

**ORDINANCE NO. 1578**

**AN ORDINANCE OF THE CITY OF DES MOINES, WASHINGTON** relating to streets, sidewalks, and public places; replacing Title 12 DMMC; and repealing the previously codified provisions of Title 12 DMMC and underlying ordinances.

**WHEREAS**, Title 12 DMMC, entitled "Streets, Sidewalks, and Public Places," contains many ordinances pertaining to the regulations of streets, sidewalks, and public places, and

**WHEREAS**, numerous amendments to Title 12 DMMC since 1979 have adversely affected the Title's organization, and

**WHEREAS**, the City Council finds that it is in the best interest of the public health, safety, and general welfare to establish comprehensive, uniform, and current provisions for the City's Streets, Sidewalks, and Public Places Code; now therefore,

**THE CITY COUNCIL OF THE CITY OF DES MOINES ORDAINS AS FOLLOWS:**

Title 12 DMMC and all underlying Ordinances are hereby repealed and replaced with the following:

**TITLE 12  
STREETS, SIDEWALKS, AND PUBLIC PLACES**

**Chapter 12.01  
General Provisions**

**Sections:**

- 12.01.010 Title.
- 12.01.020 Application.
- 12.01.030 Purpose.
- 12.01.040 Authority.
- 12.01.050 Definitions.
- 12.01.060 Rules of Construction.
- 12.01.070 Liability.
- 12.01.080 Violations and penalties.
- 12.01.090 Severability.
- 12.01.100 Appeals.

**Sec. 1. 12.01.010. Title.** This Title shall be entitled "Streets, Sidewalks, and Public Places." This chapter shall be entitled "General Provisions."

**Sec. 2. 12.01.020. Application.** This Title shall apply to the use, improvement and development of rights-of-way, streets and the utilities contained therein. This chapter shall apply to all chapters contained in Title 12 DMMC.

**Sec. 3. 12.01.030. Purpose.** It is the purpose of this Title and the chapters contained herein, to establish provisions relating to the use and improvement of rights-of-way and the open streets, walkways and utilities contained therein. These provisions provide for and promote the health, safety and welfare of the general public, and are not intended to create or otherwise establish or designate a particular class or group of persons who will or should be especially protected or benefited by the terms of this chapter or procedures adopted under this chapter.

**Sec. 4. 12.01.040. Authority.**

The Planning, Building and Public Works Director shall have the power to:

(1) Prepare and adopt procedures as needed to implement this Title and to carry out the responsibilities of the department. Such procedures do not require approval of the City Council unless specifically set forth herein;

(2) Administer and coordinate the enforcement of this Title and all procedures adopted under this Title relating to the use of rights-of-way;

(3) Advise the City Council, City Manager, and other City departments on matters relating to use of the right-of-way;

(4) Carry out such other responsibilities as required by this Title, state law, or other codes, ordinances, resolutions, or procedures of the City;

(5) Request the assistance of other City departments to administer and enforce this Title; and

(6) Assign the responsibility for interpretation and application of specified procedures to the traffic engineer.

**Sec. 5. 12.01.050. Definitions - Use of words and phrases.** As used in this chapter, unless the context or subject matter clearly requires otherwise, the words or phrases defined in this section shall have the indicated meanings. Words not defined shall have the meanings set forth in the most recent version of the Merriam-Webster Dictionary.

"Assessment reimbursement area" means all real properties that will benefit from a street system improvement.

"Campus" means a development site under a single public or private ownership, upon which a structure or structures exist. By way of illustration and not limitation, a campus includes a public or private school, a multifamily development, a retirement housing facility, a nursing home facility, a continuing care retirement community, a boarding home, a hospital, a recreational facility, a business park, and a shopping center.

"Citation and notice" means a written document initiating a criminal proceeding after an arrest and issued by an authorized peace officer, in accordance with the Criminal Rules for Courts of Limited Jurisdiction.

"Complaint" means a written document certified by the City Attorney initiating a criminal proceeding in accordance with the Criminal Rules for Courts of Limited Jurisdiction.

"Department" means the Planning, Building and Public Works Department.

"Developer" means the owner, developer, and/or building permit applicant who is required by any ordinance of the City, or as the result of review under state law, or in connection with any discretionary decision of the City Council to construct street system improvements which do not abut the development site ("off-site street system improvements").

"Development" means a private improvement to real property requiring electrical or communication services including, but not limited to, such services being distributed to subdivisions, short subdivisions, planned unit developments, or single-family or commercial building sites.

"Development site" means the lot or lots upon which real property improvements are proposed to be constructed.

