



CITY OF KIRKLAND
 Department of Public Works
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MEMORANDUM

To: Kurt Triplett, City Manager

From: Rob Jammerman, Development Engineering Manager
 Marilynne Beard, Interim Public Works Director

Date: June 18, 2014

Subject: LONG-TERM USE FEE OF THE PUBLIC RIGHT-OF-WAY FOR PRIVATE DEVELOPMENT PROJECTS

RECOMMENDATION:

It is recommended that the City Council reviews the background and proposed fee schedule for long-term use of the public right-of-way (ROW) by private development projects and adopts the attached Ordinance authorizing the ROW fee schedule.

BACKGROUND DISCUSSION:

During the first quarter of 2014, the Public Works, Parks, and Human Services Council Committee and the Planning, Housing, and Economic Development Council Committee each reviewed the proposed the long-term right-of-way use fee for private development projects. The Committees reviewed the following background and recommended the adoption of the following fee structure.

Typical Types of Uses in the Public ROW

The Public Works Department reviews and issues permits and provides inspection for all construction work occurring in the public ROW. In most cases construction in the ROW is short-term and the ROW is restored to public use at the end of the work day (or sooner). However, in some cases, the construction project may require or cause long-term closures of certain portions of the ROW. The tables below describe some typical short-term and long-term ROW restrictions.

Short-Term Examples

Type of Project	Notes
Installation of a utility line in the ROW	Project may span over a longer duration due to installation and restoration requirements. In most cases, the street or sidewalk is reopened for use at the end of the work day.
Installation of street improvements (curbs and sidewalks)	Project may span over a longer duration due to installation and restoration requirements. In most cases, the sidewalk must remain closed for a short-term while concrete is poured and cured. A pedestrian detour route is required.
Temporary pedestrian detour due to safety reasons (example: multiple trucks entering and exiting the site)	A temporary pedestrian detour route is installed during working hours, and the sidewalk is reopened at the end of the work day.
Building Maintenance or installation of appurtenance on the front of the building (example: new sign installation)	The contractor is required to obtain a ROW permit to close the sidewalk while they are working on the building. A pedestrian detour route is required. The sidewalk must be reopened at the end of the day.

Long-term Example

Type of Project	Notes
Contractor proposes long-term pedestrian detour due to site constraints (i.e. deep excavations or pedestrian safety concerns due to overhead construction adjacent to the sidewalk).	This situation is more prevalent in areas where there are no building setbacks from the public right-of-way such as business districts. During construction it is often necessary to detour the pedestrian traffic around the site because of safety concerns or if it is not possible to keep the sidewalk open due to site constraints.

Negative Impacts of Long-term ROW Use

When an existing ROW improvement, such as a sidewalk, bike lane or parking lane, is impacted by a construction project, safe and efficient travel by pedestrians, bicyclists, and motorists is often disrupted when they must be detoured to an alternate route. The private use temporarily compromises a public facility. This impact to safe and convenient public use should be minimized whenever possible, but no financial incentives for the contractor to complete the ROW work in a timely manner have been adopted by the City.

Neighboring Cities' Policies

City	Long-term Use Fee	Notes
Kirkland	No	Development Engineer and Inspector work with the contractor to develop a plan that minimizes the impact on the pedestrian and provides a safe detour route when long-term use cannot be avoided.
Redmond	No	Same approach as Kirkland
Bothell	No	Same approach as Kirkland
Bellevue	Yes	Nominal fee for use exceeding two weeks on non-residential streets. Minor fee is based on appraised value of adjacent property and square feet of ROW used.
Seattle	Yes	Nominal fee (\$0.10 psf/month) for the initial long-term use and the fee doubles every month that the long-term closure continues.

Long-term ROW Use Fee Recommendation

Both City Council committees recommended that a fee schedule should be developed that recognizes the challenges of working in the ROW, but also provides a financial incentive to open the ROW as soon as possible. Staff is recommending the following fee schedule to incentivize reopening of the ROW (see Figure 1 below). The fee will apply to the closure of sidewalks, bicycle lanes or parking stalls along Collector, Minor Arterial, or Principal Arterial type streets and for sidewalks along adopted safe school walk routes along any type of street. It is hoped that this fee schedule will encourage developers and contractors to complete projects as expeditiously as possible to avoid additional project costs. Since City projects are already managed to minimize impacts on the public, the City would not be subject to the fees.

Figure 1 – Proposed Fee Schedule

Duration of closure	Type of work causing closure	Fee	Conditions	
0-2-weeks	Any type of work	No Fee	An approved pedestrian /bike detour must be provided.	
0-8 weeks	Utilities or street improvements in the ROW	No Fee		
2-8 weeks*	Closure associated with a project but not related to utility or street improvements	\$2.50/LF per week; \$250 min/wk.		
9 weeks or longer*	For any type of work	\$10/LF per week \$500 min/wk.	Fee increases \$2.50/LF per week (\$250 minimum) for each additional week of closure.	An approved pedestrian/bike detour must be provided.

