

**WHATCOM COUNTY COUNCIL AGENDA BILL**

NO. 2006-385

CLEARANCES	Initial	Date	Date Received in Council Office	Agenda Date	Assigned to:
Originator:	MJD	9/28/06	<b>RECEIVED</b>  <b>OCT 03 2006</b>  <b>WHATCOM COUNTY COUNCIL</b>	10/10/06	Introduction
Division Head:				10/24/06	Council-Hearing
Dept. Head:	<i>[Signature]</i>	10/2/06			
Prosecutor:	<i>[Signature]</i>	09/28/06			
Purchasing/Budget:	BB	10/2/06			
Executive:	<i>[Signature]</i> PK	10-2-06			

**TITLE OF DOCUMENT:**

*Ordinance to revise WCC 12.16, referring Revocable Encroachment Permit fees to the Whatcom County Unified Fee Schedule.*

**ATTACHMENTS:**

- 1. Memo to County Executive and Council
- 2. Ordinance
- 3. Exhibit (Whatcom County Code 12.16)-redlined

SEPA review required? ( ) Yes ( X ) NO

SEPA review completed? ( ) Yes ( X ) NO

Should Clerk schedule a hearing? ( X ) Yes ( ) NO

Requested Date: 10/24/06

**SUMMARY STATEMENT OR LEGAL NOTICE LANGUAGE:** (If this item is an ordinance or requires a public hearing, you must provide the language for use in the required public notice. Be specific and cite RCW or WCC as appropriate. Be clear in explaining the intent of the action.)

*Amend Ordinance #88-79 and Whatcom County Code 12.16, referring Revocable Encroachment Permit fees to the Whatcom County Unified Fee Schedule.*

**COMMITTEE ACTION:**

**COUNCIL ACTION:**

10/10/2006: Introduced  
 10/24/2006: Council Adopted 7-0, Ord. 2006-046

Related County Contract #:

Related File Numbers:

Ordinance or Resolution Number:

Ord. 2006-046

**Please Note:** Once adopted and signed, ordinances and resolutions are available for viewing and printing on the County's website at: [www.co.whatcom.wa.us/council](http://www.co.whatcom.wa.us/council).

SPONSORED BY: Consent  
PROPOSED BY: Public Works Engineering  
INTRODUCTION DATE: 10/10/06

**ORDINANCE NO. 2006-046**

**AMENDING THE ORDINANCE SETTING THE FEE SCHEDULE FOR REVOCABLE ENCROACHMENT PERMITS TO INCORPORATE BY REFERENCE THE FEES SET FOR SUCH PERMITS IN THE WHATCOM COUNTY UNIFIED FEE SCHEDULE**

**WHEREAS**, Ordinance #79-70 was adopted to provide for a revocable encroachment permit to allow and regulate construction, installation, repair, structure replacement, excavation, fill, grade and utility placement within County right-of-way; and

**WHEREAS**, Ordinance #88-79 which pertained to and further clarified revocable encroachment permits was adopted by the County Council on September 15, 1988; and


**WHEREAS**, Ordinance #88-79 was codified into Whatcom County Code 12.16; and

**WHEREAS**, as adopted, the latter ordinance set specific amounts of fees for various types of activities performed under a revocable encroachment permits; and

**WHEREAS**, in the interest of efficient establishment and administration of fees, WCC 12.16 should be revised to provide that the fee amounts charged for various Revocable Encroachment Permits be set periodically through the Whatcom County Unified Fee Schedule (see Exhibit A);

**NOW, THEREFORE, BE IT ORDAINED** by the Whatcom County Council that Whatcom County Code 12.16 is hereby amended as set forth in attached Exhibit A.

**ADOPTED** this 24 day of October, 2006.

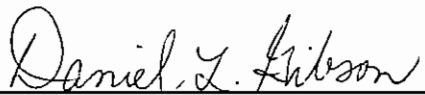
ATTEST:  
  
Dana Brown Davis, Clerk of the Council


WHATCOM COUNTY COUNCIL  
WHATCOM COUNTY, WASHINGTON

  
Laurie Caskey-Schreiber, Council Chair

WHATCOM COUNTY EXECUTIVE  
WHATCOM COUNTY, WASHINGTON

APPROVED AS TO FORM:

  
Civil Deputy Prosecutor  
Daniel L. Gibson  
Assistant Chief Deputy Prosecuting Attorney

