County Road came along and took 10 feet of my property and cut down the hill of the road 10 feet to make it safe for school children. We were happy to make it safe for the children.

I feel the road construction may have added to the problem.

I have no money after paying my land tax! This is such a burden.

I feel much of the
problem was caused
by the road construction
years ago. If you can
please cut the tree at
your expense. I cannot.

Thank you.

Francis Nij
11704 32nd St E.
Edgewood, WA 98372

Birth date 3-2-30

89 years old -
lived on S.S.

The tree that fell 1-6-19
had roots on city property!



City Of Edgewood Council Agenda Summary Sheet

SUBJECT: Street Use Permits		Agenda Item #:		2C
		For Agenda of:		April 30, 2019
		Prepared by:		Jeremy Metzler
ATTACHMENTS (list): ☒ DRAFT Ordinance 19-0xxx ☒ City of Seattle Street Use Permit Fees				
Approval of Materials:				
Mayor, Daryl Eidinger		☒	Expenditure Required:	N/A
Asst. City Administrator, Dave Gray		☒	Amount Budgeted:	N/A
City Attorney, Carol Morris		☒	Appropriation Required:	N/A
City Clerk, Rachel Pitzel		☒	Timeline: N/A	
Community Development Director, Darren Groth		☒		
Public Works, Jeremy Metzler		☒		
Police Chief, Micah Lundborg		☒		
Fiscal Note/Consideration: A street use permit is a request to temporarily use or occupy a public place or street for private purposes. The permit fee is therefore calculated in a different manner than a development permit fee. In Section 12.16.160 of the attached ordinance, the factors used to determine the fee are identified. While a portion of the fee will reimburse the City for administrative processing, the remainder of the fee is the “rent” for the use of the public place/street.				
SUMMARY STATEMENT: Issues relating to the use of street right-of-way by an owner of property abutting the street have become more prevalent in recent months. The City has adopted Pierce County’s Code relating to street obstructions, which primarily regulates any use of the streets other than for travel or utility purposes as a nuisance subject to removal. However, cities have the ability to allow abutting property owners a temporary, revocable permit to use street rights of way for various private purposes, as long as such use doesn’t interfere with the public’s right to travel, normal use of street rights of way or the public health and safety. For example, the City may allow use and occupation of temporary signs, street rights of way for sidewalk cafes, for the placement of retaining walls, etc. The City needs to establish criteria for issuance of permits for such uses, a permit fee schedule, requirements for insurance, bonding, indemnity and appeals. The criteria for approval of such permits is very different from the criteria used to review and approve development permits. The primary consideration is to maintain the use of City streets for travel, transportation, and incidental authorized purposes, and to ensure the public health and safety. In addition, such permits consider the interest of owners and occupants of property while respecting the rights of the public. Therefore, the Public Works Director makes the final decision on whether the permit should issue, as well as any conditions imposed on an approved permit. Cities hold public places and street rights of way in trust for the public. Therefore, a street use permit may also charge fees for such use and occupation. Attached is a copy of the street use permit fee schedule for the City of Seattle. The Council needs to establish a street use permit fee and an occupation fee schedule. Staff recommends adopting an addendum to the existing fee schedule, to be incorporated into the full fee schedule upon the next fee update.				

While a Public Hearing is not needed on this issue, staff recommends holding one prior to adoption. This is a permit that could be very controversial, and the City Council may want input from the public before adopting it.

COUNCIL COMMITTEE REVIEW AND RECOMMENDATION: N/A

RECOMMENDED ACTION: Discuss the proposed ordinance and example fee schedule, bring forward an ordinance to the next Regular Council Meeting for further action, and set a public hearing to solicit input.

ALTERNATIVES TO RECOMMENDED ACTION: 1) Forward to Study Session for further review and discussion
2) Take no action

ORDINANCE NO. 19-xxxx

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF EDGEWOOD, WASHINGTON, RELATING TO STREETS AND STREET USE, ADOPTING A PROCEDURE FOR THE CITY'S ISSUANCE OF TEMPORARY, REVOCABLE STREET USE PERMITS FOR THE USE AND OCCUPATION OF THE STREET RIGHT-OF-WAY AND OTHER PUBLIC PLACES, DESCRIBING THE APPLICATION PROCESS, CRITERIA FOR APPROVAL AND PROCEDURE FOR APPEALS; AND CREATING A NEW CHAPTER 12.16 TO THE EDGEWOOD MUNICIPAL CODE.

WHEREAS, the City of Edgewood has adopted the Pierce County Code for purposes of enforcement; and

WHEREAS, the City desires to adopt its own regulations relating to the use and occupation of street rights of way and other public places;

WHEREAS, the City SEPA Responsible Official has determined that this Ordinance is categorically exempt under SEPA, WAC 197-11-800(19) as relating solely to governmental procedures and containing no substantive standards respecting use or modification of the environment; and

WHEREAS, the City Council held a public hearing on this ordinance and considered this ordinance for adoption during its regular meeting of May 28, 2019; Now, therefore,

THE CITY COUNCIL OF THE CITY OF EDGEWOOD, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. A new chapter 12.16 is hereby added to the Edgewood Municipal Code, which shall read as follows:

**Chapter 12.16
STREET USE PERMITS**

Sections:

- 12.16.010 Purpose.
- 12.16.020 Applicability.
- 12.16.030 Nuisances.
- 12.16.040 Exceptions.
- 12.16.050 Street use permits.
- 12.16.060 Processing of applications.
- 12.16.070 Criteria for approval.
- 12.16.080 Approval of street use permit.
- 12.16.090 Assurances required.

- 12.16.100 Indemnity deposit with finance department.
- 12.16.120 Surety bond.
- 12.16.130 Liability insurance.
- 12.16.140 Indemnification agreement.
- 12.16.150 Permit duration, revocation and restoration of the public place.
- 12.16.160 Permit fees.
- 12.16.170 Exception/waiver, fees and assurances.
- 12.16.180 Compliance with permit.
- 12.16.190 Newsstands.
- 12.16.200 Appeals.
- 12.16.210 Definitions.

12.16.010 Purpose.

The purpose of this chapter shall be:

- (1) To maintain the use of city streets for travel, transportation and incidental authorized purposes, and to retain the use of other public places for the purposes established;
- (2) To consider the interests of owners and occupants of property adjacent to public places, while respecting the rights of all users thereof;
- (3) To preserve the appearance of city streets and public places, to carry out design controls in areas subject thereto, encourage improvements that make public places more pleasing; and
- (4) To establish a process for the review, approval, denial and appeal of permits for uses of the public streets, alleys and other public places so as to ensure the protection of the public health, safety and welfare and the prevention of obstructions and/or public nuisances.

12.16.020 Applicability.

This chapter shall authorize, through a temporary, revocable permit, certain limited use of public alleys, places and streets by private individuals. Newsstands are regulated in Section 12.16.190. This chapter shall not apply to the particular uses of city streets and sidewalks that are regulated by the other chapters of this title. This chapter shall require a permit for any existing use of any public right-of-way, street or other public place. Owners seeking a temporary use of city right-of-way must obtain a permit before the use begins.

