



Legislation Details (With Text)

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**On agenda:** 9/26/2016  
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**Title:** AN ORDINANCE relating to utility permits and regulations; amending Sections 15.32.050 and 15.32.160 of the Seattle Municipal Code.

**Sponsors:** Mike O'Brien

**Indexes:**

**Attachments:** 1. Summary and Fiscal Note, 2. Presentation, 3. Signed Ord 125149, 4. Affidavit of Publication

Date	Ver.	Action By	Action	Result
9/29/2016	1	City Clerk	attested by City Clerk	
9/29/2016	1	Mayor	returned	
9/29/2016	1	Mayor	Signed	
9/28/2016	1	City Clerk	submitted for Mayor's signature	
9/26/2016	1	City Council	passed	Pass
9/20/2016	1	Sustainability and Transportation Committee	pass	Pass
9/19/2016	1	City Council	referred	
8/19/2016	1	Council President's Office	sent for review	
8/16/2016	1	City Clerk	sent for review	
8/16/2016	1	Mayor	Mayor's leg transmitted to Council	

**CITY OF SEATTLE**

**ORDINANCE \_\_\_\_\_**

**COUNCIL BILL \_\_\_\_\_**

AN ORDINANCE relating to utility permits and regulations; amending Sections 15.32.050 and 15.32.160 of the Seattle Municipal Code.

WHEREAS, The City of Seattle (the “City”) possesses a transportation system that is vital to the City’s economic vitality and the City’s quality of life, and is an important public function; and

WHEREAS, a substantial portion of the City’s transportation funds goes to repairing and rehabilitating City streets; and

WHEREAS, the City wishes to preserve the investment in its transportation system; and

WHEREAS, the Right-of-Way Opening and Restoration Rules, formerly known as the Pavement Opening and Restoration Rules, define in technical detail the restoration requirements for any intrusion into the pavement or other right-of-way element; and

WHEREAS, utilities, including telecommunication carriers, provide essential services to City residents and businesses, and the rights-of-way are critical to the utilities' ability to provide the services; and

WHEREAS, the City authorizes public and private utilities to work in City public places to operate and maintain utility services within the limitations established by state and federal law; and

WHEREAS, the utilities' work can seriously impact the condition and useful life of the City's streets; and

WHEREAS, construction in the rights-of-way can represent an inconvenience and disruption to commerce, and the public becomes frustrated with City streets being repeatedly torn up; NOW, THEREFORE,

**BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:**

Section 1. Section 15.32.050 of the Seattle Municipal Code, last amended by Ordinance 118751, is amended as follows:

**15.32.050 ~~((Coordination of))~~ Coordinating projects and ~~((deferral of))~~ deferring construction ~~((~~  
~~))~~**

A. The authorizing official may ~~((, in such official's reasonable discretion,))~~ defer construction or other activity under any permit ~~((provided for in this chapter))~~ applied for under this Chapter 15.32. ~~((, until such time as such official deems proper in all cases where))~~ Where, in the judgment of the authorizing official, ~~((the public place on which the work is desired to be done is occupied or about to be occupied in any work by the City, or by some other person having a right to use the same in such manner as to render it seriously))~~ work to be done in the public place renders use of the public place inconvenient to the ~~((public to permit))~~ public's use, the authorizing official may prohibit any further obstruction ~~((thereof))~~ of the public place at ~~((such))~~ that time, and ~~((in granting such permit,))~~ may ~~((so))~~ further regulate the ~~((manner of doing such work))~~ use of the

public place in order to ((cause the least)) minimize inconvenience to the public. When the authorizing official determines that the inconvenience has ceased to exist, the authorizing official may allow work to proceed in the public place. Except when emergency repairs are necessary to protect the public's health and safety, the authorizing official may defer construction in a public place during a civil emergency as provided for in Chapter 10.02. ((in the use of such public place; and in)) In all cases, ((any)) work ((of)) by the City, ((or)) its contractors, or employees for municipal maintenance, capital improvement, or other purposes shall have precedence over all work of every other kind.

B. ~~((Beginning by November 1, 1997, and by October 1st of each succeeding year, the Director of Transportation shall provide to all utilities a list of street and other improvements planned for the following three (3) years.))~~ All agencies, utilities, franchisees, and City departments planning work ~~((in a street, alley, or other public place))~~ that will require a permit under ~~((this chapter))~~ Chapter 15.32 shall ~~((submit a list of proposed projects and locations to the Director of Transportation by December 31st of each year.))~~ enter their planned project information into the Department of Transportation's right-of-way management system to be integrated with other information on street condition and use. Planned projects are work that is expected to commence six months or later from the date of project conception. ((This list shall cover)) These project entries shall include planned projects for the following ((three (3))) five years. ((These lists of planned projects shall be entered into the City's Geographic Information System and integrated with other information on street condition and use. The Director of Transportation and the Superintendent of Parks and Recreation shall)) Subject to the provisions of this Section 15.32.050, the authorizing official may deny agencies, utilities, or franchisees that fail to provide ((this)) planned project information permits for construction or other activity ((under this chapter unless that agency was not timely provided a list of planned street improvements for that year)) that should have been entered into the right-of-way management system.