  
Pete Kremen, County Executive  
(  ) Approved (  ) Denied

Date Signed: 10-31-06

**EXHIBIT A**  
**Whatcom County Code**  
**Chapter 12.16**  
**REVOCABLE ENCROACHMENT PERMITS**



---

## Chapter 12.16 REVOCABLE ENCROACHMENT PERMITS

### Sections:

- 12.16.010 Definitions.
- 12.16.020 Permit required to perform work in right-of-way.
- 12.16.030 Timing and continuing responsibility.
- 12.16.040 Permit terms and conditions.
- 12.16.050 Revocation notice and removal of work.
- 12.16.060 Failure to comply.
- 12.16.070 Emergency.
- 12.16.080 Bond.
- 12.16.090 Permit – Term - Fee schedule.
- 12.16.100 Violations – Penalties.
- 12.16.110 Failure to remove work.

### **12.16.010 Definitions.**

The term "work," as used in this chapter, shall include actions or attempts designed to use, open, alter, excavate, cut, fill, disturb, repair, replace, grade, or break the surface of any county right-of-way including construction, installation of improvements, appurtenances, utilities and services related hardware. The placing of new wire on existing poles and the routine maintenance and repair of all existing overhead wires, including the existing poles supporting these wires is not included in this term. (Ord. 88-79 § 1).

### **12.16.020 Permit required to perform work in right-of-way.**

Any person or persons, corporation, district, municipality, city, town or utility who shall desire to work within or temporarily use the county right-of-way, easement or county owned land shall first procure from the department of public works a revocable encroachment permit. The director of public works or the county engineer shall grant such permit subject upon the terms and conditions set forth herein. (Ord. 88-79 § 2).

### **12.16.030 Timing and continuing responsibility.**

A. The person, corporation, district, municipality, city, town or utility which will perform the work must obtain the permit before beginning unless the emergency exemption applies. The engineer's office must be notified as to street address and permit number 24 hours in advance of construction if underground utilities are ready to be covered, and again when all work is completed. The permittee must remedy and correct any and all discrepancies cited by the inspecting authority immediately upon written notice of correction furnished to the address of record listed on the permit unless waived by the department.

B. The county engineer, or his designee, under the direction of the department of public works shall be the inspecting authority responsible to investigate and inspect all work undertaken within the county right-of-way to determine that a permit has been obtained, that the work is in full compliance with the terms of the permit, county development standards, buildings and code administration requirements, other laws and regulations and that all corrections and remedies are made within the period of time required in the notice of correction or within a reasonable time if none is stated. The county engineer shall keep a record of all inspections made, instructions and directions issued and respond to each notice of correction for each permit. (Ord. 88-79 § 3).

#### **12.16.040 Permit terms and conditions.**

A. The party requesting such a permit shall apply at the department of public works, ~~division of buildings and code administration~~ engineering by completing and signing an application request and by furnishing additional information regarding such work as requested by the division, including, but not limited to:

1. A map or plan showing the location of the work and a full description of the work desired to be done along with adequate exhibits to illustrate its size, type, nature and extent;
2. A summarization of the effects of the work on the safety, aesthetics and natural features of the right-of-way;
3. An estimate of the time required to complete the work.

B. All work shall be performed in accordance with county development standards, the plans and specifications submitted with the application, as specified in permit conditions or notice of correction.

C. When a street closure is required, a diagram of the proposed traffic control and/or detours complete with all signing required must be submitted prior to issuance of a permit. In no case shall any permit allow or permit the obstruction of more than one-half of any road right-of-way nor shall such obstruction be less than three feet from any railroad track along or over such road right-of-way, nor as to close up any roadway against the passage of vehicles; provided, however, that when it is the determination of the director of public works and/or the county engineer that such closure is necessary for the safety of the traveling public, the director of public works and/or the county engineer shall at all times have the authority to regulate the use of the road right-of-way.

D. These permits shall become null and void if work pursuant to the permit is not commenced within 180 days of the date of approval, or if the work is suspended or abandoned for a period of 180 days at any time after work is commenced. The director of public works and/or the county engineer shall have the authority to extend any permit up to 180 days for good cause.

E. A permit may be denied or revoked if the proposed use is inconsistent with the county's present or future right to utilize the right-of-way for street purposes, or is not in the county's or the public's best interest, is unsafe, or in any way would be detrimental to either the county or public. (Ord. 88-79 § 4).

#### **12.16.050 Revocation notice and removal of work.**

The granting of the permit is subject to revocation by a written notice of revocation delivered to the last address of record with the department. Following revocation, the permittee shall remove the work at their own expense. (Ord. 88-79 § 5).