12.16.030 Nuisances.

- (1) Any structure built, or material placed or dumped, in or on any public place by anyone, without having first obtained and complied with a permit issued under this chapter, may be declared a public nuisance and abated as set forth in Chapter 8.09 EMC or Chapter 7.48 RCW. Other equivalent proceedings may be taken as are authorized by law or city ordinances.
- (2) The director may declare that a street tree, or any portion of a privately owned tree extending into the right-of-way, is a public nuisance if it impacts the safe operations of the transportation system, including but not limited to: impeding signs and signals, or harbors a contagious disease or an insect infestation that threatens the health of other trees or vegetation. The city may follow the process in EMC 8.15 to eliminate overhanging vegetation.

12.16.040 Exceptions.

When required by the United States Constitution, Washington State Constitution, or a federal or state statute enacted thereunder, the director shall suspend the application of any particular section of this chapter or waive compliance with a requirement, including payment of fees, the provision of an indemnity deposit or contract, and the furnishing of insurance. The director shall maintain a record of all such granted waivers and suspensions.

12.16.050 Street use permits.

(1) Permit Required. It is unlawful for anyone to make use, as defined in Section 12.16.210, of any public place: (a) without first securing a written permit as authorized by this chapter; (b) without complying with all conditions of such permit; and (c) without complying with the city's public works standards and other applicable code provisions. The city public works department is not required to obtain a permit or comply with permit procedures for street maintenance/improvement work performed by the city.

(2) Review Procedures. A street use permit is exempt from permit processing procedures in the city's land use development code, EMC Title 18 (pursuant to RCW 36.70B.140), unless otherwise specified within this chapter. The director makes a final decision on the street use permit application without a hearing, which can be administratively appealed as set forth in Section 12.16.200. Issuance of a street use permit is not a quasi-judicial decision, and the city is not required to hold an open record or closed record hearing (as defined in RCW 36.70B.020) on any decision.

(3) Elements of a Complete Application. A complete street use permit application shall consist of the following:

(a) Application Form. A completed street use permit application form, including the applicant's name, address, phone number and e-mail address. If the applicant's designee is completing the application, then an affidavit signed by the applicant must be submitted, verifying that the applicant has given permission to the designee for the submission of the street use permit application;

(b) Other Permit Applications. If the street use permit is associated with a proposed project, copies of the related permit applications must be submitted;

(c) Identification of the Public Place. The public place or defined portion of the public place to be used must be identified in detail;

(d) Identification of the Proposed Use. The application must specifically identify the proposed use of the public place, and provide detail on the amount of space required for the proposed use and the dates proposed for such use;

(e) Plans and Specifications. The plans and specifications for any utility or structure proposed in or on the public place;

(f) Existing Structures. A plan identifying and locating any existing public improvements, utilities, or structures in the area to be used and any trees that may be affected by the proposed use;

(g) Authorization of Property Owner. When the proposed use involves a structural building overhang, a retaining wall, or a permanent method of lateral support, the application shall also be accompanied by documentation showing the individual or entity that is the record owner of the premises served by the proposed use and showing the record owner of the premises consents to the premises being served by the proposed use;

(h) Fees. The street use permit fee shall be billed at current staff hourly rates, unless otherwise established by the city in the adopted fee resolution.

(4) Assurances. Before the city issues any street use permit, the applicant will be required to provide certain assurances (deposit of funds, surety bond, indemnification agreement, etc.), as needed, all as described in Sections 12.16.090 through 12.16.140.

12.16.060 Processing of applications.

(1) The director shall review each application for a permit for compliance with any applicable codes.

(2) The director may require additional information or material when he/she deems appropriate, including, but not limited to: a map, photographs, construction plans, or a survey of the site; the director may inspect the premises, solicit comments from other abutters or the public, post or require posting of notice at the site inviting comment to the authorized department, or give notice of the submission of a street use permit application according to requirements for an administrative review applicable to the notice of application procedure in EMC 18.40.180 (RCW 36.70B.110).

(3) If an application for a street use permit requires a permit under any other chapter of the city's code, but the other permit application has not been filed with the appropriate department, then the street use permit application shall be sent to the appropriate director/department for review. The director/department with the authority to review the associated permit applications shall send his/her findings and comments to the director.

(4) If the director determines that engineering or other studies should be prepared before a permit is approved, the applicant shall prepare the studies, or authorize the city to prepare the studies at the applicant's expense, before the application will be further processed.

12.16.070 Criteria for approval.

Factors for the director's consideration in evaluating an application for a permit include, but are not limited to:

(1) The applicant's constitutional rights;

(2) The impact of the proposed use on the following:

(a) The paramount purpose of streets for travel and transportation;

(b) Utilities; authorized secondary street uses; and any use being made by the public of the site;

(c) Fire access and public safety;

- (d) Uses under permit; street trees; and other proposed or past uses of the site;
 - (e) Rights of light, air, and access and lateral support of abutting properties and on access or easements of properties dependent upon the public place for access;
 - (f) The environment, including but not limited to efforts to minimize impervious surface, loss of native vegetation, and stormwater runoff;
 - (g) Drainage, surface and underground; springs and watercourses; and the stability of soils; and
 - (h) Where applicable, city land use, transportation, open space, shoreline, and beautification policies;
- (3) The abutter's property rights;
 - (4) The public and private benefits of the proposed use;
 - (5) The site and its terrain;
 - (6) In addition to the considerations listed above, where the following situations occur, factors for consideration include:
 - (a) For public places used as parks or open space, the impact of the proposed use on their character as a park drive or boulevard, or as open space;
 - (b) For environmentally critical areas, the requirements of EMC Titles 14 and 20.

12.16.080 Approval of street use permit.

- (1) If the application conforms to the requirements of this chapter, all other applicable codes and the proposed use is consistent with the rights of the public, the director may approve the application; fix the duration and the terms or conditions of the permit; and, when required, upon the applicant's furnishing of a deposit or surety bond, insurance, covenant, and indemnification (as required by Section 12.16.090 through 12.16.140), and payment of all required fees, issue the permit. The original permit shall remain in the custody of the city, and a copy shall be given to the permittee and shall be posted or available at the site.
- (2) The permit shall specify the portion of the public place that may be occupied, the dates or days and hours of use, and the allowed use. The permit shall only be valid for the portion of the public place, the dates or days and hours of use, and the use as identified on the permit. Every permit shall include the language in Section 12.16.150(1) on the face of the permit.
- (3) Every permit shall be conditioned to state that all activities in the public place shall implement stormwater best management practices (BMPs) in accordance with the city's current stormwater manual, as amended (EMC 13.05). Failure to implement stormwater BMPs shall be a violation of this chapter and subject to enforcement.