C. The Director of Transportation shall establish a Utility Coordinating Committee for the purpose of coordinating street and utility projects to minimize the frequency of street openings and disruption to

neighborhoods and businesses. This committee shall consist of: one ~~((4))~~ executive representative each from the Seattle Department of Transportation, Seattle Public Utilities, Seattle Parks and Recreation, the Seattle Department of Construction and Inspections, the Seattle Information Technology Department, and Seattle City Light. The Director of Transportation shall invite one ~~((1))~~ representative ~~((each from companies that applied in the previous calendar year for a permit under this chapter))~~ from each utility that constructs, maintains, or operates on, under, or over the streets, alleys, or other public places to serve in an advisory capacity to this committee. The committee shall meet at least twice a year to review and coordinate street and utility projects planned for the next ~~((three (3)))~~ five years. The committee shall decide which of the submitted projects will be scheduled for the next ~~((twelve (12)))~~ 12 months, taking into consideration maximizing ~~((efficiencies, reducing inconvenience to))~~ convenience and safety for the traveling public, improving access for the public, and avoiding work conflicts in the ~~((street rights-of-way))~~ public place; and shall not allow planned pavement cuts within ~~((three (3)))~~ five years after resurfacing or reconstruction. By ~~((March 1, 1998, and by February 1st of each succeeding year))~~ the end of the calendar year, the committee shall develop and publish a Street and Utility Improvement Plan that lists projects ~~((it has))~~ scheduled for the next ~~((twelve (12)))~~ 12 months and shall make information about these projects available to affected residents, property owners, neighborhood organizations, and businesses ~~((about these projects))~~. The committee shall also annually review and comment on the City's ~~((Pavement Opening Policies))~~ Right-of-Way Opening and Restoration Rules and ~~((associated fees, charges, inspection costs, and street restoration costs))~~ recommend updates to the rules. ~~((The Director of Transportation shall propose to the City Council legislation to establish fees and charges by ordinance.))~~

D. Except for activities included in the current Street and Utility Improvement Plan, no permit shall be issued under this ~~((chapter))~~ Chapter 15.32 for construction or other activity that will ~~((commence))~~ occur in the street, alley, or other public place; except, that this prohibition shall not apply to:

1. Emergency repairs that could not have been anticipated or are necessary for the protection of the public's health and safety;

2. New or revised service connections and associated construction work that have been requested by a utility's customer;

3. Work necessary to ensure continued service delivery to an agency's or utility's existing customer;

~~((3-))~~ 4. Construction or other activity that will commence in the street, alley, or other public place that does not affect or conflict with other projects in the Street and Utility Improvement Plan, or other work anticipated by the City or other permit holders over the next ~~((three (3)))~~ five years; or

~~((4-))~~ 5. Work for which the City's denial of a permit would violate local, state, or federal law.

E. No permit shall be issued under this ~~((chapter))~~ Chapter 15.32 for work that requires cutting or disturbing the paved surface of any street, alley, or other public place for a period of ~~((three (3)))~~ five years from the completion of resurfacing or reconstruction of that public place; except that this prohibition shall not apply to:

1. Emergency repairs that could not have been anticipated ~~((and))~~ or are necessary for the protection of the public's health and safety;

2. New or revised service connections and associated construction work that have been requested by a utility's customer; ~~((or))~~

3. Work necessary to ensure continued service delivery to an agency's or utility's existing customer; or

~~((3-))~~ 4. Work for which the City's denial of a permit would violate local, state, or federal law.

Any approved work that requires cutting or disturbing the paved surface of any street, alley, or other public place within the five-year moratorium period from the completion of resurfacing or reconstruction of that public place requires a waiver from the authorizing official; and the permittee must restore the pavement

according to the Right-of-Way Opening and Restoration Rules or successor rule.

F. An applicant denied a permit under the provisions of this ~~((section))~~ Chapter 15.32 may ~~((appeal to))~~ request a review by the ~~((Director of Transportation, whose decision in such matter shall be final))~~ authorizing official as provided for in Section 15.04.112.

G. Record drawings depicting the infrastructure location for all Utility Major Permits shall be submitted to the Director of Transportation for inclusion in the City's records vault, unless the drawings are Protected Critical Infrastructure Information as designated by the Department of Homeland Security.