*The ordinance as currently drafted authorizes the Public Works Director to modify or waive these fees if the long-term closure is found to be beneficial to the City and there are no other alternatives.

Effective Date of the New Fee and Public Outreach

Staff recommends that the effective date of the new fee occur on January 1, 2015 to align with other permitting fee changes that normally occur at the beginning of each year. This delayed effective date will allow staff to educate our customers about the new fee and they will have time to prepare for the fee and plan their project schedules accordingly. Our planned outreach and education will include the following:

1. Discussion with developers and builders about the new fee at all pre-submittal meetings.
2. At least two bulletins sent out the Kirkland Developers Partnership Forum notifying them of the new fee.
3. Notices will be placed on the City website and at each of the Development Services counters in City Hall.

Attachment - Ordinance

ORDINANCE O-4448

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO LONG TERM RIGHT-OF-WAY USE AND AMENDING CHAPTER 19.04 AND SECTION 5.74.070 OF THE KIRKLAND MUNICIPAL CODE.

The City Council of the City of Kirkland do ordain as follows:

Section 1. Kirkland Municipal Code Chapter 19.04 is amended by the addition of a new section to read as follows:

19.04.090 Long Term Right-of-Way Use– Permit Required.

1. Purpose – During private development or other events, it may become necessary to close off public access in the right-of-way long-term. This section authorizes the city to issue permits and enforce such a closure.

2. Permit Required - A long term right-of-way use permit is required, allowing closure of a sidewalk, bicycle lane, or parking stall closures along collector, minor arterial, or principal arterial-type streets and sidewalks along city-adopted safe school walk routes along any type of street. The director of public works has the authority to issue the permit.

3. Duration of Closure and Fees – Definition and duration of long-term closure and fees are established by Section 5.74.070 of this Code. The public works director may modify or waive these fees if the long-term closure is found to be beneficial to the city and there are no other alternatives.

4. Application Requirements – The owner of the abutting property (or their agent) shall apply for a long term right-of-way use permit on a form to be provided by the department of public works. The application shall contain all information requested by the city, including a diagram showing the area to be closed, a pedestrian/bike detour plan, and the anticipated duration of the closure.

5. Permit Conditions – The public works director may attach reasonable conditions to a long term right-of-way use permit.

6. Enforcement – Enforcement authority rests with the director of public works or his/her designee, which may include personnel of the building or construction and project management departments.

Section 2. Kirkland Municipal Code Section 5.74.070 is amended to read as follows:

5.74.040 Fees charged by the public works department.

(a) The schedule below establishes permit and administrative fees charged by the public works department.

Fee Type	Fee Amount
Water—Meter installation (Each fee includes a \$50.00 administration charge) 3/4" meter 1" meter 1-1/2" meter 2" meter Greater than 2"	 \$129.00 \$159.00 \$225.00 \$294.00 Time and materials
Water—Billing Customer-requested service shutoff during business hours Customer-requested service shutoff during nonbusiness hours Water service shutoff or turn-on for unpaid user bill before 3:00 p.m. on business days Water service shutoff or turn-on for unpaid user bill after 3:00 p.m. on business days Service calls if broken water line was caused by owner/occupant Special water meter reading Alternate billing Cut lock fee Shutoff tag Water restrictions penalty	 \$30.00 \$80.00 \$40.00 \$90.00 \$20.00 \$40.00 \$10.00 \$60.00 \$20.00 Up to \$50.00/day
Sewer—Permits New or replacement side sewer inspection Side sewer repair (< 10 feet) inspection Side sewer cap inspection Septic system abandonment inspection Side sewer stub fee (for city-installed stub)	 \$425.00 \$58.00 \$58.00 \$58.00 \$1,062.00 min. or as documented
Sewer—Discharge regulation Penalty for late discharge report (late after 30 days) Penalty—Discharge compliance, incomplete actions Penalty—Nonmaintenance of FOG systems Penalty—Inaccurate or incomplete report	 \$25.00/day for first 20 days, then \$100.00/day, for a maximum of \$1,000.00 total. \$100.00/day for 60 days max. \$500.00 + city maintenance costs. Second year: \$1,000.00 + city maintenance costs \$100.00 for first offense
Sewer—Billing Sewer service call (customer problem)	 \$20.00