12.16.090 Assurances required.

Before the city approves a street use permit, the director shall determine the appropriate assurances (as set forth in Section 12.16.100 through 12.16.140) as necessary to assist the city in

(1) the collection of expenses charged under this chapter and costs associated with a use under a permit; (2) assure performance of the requirements of this chapter and the covenants or conditions in a permit; (3) place on the permittee the risks associated with the use and provide a degree of financial responsibility in the event of an accident or injury; and (4) restoration of the public place when the permittee's use has been revoked or terminated to at least as good a condition as required by current applicable standards. The city's acceptance of an indemnity deposit/agreement, a surety bond, or insurance does not limit an applicant's or a permittee's liability to the amount deposited or stated in the instrument. The director, when required to do so by a constitutional provision, or state or federal law, may waive compliance with any of the conditions of Section 12.16.100 through 12.16.140.

12.16.100 Indemnity deposit with finance department.

(1) If the director determines that there is a substantial risk of injury, damage, or expense to the city or probable city expenditures arising from an applicant's proposed use of any public place, the director may require the applicant to make an indemnity deposit with the finance director in an amount based on the director's estimate of the injury, damage, or expense to the city, or cost of restoring the public place if a mishap or accident occurs.

(2) The establishment of an indemnity deposit with the city shall provide a source of funds, held by the city, to pay probable city expenditures arising from: (a) a proposed use or restoration of the public place after the use; (b) reimbursement of the city for the time associated with city employees' inspection and code enforcement activities; and (c) ancillary city expenses relating to the permit. Annual street use permit fees are billed separately. A deposit establishes a balance with the city in favor of the applicant or permittee against which a city department may deduct fees and charges as they occur, including annual fees and deposits for particular permits.

(3) The indemnity deposit shall also be used to pay the cost of: (a) restoring the public place; (b) removal of any earth or other debris; (c) replacing or repairing any damaged utility or trees in the public place; (d) completing any work left unfinished; (e) resetting any traffic control devices; (f) performing engineering and other studies required by the applicant's use of the public place; and (g) any other expense that the city may sustain in conjunction with the permitted work. The deposit shall also be used to pay the city's administrative expenses equal to the city's costs for services such as inspections, surveys, preparing plans, letting contracts, and contract administration or supervision. The balance of the cash indemnity deposit, if any, after all such deductions, shall be returned to the applicant or permittee. If the indemnity deposit is insufficient, the applicant or permittee shall be liable for the deficiency.

12.16.120 Surety bond.

(1) A surety bond provides a promise by a licensed surety company, within the limits and according to the terms of the bond, to perform work or pay the city's expenses to perform the work in the event of the permittee's default. A surety bond is not a substitute for providing the city public liability insurance for any tortious injury. The director may authorize the filing of a surety bond consistent with the procedures in this chapter, in lieu of making all or part of an indemnity deposit.

(2) If required by the authorizing official, the applicant or permittee shall deliver to the director, in lieu of or in addition to the indemnity deposit, a sufficient surety bond executed by a surety

company authorized and qualified to do business in the state of Washington and is approved as to surety and as to form by the city attorney. The bond shall: assume all the requirements provided in Section 12.16.100 in relation to an indemnity deposit; run for the full period of the permit; be in an amount fixed by the director; be conditioned that the permittee shall comply with all the terms of the permit and all the provisions of this title and all other ordinances of the city; and to the extent permitted by law, indemnify and save the city harmless from any and all claims, actions, suits, liability, loss, costs, expense, or damages of every kind and description, excepting only damages that may result from the sole negligence of the city and that may accrue to, be asserted by, or be suffered by any person or property, including, without limitation, damage or injury to the permittee, its officers, agents, employees, contractors, invitees, tenants and tenants' invitees, or licensees, by reason of the use of any public place, as provided for in the application.

(3) If the application proposes to construct, reconstruct, repair, maintain, or remove any pavement, utility, street lighting, or appurtenance, and / or perform any grading in the public place, the applicant shall file with the director a sufficient surety bond executed by a surety company authorized and qualified to do business in the state of Washington and is approved as to surety and as to form by the city attorney. The bond shall: be in an amount fixed by the director; be conditioned such that the permittee shall complete all portions of the work according to the city's standard plans and specifications and the special plans approved by the authorizing official; and be conditioned that the permittee shall comply with all the terms of the permit and all the provisions of this title and all other ordinances of the city; and to the extent permitted by law, indemnify and save the city harmless from any and all claims, actions, suits, liability, loss, costs, expense, or damages of every kind and description, excepting only damages that may result from the sole negligence of the city, that may accrue to, be asserted by, or be suffered by any person or property, including, without limitation, damage or injury to the permittee, its officers, agents, employees, contractors, invitees, tenants and tenants' invitees, or licensees, by reason of the use of any public place, as provided for in the application. The bond shall run for the full period of the permit plus two years after city acceptance of the permitted work.

12.16.130 Liability insurance.

(1) Liability insurance protects the city as an additional insured from public liability as a result of an accident, injury, or damage arising from the use of a public place; and assists in making permittees financially responsible for meeting liabilities that may arise from their use of public places.

(2) Every permittee, as a condition of every street use permit, shall obtain and maintain in full force and effect, at its own expense, public liability insurance in an amount sufficient to protect the city from all potential claims and risks of loss from perils in connection with any activity that may arise from or be related to the permittee's activity upon or the use or occupation of the public place allowed by the permit and claims and risks in connection with activities performed by the permittee by virtue of the permission granted by the permit. The insurance policy shall:

(a) be in effect for the duration of the permit; name the city of Edgewood, its elected and appointed officers, officials, employees, and agents as additional insureds for primary and noncontributory limits of liability subject to a separation of insureds clause; (b) apply as primary insurance regardless of any insurance that the city may carry; and obligate the insurance company to give notice to both the director and the city clerk at least 30 calendar days before any cancellation of the policy.

(3) The director, in consultation with the city attorney, shall establish the amount of the insurance, and unless constitutional liberties prohibit it, shall require that the insurance be provided prior to issuance of the permit. The city requires insurance coverage to be placed with an insurer admitted and licensed to conduct business in Washington State or with a surplus lines carrier according to Chapter 48.15 RCW, except that if it is infeasible to obtain coverage with the required insurer, the city may approve an alternative insurer. Evidence of such insurance shall be provided before the city issues the street use permit.

12.16.140 Indemnification agreement.

(1) The indemnification agreement holds the city harmless from all claims, actions, suits, liability, loss, costs, expense, or damages of every kind and description. The permittee shall agree to defend, indemnify, and hold harmless the city of Edgewood, its officials, officers, employees, and agents from and against:

(a) Any liability, claims, actions, suits, loss, costs, expense judgments, attorneys' fees, or damages of every kind and description resulting directly or indirectly from any act or omission of the permittee, its subcontractors, anyone directly or indirectly employed by them, and anyone for whose acts or omissions they may be liable, arising out of the permittee's use or occupancy of the public place; and

(b) All loss by the failure of the permittee to fully or adequately perform, in any respect, all authorizations of obligations under permit.