Section 2. Section 15.32.160 of the Seattle Municipal Code, last amended by Ordinance 124951, is amended as follows:

#### **15.32.160 Street restoration requirements**

A. Anyone issued a permit for construction or other activity under this Chapter 15.32 shall ~~((temporarily))~~ restore the street, alley, stormwater conveyance system, green stormwater infrastructure, or other public place ~~((in a manner approved by the Director of Transportation, or as to park drives and boulevards, the Superintendent of Parks and Recreation, within 24 hours after completing the permitted work))~~ according to the Right-of-Way Opening and Restoration Rules or successor rules. ~~((This requirement of a temporary restoration shall be waived if a permanent restoration is completed in a manner approved by the Director of Transportation as described in subsections 15.32.160.C, 15.32.160.D, and 15.32.160.E within 24 hours after completing the permitted work.))~~

B. ~~((All permanent repairs of a temporary restoration shall be completed within one year after completing the permitted work.))~~ If the permittee fails to complete the ~~((permanent))~~ restoration according to the Right-of-Way Opening and Restoration Rules or successor rules, ~~((within this time period and in a manner approved by the Director of Transportation as described in subsections 15.32.160.C, 15.32.160.D, and 15.32.160.E,))~~ the Director of Transportation, or as to park drives and boulevards, the Superintendent of Parks and Recreation, may restore the street, alley, or other public place and bill the permittee for the repair as provided in Section 15.26.020. The permittee may, at the time the permit is issued, if the Director of Transportation agrees, contract with the Director of Transportation for completing the permanent restoration.

~~((C. Permanent restoration of a concrete street, alley, or other public place shall be completed in a manner approved by the Director of Transportation. Permanent restoration shall include, at a minimum, the following unless the Director of Transportation determines that the permittee can otherwise make an equivalent restoration of the street, alley, or other public place:~~

1. For any concrete surface 15 years old or less or in excellent condition as determined by the Director of Transportation, entire replacement of any concrete panel affected by the construction or other activity shall be required, except that in the case of a large concrete panel, the Director of Transportation may authorize the panel to be saw cut and require only the affected portion of the panel be replaced.

2. For any concrete surface where 40 percent or more of a concrete panel is affected by the construction or other activity, entire replacement of any concrete panel affected by the construction or other activity is required, except that in the case of a large concrete panel, the Director of Transportation may authorize the panel to be saw cut and require only the affected portion of the panel be replaced.

3. For any other concrete surface, restoration of the area of the panel affected is required.

D. Permanent restoration of an asphalt or asphalt overlay street, alley, or other public place shall be completed in a manner acceptable to the Director of Transportation. Permanent restoration shall include, at a minimum, the following unless the Director of Transportation determines that the permittee can otherwise make an equivalent restoration of the street, alley, or other public place:

1. For any asphalt surface three years old or less, new asphalt for the length of the cut and width of all lanes affected by the construction or other activity is required.

2. For any asphalt surface where 30 percent or more of the width of any lane is affected by the construction or other activity, new asphalt for the length of the cut and width of all lanes affected is required.

3. For any other asphalt surface, new asphalt for the length and width of the affected area is required.

E. Other than concrete or asphalt, permanent restoration of approved paving surfaces or treatments on a street, alley, or other public place shall be completed in a manner acceptable to the Director of Transportation. In the case of any permeable paving surface or treatment, the permanent restoration shall include restoration of the stormwater drainage function.

F. Permittees shall be responsible for any necessary repair of a temporary restoration of a street,

alley, or other public place until the permanent restoration is completed. Permittees shall be responsible for any necessary repair of a permanent restoration until the street, alley, or other public place has exceeded its useful life or has been repaved or reconstructed, unless the permittee contracted with the Director of Transportation for the permanent restoration. If the permittee who is responsible fails to complete any necessary repair of a failed temporary restoration within three calendar days or a permanent restoration within 30 calendar days of being notified to do so by the City, the Director of Transportation may complete the repair and bill the permittee for the costs of the repair and restoration as provided in Section 15.26.020.)

~~((G.))~~ C. In those cases where the Director of Transportation, or as to park drives and boulevards, the Superintendent of Parks and Recreation, has determined that the permittee has not restored the street, alley, stormwater conveyance system, green stormwater infrastructure, or other public place ~~((to its condition prior to the commencement of activity under the permit))~~ according to the Right-of-Way Opening and Restoration Rules or successor rules, the permittee shall pay to the Director of Transportation, or as to park drives and boulevards, the Superintendent of Parks and Recreation, a standard charge from a schedule adopted by ordinance reflecting the Director of Transportation’s estimate of the loss in useful life of the street, alley, stormwater conveyance system, green stormwater infrastructure, or other public place as a result of the construction or other activity. ~~((The charge shall be based on the size of the area affected and the types of surface (concrete, asphalt, or other) and subgrade material of the street, alley, or other public place before starting the permitted activity. This charge shall be paid regardless of whether the permanent street restoration is completed by the permittee or by the Director of Transportation.))~~ All funds collected from this charge shall be deposited in the Transportation Fund, or as to park drives and boulevards, the Parks and Recreation Fund, and used only for pavement, stormwater conveyance, or green stormwater infrastructure replacement, repair, and maintenance, and for no other purpose.

Section 3. This ordinance shall take effect and be in force on January 1, 2017.

Passed by the City Council the \_\_\_\_\_ day of \_\_\_\_\_, 2016, and signed by me in open session in authentication of its passage this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
President \_\_\_\_\_ of the City Council

Approved by me this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
Edward B. Murray, Mayor

Filed by me this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

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Monica Martinez Simmons, City Clerk

(Seal)