Fee Type	Fee Amount
Right-of-Way Permit to work in ROW—Standard Permit to work in ROW—Basic Street cut fee 1—50 sq. ft. Street cut fee 51—100 sq. ft. Street cut fee 101 sq. ft. or larger Street cut administration fee	 \$372.00 \$106.00 \$200.00 \$400.00 \$400.00 + \$400.00 for each additional 100 sq. ft. \$25.00 per street cut
<p><u>Long Term Right-of-Way (ROW) Use. Regardless of duration, an approved pedestrian/bike detour must be provided</u></p> <p><u>2-8 weeks: Closure associated with a project but not related to utility or street improvements.</u></p> <p><u>9 weeks or longer : Any type of work</u></p>	 <u>\$2.50/LF per week; \$250 minimum/week</u> <u>\$10/LF per week, \$500 minimum/week</u> <u>Fee increases \$2.50/LF (\$250 minimum) for each additional week of closure</u>
Storm Drainage (Surface Water) Surface water drainage plan check fees (see PW pre-approved plans and policies for description of review types): (a) Small—Type I review (b) Small—Type II review (c) Targeted review (d) Full review (e) Roof/driveway drain connection inspection (f) Surface water adjustment process (see PW pre-approved plans and policies for full description)	 \$375.00 \$905.00 \$1,580.00 \$3,160.00 \$637.00 \$150.00 for up to 2 hours of process, and then \$75.00/hour thereafter
Miscellaneous Review and Inspection Fees When the public works department provides engineering review or inspections services, and a fee for such service is not published, the applicant shall pay the following rate for such services Impact fee—Independent fee review Right-of-way nonuser relinquishment review fee	 \$75.00 per hour \$200.00, plus \$75.00 per hour of review \$375.00 for up to 5 hours' process, and \$75.00/hour thereafter
City trees Civil penalties for violations, per day	 1st violation—\$200.00 2nd violation—\$400.00 3rd violation—\$600.00

(b) Whenever any construction work, public improvement or other activity is required or permitted to be performed upon any public right-of-way, or within or upon any property which, upon completion of said work or activity, is to be conveyed or dedicated as public right-of-way or public easement, the city shall not accept for maintenance or otherwise such work, improvement, facility or activity until there has been paid to the city by the person required or permitted to perform such work or activity an amount equal to ten percent of the estimated cost of construction of such work, improvement, facility or activity as and for reimbursement to the city for its cost of review and inspection of such work, improvement, facility or activity. In addition, prior to the release of any permit for construction of storm drainage collection and conveyance on private property, the permit applicant shall pay a fee equal to ten percent of the estimated cost of construction of such work, improvement, facility or activity as and for reimbursement to the city for its cost of review and inspection of such work, improvement, facility or activity. Estimated cost of construction shall be determined by the director of the department of public works. Whenever such a review and inspection fee is required, the public works department is authorized to collect up to one-half of the fee at permit application with the remainder being due at permit issuance.

(c) This section shall not apply to:

(1) Work performed under public works construction contracts let by the city pursuant to Chapter 3.85; or

(2) So much of such work performed under a developer's extension agreement (Chapter 35.91 RCW facilities agreement) as is determined by the director of public works to be for the benefit of the Kirkland water or Kirkland sewer system rather than for the benefit of the property being concurrently subdivided, developed or improved by the signors to the developer extension agreement.

(d) The director is authorized to interpret the provisions of this chapter and may issue rules for its administration. This includes, but is not limited to, correcting errors and omissions and adjusting fees to match the scope of the project. The fees established here will be reviewed annually, and, effective January 1st of each year, may be administratively increased or decreased by an adjustment, rounded to the nearest dollar, to reflect the current published annual change in the Seattle Consumer Price Index for Wage Earners and Clerical Workers as needed in order to maintain the cost recovery objectives established by the city council.

(e) MyBuildingPermit.com Surcharge. In addition to the fees listed in this section there shall be a one and three-tenths percent surcharge collected to pay for the city's MyBuildingPermit.com membership fees.

Exception: the MyBuildingPermit.com surcharge does not apply to the following:

- (1) Water meter installation.
- (2) Water billing.

- (3) Sewer discharge and penalties.
- (4) Sewer billing.
- (5) Street cut fees.
- (6) City trees or civil penalties.

Section 3. This ordinance shall be in force and effect on January 1, 2015, after its passage by the Kirkland City Council and publication pursuant to Section 1.08.017, Kirkland Municipal Code in the summary form attached to the original of this ordinance and by this reference approved by the City Council.

Passed by majority vote of the Kirkland City Council in open meeting this ____ day of _____, 2014.

Signed in authentication thereof this ____ day of _____, 2014.

MAYOR

Attest:

City Clerk

Approved as to Form:

City Attorney

PUBLICATION SUMMARY
OF ORDINANCE O-4448

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO LONG TERM RIGHT-OF-WAY USE AND AMENDING CHAPTER 19.04 AND SECTION 5.74.070 OF THE KIRKLAND MUNICIPAL CODE.

SECTION 1. Amends Kirkland Municipal Code Chapter 19.04 by the addition of a new section 19.04.090 relating to requirements of a Long Term Right-of-Way Use Permit.

SECTION 2. Amends Kirkland Municipal Code Section 5.74.040 relating to permit and administrative fees charged by the public works department.

SECTION 3. Authorizes publication of the ordinance by summary, which summary is approved by the City Council pursuant to Section 1.08.017 Kirkland Municipal Code and establishes the effective date as January 1, 2015, after publication of summary.

The full text of this Ordinance will be mailed without charge to any person upon request made to the City Clerk for the City of Kirkland. The Ordinance was passed by the Kirkland City Council at its meeting on the _____ day of _____, 2014.

I certify that the foregoing is a summary of Ordinance _____ approved by the Kirkland City Council for summary publication.

City Clerk