(2) If the application is for a permit to use or occupy a public place with a bulkhead, steps, retaining wall, rockery, structure, or an extension or appurtenance to a structure or any facility with an anticipated continued occupancy of a public place of more than one year, the owner of the adjacent property, and any existing lessee, sublessee, tenant and subtenant using or occupying the part of the premises served or connected to the permitted use, shall, in the manner provided by law for the execution of deeds, execute and deliver to the city upon a form to be supplied by the authorizing official an agreement in writing: signed and acknowledged by the owners and by any existing lessee, sublessee, tenant and subtenant; containing an accurate legal description of the premises; covenanting on the part of the owner, lessee, sublessee, tenant and subtenant, for themselves and their heirs, executors, administrators, successors, assigns, lessees, sublessees, tenants and subtenants and forever defending, indemnifying, and holding harmless the city, its officials, officers, employees, and agents from and against any and all claims, actions, suits, liability, loss, costs, expense, attorneys' fees, or damages of every kind and description, excepting only damages that may result from the sole negligence of the city, that may accrue to, be asserted by, or be suffered by any person or property, including, without limitation, damage, death, or injury to members of the public or to the permittee's officers, agents, employees, contractors, invitees, tenants and tenants' invitees, licensees or its successors and assigns, arising out of or by reason of:

(a) The existence, condition, construction, reconstruction, modification, maintenance, operation, use, or removal of the permitted area or any portion thereof, or the use, occupation, or restoration of the public place or any portion thereof by the owner, lessee, sublessee, tenant and subtenant, heirs, executors, administrators, successors, assigns, lessees, sublessees, tenants and subtenants;

(b) Anything that has been done or may at any time be done by the owner, lessee, sublessee, tenant and subtenant, heirs, executors, administrators, successors, assigns, lessees, sublessees, tenants and subtenants by reason of the permit; or

(c) The owner, lessee, sublessee, tenant and subtenant, heirs, executors, administrators, successors, assigns, lessees, sublessees, tenants and subtenants failing or refusing to strictly comply with every provision of the permit; or arising out of or by reason of the permit in any other way.

(3) The director may require that the indemnification agreements for the types of structures identified in subsection (2) of this section shall be a covenant running with the land and shall be recorded against the property at the applicant's cost.

(4) In addition, the agreement shall contain a provision which expressly states that the permit:

(a) Is wholly of a temporary nature;

(b) Vests no permanent right whatsoever;

(c) May be revoked, the structures and obstructions removed, and public place restored to the condition that existed prior to use occurring in the public place upon 30 calendar days' notice, posted on the premises, or published in the official newspaper of the city; or without notice, if the permitted use is dangerous or the structures are insecure or unsafe, as determined by the director, or are not constructed, maintained, or used in accordance with the Edgewood Municipal Code.

(5) An agreement after it has been received and recorded with the county auditor shall be retained by the city clerk in the files and records of the clerk's office.

(6) The director may waive execution of the signature on an agreement by a tenant or subtenant on a month-to-month lease or on a tenancy at will. If the application is made by a condominium or cooperative apartment, the authorizing official may accept an agreement by the condominium or apartment association together with documentation showing its authority to execute the agreement in lieu of executing the agreement by all unit or apartment owners.

12.16.150 Permit duration, revocation and restoration of the public place.

(1) Every street use permit approved under this chapter shall state on its face that the permit is of a temporary nature and shall vest no permanent right; and may in any case be revoked upon 30 calendar days' notice; or may be revoked without notice where the use or occupation is dangerous or any structure or obstruction permitted is insecure or unsafe, as determined by the director, or is not constructed, maintained, or used in accordance with the provisions of the Edgewood Municipal Code.

(2) If a permit to use a public place is revoked, terminated or expired, the permittee/applicant shall restore the public place to the condition that existed prior to use occurring in the public place.

(3) If any structure, obstruction, use, or occupancy is not discontinued after notice from the city to do so, the director, with respect to public places, may:

- (a) Prohibit its further use;
- (b) Remove it from the public place;
- (c) Make repairs to it as may be necessary to render it secure and safe at the expense of the permittee or the permittee's successor or user responsible for the structure, obstruction, use, or occupancy; and
- (d) Collect expenses incurred in rendering it secure and safe and restoring the public place in the manner provided by this chapter and other applicable law.

12.16.160 Permit fees.

(1) From time to time, the director shall prepare and recommend for adoption by the city council a schedule of fees applicable to: reviewing and administering all permits for public places.

(a) Fees for using or occupying the public place may take into consideration the undesirability of the use or occupation relative to the rights of the public, such as the city policy of discouraging certain types of encroachments inconsistent with the public right of access, including access to the shorelines or other public places, and shall be included in the schedule of fees for use of public places under the jurisdiction of the director.

(b) The director is authorized to collect a monetary deposit for services to be conducted related to the review or inspection of a permit prior to or at permit issuance.

(c) The director is authorized to collect fees for other city departments that provide services related to the review of a permit for use of the public place.

(2) The fee schedule, when adopted by ordinance, shall govern the fee for permits issued and reviewed. All permit and review fees shall be commensurate with the cost of administering, inspecting, and policing involved in issuing and continuing the permits and with the use and occupation granted by the permits. The fee shall be collected as a condition to issuing or continuing any permit or use.

12.16.170 Exception/waiver, fees and assurances.

(1) The director may grant an exception from paying fees, making an indemnity deposit, posting a surety bond, or providing liability insurance from the United States of America.

(2) The authorizing official may grant an exception from paying fees, making an indemnity deposit, posting a surety bond, or providing liability insurance when the primary purpose of the project is environmental remediation and the project is being conducted in compliance with 42 U.S.C. 9621 and is subject to 42 U.S.C. 9621(e).

(3) The authorizing official may grant an exception from paying fees, making an indemnity deposit, posting a surety bond, or providing liability insurance when the use is for a public transportation-related-infrastructure project, like light rail, and is authorized under a separate ordinance; or when the use is for a city transportation project.

(4) An authorizing official may waive the requirement for an indemnity deposit or surety bond for a use by the state of Washington or a local government.

12.16.180 Compliance with permit.

(1) Construction of a structure or improvement shall be in accord with the approved permit and plans accompanying the approved permit unless the director first approves a revised permit authorizing the change.

(2) If a proposed change is substantial and objections or adverse comments are received before the permit authorizing the revision is issued, the director shall give notice to the persons making the objection or comments about the proposed change, or require the applicant or permittee to do so, and allow public comment before reaching a decision on the proposed change.

12.16.190 Newsstands.

(1) This section shall be interpreted and implemented in a manner that will enable the public to acquire a wide variety of publications with a diversity of news, information, ideas and opinions, at convenient locations in public places. It shall also be interpreted and implemented in a way so as to facilitate the distribution of publications in public places as contemplated by the Constitution of the State of Washington and the First Amendment to the U.S. Constitution. In addition, the city shall implement this section by preserving the appearance of public places and carry out design controls in areas subject thereto, encourage improvements that will make public places more pleasing and promote the use of modern aesthetically pleasing newsstands in congested areas.

(2) Newsstands in compliance with the following standards may be placed in public places without a street use permit:

(a) All newsstands in a public place shall align parallel with the curb, allow at least five feet of clear sidewalk space for pedestrian passage, be detectable by pedestrians using canes for guidance, be maintained in a safe condition, able to withstand strong winds and be in good repair at all times. The newsstand may not exceed the following dimensions: six feet by 12 feet;

(b) No newsstand shall be placed or maintained so as to obstruct the use of any crosswalk, wheelchair ramp, driveway, hydrant, or city emergency facility, or be less than 18 inches from the curb;

(c) No newsstand shall impair loading at any bus, taxi, passenger or truck loading zone; hinder egress to parked vehicles in marked parking stalls; obstruct sight lines of motorists at an intersection; orient toward the roadway; or obscure any regulatory sign; or

(d) No newsstand shall be fastened to any bus shelter or any utility pole or tree.