#### **12.16.060 Failure to comply.**

If the permittee fails, neglects or refuses to comply with any of the terms or conditions of the permit, or orders and directions of the director of public works or county engineer's office or designee, then the director or engineer shall have full authority to suspend pending correction or cancel and revoke the permit following which it shall be the duty of the permittee and property owner to remove all work from the right-of-way to its original condition. On failure to do so within the time specified in the correction notice required under Section 12.16.030(B) the county may remove and repair at the expense of the permittee and owner. (Ord. 88-79 § 6).

#### **12.16.070 Emergency.**

It is unlawful to work until a valid permit has been issued and paid for except in case of emergency. When regard for health or safety and the circumstances do not permit compliance with this process prior to or simultaneous with the work, the work may be performed on an emergency basis provided the engineer or director of public works is notified at the earliest possible time, in no case later than the next working day, which notice shall give full details of the work done and work yet to be performed. A permit shall be obtained the first working day following the emergency work. (Ord. 88-79 § 7).

#### **12.16.080 Bond.**

Prior to issuance of a revocable encroachment permit to work within a county right-of-way easement or other county permit, the director of public works or county engineer may require the posting of a bond in an amount sufficient to secure completion and restoration. (Ord. 88-79 § 8).

#### **12.16.090 Permit – Term - Fee schedule.**

Before any revocable encroachment permit may be granted under the provisions of this chapter, the applicant applying for such permit must pay to the Department of Public Works division of buildings and code administration the applicable fees as hereinafter set forth in the following Whatcom County Unified fee schedule: for each calendar year, or any part thereof.

~~New Driveways and Improvement of Existing Driveways:~~

~~Residential (meaning a single-family unit) \$15.00 each~~

~~Commercial \$25.00 each~~

~~Storm Drain Installations:~~

~~Fifty feet and less (typically filling in road ditches outside of driveway area) \$25.00~~

~~More than 50 feet same as sewer installation~~

~~Utility Connections:~~

~~Residential (includes up to 100 ft. of connecting line installation) \$10.00 each~~

~~Commercial (includes up to 100 ft. of connection line installation) \$20.00 each~~

~~Utility Installations:~~

~~Water lines minimum \$ 50.00~~

~~\$0.07/foot~~

~~Sewer lines minimum \$ 50.00~~

~~\$0.15/foot~~

~~Gas, power and communication lines minimum \$30.00~~

~~\$0.05/foot~~

~~Road Construction:~~

~~Work not covered by subdivision ordinances or trail permit ordinances~~

~~minimum \$50.00~~

~~\$ 0.15/foot~~

~~Sidewalks:~~

~~Work not covered by subdivision ordinance minimum \$50.00~~

~~\$0.10/foot~~

~~Miscellaneous Roadway Installation:~~

~~Includes such work related to curbs, guardrails, etc. minimum \$50.00~~

~~\$0.10/foot~~

~~Fences, Retaining Walls, and Landscaping:~~

~~Related to work to improve private property. (Must demonstrate justification to locate on county right-of-way) minimum \$25.00~~

~~\$0.10/foot~~

~~Sign Installations:~~

~~(Private signing is discouraged on county right-of-way, unless~~

**~~justification is demonstrated) \$25.00 each~~**

Fees for temporary occupancy or encroachment on county roads or county rights-of-way for purposes not identified in the above schedule shall be determined by the director of public works and/or the county engineer. Fee schedule may be waived or adjusted in the discretion of the director of public works and/or the county engineer based upon an estimate of the service offered in review of the proposed work. (Ord. 88-79 § 9). Amended by Ord. \_\_\_\_\_.

**12.16.100 Violations – Penalties.**

A. Any person or entity who enters upon any county right-of-way, easement or county property for the purpose of performing any work therein without first securing and holding a valid revocable encroachment permit required for such work is guilty of a misdemeanor and subject upon conviction to a fine of up to \$500.00 for each offense and any agent of such who participates in or in any manner directs or aids in the conduct of such work without such permit shall also, upon conviction, be held to be in violation of this chapter, guilty of a misdemeanor, and subject to the penalties prescribed above. Each day of violation shall constitute a separate offense.

B. In addition, unless the work is removed and the property restored, the offending party shall comply with this chapter by obtaining a permit, the fee for which shall be doubled. (Ord. 88-79 § 10).

**12.16.110 Failure to remove work.**

It is also a misdemeanor for any person or entity to fail to remove such work which was performed and restore the property to original condition, following revocation or to fail to correct such defects as are cited in the notice of correction when demand is made by the director of public works or the county engineer. (Ord. 88-79 § 11).