"Directive memorandum" means a letter from the City to a right-of-way use permittee, notifying the recipient of specific nonconforming or unsafe conditions and specifying the date by which corrective action must be taken.

"Electrical or communication systems" means facilities carrying electrical energy, including but not limited to, electric power, telephone, and cable television services; provided however, that the term shall not include the following facilities:

(a) Electrical utility substations, pad-mounted transformers, and switching facilities not located on the public right-of-way;

(b) Electrical transmission systems of a voltage of 55 kV or more;

(c) Street lighting standards;

(d) Telephone pedestals, cross-connect terminals, repeaters, and cable warning signs;

(e) Municipal equipment, including but not limited to traffic control equipment, and police and fire sirens;

(f) Temporary services for construction or replacement of existing overhead facilities due to damage by natural or man-made causes.

"Franchised utilities" means utilities that have City approval to use City right-of-way for the purpose of providing their services within the City, whether by written franchise granted by the City or otherwise.

"Frontage" means that portion of the development site abutting public right-of-way; provided, however, in the case of development sites which are not substantially rectangular, such as "pipe-stem" lots, the frontage shall be equal to the greatest linear distance of the lot which is parallel to the public right-of-way. In the case of corner lots, "frontage" means any

portion of the development site abutting any public right-of-way.

"Fronting" means abutting a public right-of-way or public rights-of-way.

"Minor addition, rebuild, replacement, or relocation" includes the installation of secondary conductors, changing wire size or type, pole replacement, relocation of poles at a distance of not more than 50 feet, replacing secondary wire with primary wire to serve not more than two new customers, hardware replacement on existing poles, and the like.

"New electrical or communication service" means installation of service lines to a building where none existed before, and shall not include restorations and repairs.

"Nonconforming paved street surface" means asphaltic concrete or cement concrete street surface that does not conform with the current "City of Des Moines Street Development Standards," but that the Planning, Building and Public Works Director finds to be adequate for projected vehicular traffic.

"Nonprofit" means not for a monetary gain unless for charitable purposes.

"Notice of violation" means a document mailed to a permittee or unauthorized user and posted at the site of a nonconforming or unsafe condition.

"Off-site street system improvements" means street system improvements required to be similarly constructed on public right-of-way between the development site and a paved street surface.

"On-site street system improvements" means street system improvements that are required to be constructed on public right-of-way adjacent to the frontage of the development site and extending to the centerline of the public right-of-way.

"Oral directive" means a directive given orally by City personnel to correct or discontinue a specific condition.

"Paved street surface" means street surface that is either standard street surface or nonconforming paved street surface.

"Permit" means a document issued by the City granting permission to engage in an activity not allowed without a permit.

"Private use" means use of the public right-of-way for the benefit of a person other than as a thoroughfare for any type of vehicles, pedestrians, or equestrians.

"Procedure" means a procedure adopted by the Planning, Building and Public Works Director, to implement this chapter, or to carry out other responsibilities as may be required by state law, this chapter or by other codes, ordinances, or resolutions of the City or other agencies.

"Planning, Building and Public Works Director" means the Planning, Building and Public Works Director or his/her designated representative.

"Real property improvements" means:

(a) Construction of a structure on an unimproved lot, except for one single-family residence;

(b) Additions, alterations, or repairs to an existing structure other than one single-family residence, where square footage is added to the structure, or the construction of accessory buildings as defined in Title 18 DMMC, except for one single-family residence; or

(c) Construction of an additional structure or structures on a campus.

"Right-of-way" means all public streets, alleys, and property granted or reserved for, or dedicated to, public use for streets and alleys, together with public property granted or reserved for, or dedicated to, public use for walkways, sidewalks, trails, shoulders, drainage ditches, bike ways and horse trails, whether improved or unimproved, including the air rights, subsurface rights, and easements related thereto.

"Sidewalk routes" means sidewalk routes shown on a map prepared by the Planning, Building and Public Works Director and adopted by the City Council by resolution or by ordinance pursuant to the comprehensive plan.

"Standard street surface" means street surface that is paved in accordance with current "City of Des Moines Street Development Standards."

"Stop work notice" means a notice posted at the site of an activity that requires all work to be stopped until the City approves continuation of work.

"Street assessment reimbursement contract" means contracts authorized by chapter 35.72 RCW, for street system improvements.

"Street system improvements" include a half street section of street pavement (including appropriate subpaving preparation), surface water drainage facilities, sidewalks where required, curbs, gutters, street lighting, right-of-way landscaping (including street trees where required), and other similar improvements as required by the "City of Des Moines Street Development Standards."