(3) A street use permit is required for the placement of a newsstand in a public place if the newsstand exceeds the size limitations in subsection (2)(a) of this section; or if the owner proposes to: (a) permanently affix the newsstand to the surface of the public place; or (b) the owner proposes to place a newsstand which conflicts with design guidelines adopted for historical or special review districts, or proposes to place the newsstand within 120 feet of the limits of a street improvement that provides for the integration of newsstands into structures located therein. The director may issue a street use permit to allow the placement of a newsstand

under this subsection (3) whenever the same constitutes a reasonable accommodation that furthers the public interest.

12.16.200 Appeals.

(1) A person aggrieved by any of the following decisions of the director may timely request an appeal of the decision to the city council:

- (a) The approval or denial according to Sections 12.16.070 and 12.16.080 of a street use permit;
- (b) The revocation of any street use permit;
- (c) The approval or denial according to Section 12.16.190 of a request for a permit for a newsstand location not generally permitted by Section 12.16.190.

(2) An aggrieved person may appeal the director's decision by paying the appeal fee and filing an appeal statement with the city clerk within 10 calendar days of the date of the decision. The appeal shall identify the decision for which review the objection(s) to the decision, and the specific alternative being proposed. The city clerk shall schedule the appeal with the city council on their regular meeting calendar. The director may, at his/her discretion, stay implementation of a decision pending the appeal. The city council shall consider the appeal during a public hearing, and issue written findings and conclusions at a subsequent meeting. The decision of the city council shall be final, binding and conclusive.

12.16.210 Definitions.

"Adjacent property" means and includes the property abutting the margin of and contiguous to the public place.

"Alley" means a public way not designed for general travel and used primarily as a means of access to the rear of residences and business establishments. (RCW 46.04.020.)

"Applicant" means the individual or entity that has applied for a permit to use the public place on their or another individual's or entity's behalf.

"Crosswalk" means the portion of the roadway between the intersection area and a prolongation or connection of the farthest sidewalk line or in the event there are no sidewalks then between the intersection area and a line 10 feet therefrom, except as modified by a marked crosswalk. (RCW 46.04.160.)

"Director" shall mean the director of public works or his/her designee.

"Driveway or private road" means every way or place in private ownership and used for travel of vehicles by the owner or those having express or implied permission from the owner, but not by other persons. (RCW 46.04.420.)

"Highway" means the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel. (RCW 46.04.197.)

“Newsstand” means any stand, box, structure, rack or other device that is designed or used for the sale or distribution of newspapers, periodicals, magazines, or other publications, or any combination of the above.

“Permittee” means a person or entity that has received a permit to use a public place.

“Public place” means public right-of-way and the space above or beneath its surface, whether or not opened or improved, including streets, avenues, ways, boulevards, drives, places, alleys, sidewalks, planting strips, squares, triangles and plazas that are not privately owned.

“Right-of-way” means the strip of land platted, dedicated, condemned, established by prescription or otherwise legally established for the use of vehicles, pedestrians or utilities.

“Roadway” means that portion of a highway or street improved, designed, or ordinarily used for vehicular travel, exclusive of the sidewalk or shoulder even though such sidewalk or shoulder is used by persons riding bicycles. (RCW 46.04.500.)

“Sidewalk” means that property between the curb lines or the lateral lines of a roadway and the adjacent property, set aside and intended for the use of pedestrians or such portion of private property parallel and in proximity to a public street and dedicated to use by pedestrians. (RCW 46.04.540.)

“State highway” means every highway or part thereof which has been designated as a state highway or branch thereof by legislative enactment. (RCW 46.04.560.)

“Street” means every public highway or part thereof located within the city limits, except alleys. (RCW 46.04.120.)

“Use” means exercising dominion or control over, or occupying all or part of, a public place with or without the right to do so. “Use” includes constructing, storing, erecting, placing upon, maintaining, or operating any inanimate thing or object in, upon, over or under any public place.

(1) “Use” includes, but is not limited to, any of the following:

- (a) Placement or installation of any marquee, awning, clock, newsstand, sign, banner, sidewalk elevator or door, fuel opening, sidewalk cafe, or other structure;
- (b) Placement or installation of fencing, staging, scaffolding, an elevator or other structure or material, machinery or tools used or to be used in connection with excavating, erecting, altering, demolishing, repairing, maintaining, or painting any building;
- (c) Moving any building along or across any public place;
- (d) Storing or placing any material, equipment, inanimate object, or thing in any public place. But “use” shall not include placing an inanimate object in a location and for a limited duration of time that, under the circumstances, no reasonable person could conclude that the public’s right to use or enjoy the public place, in whole or in part, has been or potentially could be interfered with;
- (e) Raising or lowering any safes, machinery, or other heavy articles;

- (f) Making or having any fire on any public place;
- (g) Doing any work in, or erecting any structure under, along or over, any public place; except when permitted by ordinance;
- (h) Vending of goods, tickets, things or services of any kind, other than publications in newsstands regulated under Section 12.16.190;
- (i) Using sound amplifying equipment, other than aids for the disabled; or
- (j) Closing or altering the appearance of streets; including filming, block parties or street fairs.

(2) With respect to trees and plantings, “use” means planting, removing, injuring, destroying, topping, or major pruning of any tree in any public place; cutting or pruning of any tree planted or maintained by the city; and removing, injuring or destroying any flower, plant, or shrub in any public place. “Use” excludes cutting grass, trimming shrubs, planting flowers, seeding, weeding, edging and other gardening activities for the care of planting strips commonly performed by or for an owner or occupant of property adjacent to a public place; and it excludes berry-picking and recreational activities that may have an incidental impact upon grass or shrubbery.

(3) “Use” excludes a customer’s temporary placement of the customer’s garbage and recyclables for curbside/alley collection, removing snow and ice, sweeping sidewalks and removing leaves and debris.

Section 2. Severability. Should any section, paragraph, sentence, clause or phrase of this Code, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason or should any portion of this Code be pre-empted by state or federal law or regulation, such decision or preemption shall not affect the validity of the remaining portions of this Code or its application to other persons or circumstances.

Section 3. Effective Date. A summary of this Ordinance consisting of its title shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after the date of publication.

ADOPTED THIS 28th day of May, 2019.

Daryl Eiding, Mayor

ATTEST:

Rachel Pitzel, City Clerk

APPROVED AS TO FORM:

Carol Morris, City Attorney

Edited: July 30, 2015

Attachment A to Ordinance No. 123477, as amended by Ordinances 123600, 123611, 123659, 123907, 124159, 124532, 124770, and 123485 as amended by Ordinance 123585

Seattle Department of Transportation Street Use Permit Fee Schedule, Effective January 1, 2011				
Activities that use the public Right-of-Way and that block mobility				
Use Code	Use Description	Base Permit Fee	Occupation Fee (Long Term)	Use Fee (Short Term)
3A	street or sidewalk barricading for temporary private use (e.g.: grand openings, special activities)	\$146	N/A	ON NON-ARTERIAL mo 1=no fee, mo2&3=\$.10/sf/10d mo4&5=\$.20/sf/10d mo6&7=\$.40/sf/10d mo8&9=\$.80/sf/10d mo10+= \$1.20/sf/10d ON ARTERIAL mo1=\$.10/sf/10d mo2=\$.20/sf/10d mo3=\$.40/sf/10d mo4=\$.80/sf/10d mo5=\$1.20/2f/10d
3B	street or sidewalk barricading associated with the Farmers Market Program			None
3C	street barricading associated with the Festival Street Program			
13	temporary placement of materials not for construction use (e.g.: bus or horse carriage staging)			ON NON-ARTERIAL mo 1=no fee, mo2&3=\$.10/sf/10d mo4&5=\$.20/sf/10d mo6&7=\$.40/sf/10d mo8&9=\$.80/sf/10d mo10+= \$1.20/sf/10d ON ARTERIAL mo1=\$.10/sf/10d mo2=\$.20/sf/10d mo3=\$.40/sf/10d mo4=\$.80/sf/10d mo5=\$1.20/2f/10d
15	Installing or removing public art			
22	shoring and excavation within and adjacent to right-of-way (may be associated with DPD building permits)			
29B	installing or removing fences, stairs, overhead structures, and other related private structures			
29C	installing or removing rockeries, retaining walls, and other related retaining structures			
31	construction use, including staging and material storage, in transportation corridors			
31B	Single-family construction/debris dumpster or storage containers [residential use]			
27	installing, maintaining, or removing awnings or marquees			None

Edited: July 30, 2015

Attachment A to Ordinance No. 123477, as amended by Ordinances 123600, 123611, 123659, 123907, 124159, 124532, 124770, and 123485 as amended by Ordinance 123585

33A	contractors' trucks/equipment working within ROW [per vehicle/calendar yr]- no ground breaking allowed		None
33B	utility agencies' trucks/equipment working within ROW [per vehicle/calendar yr]- no ground breaking allowed		
40	street and alley paving [less than 750 sq. ft]		ON NON-ARTERIAL mo 1=no fee, mo2&3=\$.10/sf/10d mo4&5=\$.20/sf/10d mo6&7=\$.40/sf/10d mo8&9=\$.80/sf/10d mo10+=\$1.20/sf/10d ON ARTERIAL mo1=\$.10/sf/10d mo2=\$.20/sf/10d mo3=\$.40/sf/10d mo4=\$.80/sf/10d mo5=\$1.20/2f/10d
41	transit-stop-related infrastructure, including shelter, signage, bench installation, repair, or removal [does not include utility installations]		
44	use of mobile crane, manlift, boom truck, pump truck, etc.		
50	scaffold, swing staging, scissor lift with mobility impacts		
45	commercial or multi-use construction street improvement [public improvements by private development]		None
45A	single family residential construction street improvement [public improvements by private development]		
45B	minor improvement projects		

Edited: July 30, 2015

Attachment A to Ordinance No. 123477, as amended by Ordinances 123600, 123611, 123659, 123907, 124159, 124532, 124770, and 123485 as amended by Ordinance 123585

Utility activities that use the public Right-of-Way and that block mobility				
Use Code	Use Description	Base Permit Fee	Occupation Fee (Long Term)	Use Fee (Short Term)
51	utility system construction	\$146	N/A	ON NON-ARTERIAL mo 1=no fee, mo2&3=\$.10/sf/10d mo4&5=\$.20/sf/10d mo6&7=\$.40/sf/10d mo8&9=\$.80/sf/10d mo10+=\$1.20/sf/10d ON ARTERIAL mo1=\$.10/sf/10d mo2=\$.20/sf/10d mo3=\$.40/sf/10d mo4=\$.80/sf/10d mo5=\$1.20/2f/10d
51A	utility main line or inserts			
51B	installing, maintaining, replacing, or removing utility poles or street lights			
51C	installing, maintaining, replacing, or removing utility aerial lines			
51D	installing or maintaining natural gas lines and short segments [less than 100 lineal feet] of natural gas mains			
51E	utility maintenance work that does not require any restoration			
51G	utility service connections installed by private party			
51H	installing or maintaining electrical or telecommunication lines			
51I	preparatory or exploratory work for upcoming projects, including surveying, installing monitoring wells, and soil sampling			
51J	Installing or maintaining water lines by a public utility agency			
51K	Installing or maintaining sewer or drainage lines			
51L	maintaining existing transportation infrastructure			
51M	utility cut pavement restoration			
51N	franchise utility maintenance, including steam mains, pipelines, and railroads			
51F	use of right-of-way for staging, curb crossing or excavation related to side sewer work	None		None
51O	private water service lines less than 2" in diameter	\$146		

Edited: July 30, 2015

Attachment A to Ordinance No. 123477, as amended by Ordinances 123600, 123611, 123659, 123907, 124159, 124532, 124770, and 123485 as amended by Ordinance 123585

Activities that use the public Right-of-Way that involve little to no mobility blockage				
Use Code	Use Description	Base Permit Fee	Occupation Fee (Long Term)	Use Fee (Short Term)
22B	permanent soldier pile located within the right-of-way [must be removed to a point 4 ft below adjacent grade]	\$146	\$1011/pile	None
25	construct, repair, maintain, or remove asphalt driveway		N/A	
26	construct concrete driveways ["Curb Cut" permits issued by DPD]			
26A	remove concrete driveway and restore curb ["Curb Cut Closure"]			
31D	construction use in unimproved right-of-way, including staging or material storage that is not in a transportation corridor			\$.51/SF
34	grade and rock (temporary)			None
35	clear and grub with ground disturbance greater than 1 yd³			
38	paving or pavement removal in planting strip or shoulder			
38A	Green Factor as approved by DPD			
47	cross curb and sidewalk with equipment			
50A	scaffold or other barrier that provides for pedestrian mobility and public protection with no mobility impacts			
52A	event pole banners of limited duration [up to four contiguous blocks per permit]			
52C	seasonal lights/decorations of limited duration			
54A	miscellaneous private temporary uses			

Edited: July 30, 2015

Attachment A to Ordinance No. 123477, as amended by Ordinances 123600, 123611, 123659, 123907, 124159, 124532, 124770, and 123485 as amended by Ordinance 123585

Activities that have value to the general citizenry				
Use Code	Use Description	Base Permit Fee	Occupation Fee (Long Term)	Use Fee (Short Term)
1	planting strip beautification, may include planting flowers, shrubs, and other vegetation and installing low planting boxes and pavers related to gardening	None	N/A	None
1A	tree pruning			
1B	tree planting			
1C	tree removal			
1D	unimproved right-of-way and shoulder beautification, including cleaning underbrush and planting vegetation with minimal ground disturbance of 1 yd ³ or less			
5A	clocks with Historic or Landmark designation			
54	miscellaneous uses for use of public places per SMC 15.04.100			
54B	residential street barricading associated with a Neighborhood Block Party			
54C	temporary barricading associated with emergency landslide or other debris			
55	sidewalk, driveway, or curb repair and maintenance (less than 100 sq. ft.) including caulking, sealing, or grinding			
55A	sidewalk, driveway, or curb repairs and maintenance (between 100 -1,999 sq. ft.)	\$146		
Miscellaneous				
Use Code	Use Description	Base Permit Fee	Occupation Fee (Long Term)	Use Fee (Short Term)
57	nonvending-related impound fee	\$97 per occurrence	N/A	N/A
58	sign removal	\$78 per sign or poster		
59	mobility impact surcharge	\$360		
45D	DPD project-related review, including MIMP, SUAC, SDAC	None		

Edited: July 30, 2015

Attachment A to Ordinance No. 123477, as amended by Ordinances 123600, 123611, 123659, 123907, 124159, 124532, 124770, and 123485 as amended by Ordinance 123585

45P	plat reviews			
-----	--------------	--	--	--

Edited: July 30, 2015

Attachment A to Ordinance No. 123477, as amended by Ordinances 123600, 123611, 123659, 123907, 124159, 124532, 124770, and 123485 as amended by Ordinance 123585

Activities that occur over more than one year ("Annual Permit")				
Use Code	Use Description	Base Permit Fee	Occupation Fee (Long Term)	Use Fee (Short Term)
2	small directional signs	\$146 (first year); \$140 (subsequent years)	None	N/A
2B	portable signs (i.e.: sandwich board signs, "A" frames, etc.)			
3D	street and sidewalk barricading for annual private use			
5	clocks			
6	signs, flags, or other advertising projecting over right-of-way [minimum 3" not to exceed 6' maximum]			
6A	wayfinding kiosks			
7B	ramp primary access over underwater street			
8	private mechanical or electrical building appurtenances			
9	private underground vaults or ducts			
14	miscellaneous renewable uses			
15A	long-term maintenance of privately-owned-public art			
16A	areaways existing prior to January 1, 1995: inactive			
17	existing sidewalk elevator doors			
18C	tables and chairs open to the public: maximum of 4 tables with 2 chairs each			

Edited: July 30, 2015

Attachment A to Ordinance No. 123477, as amended by Ordinances 123600, 123611, 123659, 123907, 124159, 124532, 124770, and 123485 as amended by Ordinance 123585

19A	vending activity in an attended newsstand			
21A	non-public utilities			
21B	underground storage tank: decommissioned			
27A	stanchions			
29A	long-term maintenance of fences, stairs, handrails, rockeries, retaining walls and related structures			
48	building maintenance over ROW [per bldg]			
52	street decorations, including benches, planters, bike racks, decorations, etc.			
52B	identification pole banners annual use [up to four contiguous blocks per permit]			

Edited: July 30, 2015

Attachment A to Ordinance No. 123477, as amended by Ordinances 123600, 123611, 123659, 123907, 124159, 124532, 124770, and 123485 as amended by Ordinance 123585

Long term uses of the Right-of-Way authorized by City Council (“Term Permit”)					
Use Code	Use Description		Base Permit Fee	Occupation Fee (Long Term)	Use Fee (Short Term)
61C	pipelines and steam mains under franchise agreement		Fees determined by ordinance		
61D	other miscellaneous long-term uses				
61E	sub-surface:	utility tunnels/ structures	(Land value) x (Use area) x (Rate of return) x (Degree of Alienation) = Annual fee Refer to Table A: Degree of Alienation Factor		
61F		vehicle/ pedestrian tunnels			
61G	at-grade:	public plazas, artwork			
61H		structures, restricted access			
61I		utility structures			
61J	above grade*:	overhead building structures (excluding skybridges and vehicle bridges/ ramps)			
61K		skybridges (private use)			
61L		skybridges (public use)			
61M		skybridges (semi-public use)			
61N		vehicle bridge			
61O		vehicle ramp			
61P		sub-surface, at-grade, or above-grade:			

Edited: July 30, 2015

Attachment A to Ordinance No. 123477, as amended by Ordinances 123600, 123611, 123659, 123907, 124159, 124532, 124770, and 123485 as amended by Ordinance 123585

<i>Occupation of Right-of-Way ("Annual Permit")</i>				
Use Code	Use Description	Base Permit Fee	Occupation Fee (Long Term)	Use Fee (Short Term)
2A	fixed ground signs	\$146 (first year); \$140 (subsequent years)	\$590/yr	N/A
21	underground storage tank: non-decommissioned			
7	long-term maintenance of structures and overhangs		\$.51/sf/yr	
12	material storage including storage associated with commercial/industrial long-term uses with no mobility			

Edited: July 30, 2015

Attachment A to Ordinance No. 123477, as amended by Ordinances 123600, 123611, 123659, 123907, 124159, 124532, 124770, and 123485 as amended by Ordinance 123585

	impacts			
16	areaways existing prior to January 1, 1995: active			
18B	sidewalk cafes		\$1.56/sf/yr	
18A	merchandise displays			

Edited: July 30, 2015

Attachment A to Ordinance No. 123477, as amended by Ordinances 123600, 123611, 123659, 123907, 124159, 124532, 124770, and 123485 as amended by Ordinance 123585

Occupation of underwater street ("Annual Permits")				
Use Code	Use Description	Base Permit Fee	Occupation Fee (Long Term)	Use Fee (Short Term)
7A	structures and overhangs in underwater streets	\$146 (first year); \$140 (subsequent years)	\$0.14/sf/mo	N/A
12A	moorage in underwater street			
WW100	installations and overhangs in state waterways			
WW200	moorage in state waterways			
WW250	temporary moorage or other uses of state waterways			
WW150	non-profit organizations water safety for youth		None	
Per ordinance or council action ("Annual Permits")				
Use Code	Use Description	Base Permit Fee	Occupation Fee (Long Term)	Use Fee (Short Term)
11	shoreline street ends [land portion]	(Land value) x (Use area) x (Rate of return) x (Demand probability) x (Maritime Industrial Use Discount Factor) = Annual fee		
		\$140 minimum fee		
Vending Permits				

Use Code	Use Description	Base Permit Fee	Parking/ Occupation Fee (Long Term)	Use Fee (Short Term)	Program Administration Fee
19B	1 st Amendment vending	\$40/yr	\$35/mo	None	None
19C	Stadium Event vending [April-September]	\$146	\$170/mo		
19D	Stadium Event vending [October-March]		\$110/mo		
19E	vending from a public place sidewalk or plaza DAY 6am-8pm		\$1.56/SF		\$344
19F	vending from a public place sidewalk or plaza NIGHT 8pm-6am				\$688
19G	food-vehicle zone vending (DAY 6am-8pm)				\$468 (each 4-HR period x each day of the wk)
19H	food-vehicle zone vending (NIGHT 8pm-6am)	\$688			
19I	temporary curb space vending	N/A	None		

Edited: July 30, 2015

Attachment A to Ordinance No. 123477, as amended by Ordinances 123600, 123611, 123659, 123907, 124159, 124532, 124770, and 123485 as amended by Ordinance 123585

19J	mobile-food vending				
-----	---------------------	--	--	--	--

Other Fees and Charges	
<i>Hourly Charge for City service including, but not limited to: review, investigation, inspection, drafting, design guidance, document preparation and other activities related to the administration of the permit</i>	\$172
<i>Premium hourly rate (e.g. Overtime Inspections)</i>	\$344
<i>Penalty Fee (No Job Start Call)</i>	\$300
<i>A Deposit may be required</i>	<i>Amount determined based on services requested</i>
<i>Hourly Charge for Department of Planning and Development project-related review, that includes but is not limited to project permits defined by RCW 36.70B.020, project-related Environmental Impact Statements, and pre-submittal conferences and coordination.</i>	\$172

The Department of Transportation is directed to use the vending Street Use permit fees credited to the Transportation Operating Fund for the following purposes: administering the vending program, including notifying property owners abutting a proposed vending site designated by the Department of Transportation; verifying property boundaries and square footage of usage; designating pre-approved vending sites by the Department of Transportation; signing and demarcating designated vending sites and food-vehicle zones; attending meetings or hearings; preparing documents, legislation, forms, and notices; inspecting and enforcing permitted or illegal vending activity; or engaging in any other vending-related activity as directed by the Director of Transportation.

Fee Methodology Factors and Descriptions

Factor	Description
Land value:	For Term permits, the value of the use area in the right-of-way shall be based on the abutting parcel's current per-square-foot land value as determined by the King County Assessor. If the use area extends beyond the right-of-way centerline or abuts multiple parcels, the permit fee shall be calculated by averaging the abutting parcels' current land values. For Shoreline Street End permits, the value of the use area in the right-of-way shall be based on the abutting parcel's current per-square-foot land value as determined by the King County Assessor. If the use area extends beyond the centerline of the right-of-way or abuts multiple parcels, the permit fee shall be calculated for each portion of the use area according to the current per-square-foot land value of the abutting parcels. If all parcels abutting the Term or Shoreline Street End permitted use area are government-owned and the parcels are not tax assessed in whole or in part by King County, the parcels shall be excluded when establishing the Term or Shoreline Street End permit fee. To determine the permit fee, the current per-square-foot land value as determined by the King County Assessor of the closest privately-owned parcel or parcels with the same

Edited: July 30, 2015

Attachment A to Ordinance No. 123477, as amended by Ordinances 123600, 123611, 123659, 123907, 124159, 124532, 124770, and 123485 as amended by Ordinance 123585

zoning or shoreline designation of the Term or Shoreline Street End permitted use area shall be averaged. If the next closest privately-owned parcel or parcels do not have the same underlying zoning or shoreline designation as the abutting government-owned parcel, the Seattle Department of Transportation shall consult with the City Appraiser. The City Appraiser shall determine if the next closest parcel or parcels with similar zoning or shoreline designation reasonably establishes the current per-square-foot land value of the use area in the right of way for fee calculation purposes.

Use area:	Square footage of the permitted encroachment in the right-of-way, as authorized by Seattle Department of Transportation.
Rate of return:	Annualized rate of return on market value of the right-of-way, as established by the City Appraiser or a State of Washington Certified General Real Estate Appraiser retained by the Director of Transportation.
Degree of alienation:	For Term permits, the degree of impact on the public, utilities, right-of-way, and other potential uses of the right-of-way based on City policy, as established by Seattle Department of Transportation. Refer to Table A: Degree of Alienation Factor.
Demand probability:	For Shoreline Street End permits, the estimated demand of probable use shall be based on factors that include, but are not limited to, location, access, size, view, and topography; as established by the City Appraiser or a State of Washington Certified General Real Estate Appraiser retained by the Director of Transportation. Refer to Attachment A: Demand Probability Factor. The Director of Transportation is authorized to update Attachment A based upon the recommendations of the City Appraiser or a State of Washington Certified General Real Estate Appraiser. The new Demand Probability Factor shall become effective when the updated Demand Probability Factor is adopted by rule.
Maritime Industrial Use Discount Factor:	To support the City's policies of protecting its maritime uses, a 50 percent discount factor shall apply to that portion of the Shoreline Street End occupied by a legally-established water-dependant or water-related use as defined in Seattle Municipal Code Section 23.60.944.

The Department of Transportation is directed to use the shoreline street end permit fees credited to the Transportation Operating Fund for the following purposes:

- (a) Notifying property owners that abut shoreline street ends of the need for permits for private use of the street end and of the fee schedule;
- (b) Administering and inspecting shoreline street end use;
- (c) Verifying property boundaries and area of use;
- (d) Matching funds for neighborhood improvements of shoreline street ends for public use;
- (e) Signing, demarcating, and maintaining shoreline street ends;

Edited: July 30, 2015

Attachment A to Ordinance No. 123477, as amended by Ordinances 123600, 123611, 123659, 123907, 124159, 124532, 124770, and 123485 as amended by Ordinance 123585

- (f) Funding street and sidewalk improvements within a half-block radius of any of the shoreline street ends identified in Exhibit A to Resolution 29370 that directly contribute to public access to the shoreline street end.

Edited: July 30, 2015

Attachment A to Ordinance No. 123477, as amended by Ordinances 123600, 123611, 123659, 123907, 124159, 124532, 124770, and 123485 as amended by Ordinance 123585

Table A: Degree of Alienation Factor				
Use code:	Use description:		Examples:	Factor rate:
61E	sub-surface*:	utility tunnels/structures	Privately-maintained utility tunnels connecting parcels	0.3
61F		vehicle/pedestrian tunnels	Underground pedestrian concourses	0.25
61G	at-grade:	public plazas, artwork	Privately-maintained public plazas	0.1
61H		Structures/restricted access	Building encroachments, skybridge columns	0.8
61I		utility structures	Wastewater pump stations	0.5
61J	above grade*:	overhead building structures	Building roof projections	0.75
61K		skybridges (private use)	Skybridges connecting office building or condominium garage access	2.0
61L		skybridges (public use)	Skybridges connecting to the public transportation network	0.1
61M		skybridges (semi-public use)	Skybridges connecting hospitals, department stores, hotels/convention centers	0.75
61N		vehicle bridges	Overhead vehicle bridges connecting private structures	0.5
61O		vehicle ramps	Privately-owned vehicle ramps connecting to a portion of the public transportation network (portion of ramp may be at-grade)	0.2
61P		sustainable building features**	A building appurtenance identified as being necessary to achieve the Living Building Challenge or LEED platinum certification; including but not limited to photovoltaic arrays, wind generators, or cisterns.	0.1

* Portions of sub-surface or above-grade structures, such as columns or stairwells, may be located at grade. Except for vehicle ramps, the total value of the term permit annual fee shall be calculated by adding the value of the at-grade use area to the value of the sub-surface or above-grade use area.

** In order to qualify for this term permit use code, the development must be participating in the City's Living Building Pilot Program, be capable of achieving Leadership in Energy and Environmental Design (LEED) platinum certification, or both.