"Street use official" means the designated employees of the Planning, Building and Public Works Department responsible for inspecting the installation of warning and safety devices in the public right-of-way and restoration of public rights-of-way disturbed by work.

"Surface water drainage facilities" means piped and covered surface water drainage, including catch basins, and such detention, retention, and biofiltration as the Planning, Building and Public Works Director shall require in accordance with sound engineering principles and the adopted ordinances and policies of the City.

"Underground location service" means the underground utilities location center that will locate all underground utilities prior to an excavation.

"Unpaved street surface" means street surface that is neither standard nor nonconforming paved street surface.

"Unsafe condition" means any condition which the Planning, Building and Public Works Director determines is a hazard to health, or endangers the safe use of the right-of-way by the public, or does or may impair or impede the operation or functioning of any portion of the right-of-way, or which may cause damage thereto.

**Sec. 6. 12.01.060. Rules of construction.** The following rules of construction shall apply unless inconsistent with the obvious meaning in the context of the provision.

(1) Tense. Words used in the present tense shall include the future tense.

(2) Number. Words used in the singular shall include the plural, and words used in the plural shall include the singular.

(3) Headings. In the event that there is any conflict or inconsistency between the heading of a chapter, section, or paragraph of this Code, and the content thereof, the said heading shall not affect the scope, meaning, or intent of the content.

(4) Citations. Citations to state or federal laws shall mean that law as presently constituted or as it may be subsequently amended in the future.

**Sec. 7. 12.01.070. Liability.** It is the specific intent of this Title and procedures adopted under this Title to place the obligation of complying with the requirements of this Title upon the permittee, and no provision is intended to impose any duty upon the City, or any of its officers, employees, or agents. Nothing contained in this Title is intended to be or shall be construed to create or form the basis for liability on the part of the City, or its officers, employees, or agents, for any injury or damage resulting from the failure of the permittee to comply with the provisions of this Title, or by reason or in consequence of any act or omission in connection with the implementation or enforcement of this Title or any procedures adopted under this Title by the City, its officers, employees, or agents.

**Sec. 8. 12.01.080. Violations and penalties.**

(1) Violation. No person shall violate or fail to comply with the provisions of this Title.

(2) Civil infraction. A violation or a failure to comply with the provisions of this Title is a civil infraction and a violator may be penalized as is more specifically set forth in chapter 1.24 Civil Infractions.

(3) Civil violation and penalty. A violation or a failure to comply with the provisions of this Title is further a civil violation and may be penalized and or abated as is set forth in chapter 1.28 Civil Violations and Penalties.

(4) Criminal penalty. In addition to or as an alternative to any other penalty provided in this Title or by law, a person convicted of a violation of this Title is guilty of a gross misdemeanor. Upon conviction a person may also be ordered to abate, discontinue or correct a violation of this Title.

(5) Superior Court - Civil action. In addition to or an alternative to any other penalty provided in this Title or by law, a violation or a failure to comply with the provisions of this Title may be enforced by a civil action filed in King County Superior Court in any manner allowed by law.

**Sec. 9. 12.01.090. Severability.** The provisions of this Title are severable. If any section, sentence, clause or phrase of this Code is adjudged by a court of competent jurisdiction to be invalid, the decision shall not affect the validity of the remaining portions of the Code.

**Sec. 10. 12.01.100. Appeals.** Appeals of decisions made pursuant to this Title shall be as set forth in the applicable chapter and pursuant to chapter 18.20 DMMC.

**Chapter 12.02  
Interpretation of Title 12 DMMC**

**Sections:**

12.02.010 Title.  
12.02.020 Application.  
12.02.030 Purpose.  
12.02.040 Authority.  
12.02.050 Interpretation.  
12.02.060 Appeal.

**Sec. 11. 12.02.010. Title.** This chapter shall be entitled "Interpretation of Title 12 DMMC."

**Sec. 12. 12.02.020. Application.** This chapter shall apply to the interpretation of Title 12 DMMC.

**Sec. 13. 12.02.030. Authority.** This chapter is adopted pursuant to the authority set forth in DMMC 12.01.040 and other applicable laws.

**Sec. 14. 12.02.040. Interpretation.**

(1) Interpretation of this Title 12 shall be responsibility of the Planning, Building and Public Works Director.

(2) Interpretations of this Title 12 may be initiated by the submittal of a written request to the City Manager or the City Manager's designee.

(3) Requests for interpretations of code shall be processed as a Type I land use action.

(4) The City Manager or the City Manager's designee shall periodically submit to the City Council a summary of the interpretations requested and the corresponding interpretations made by the Planning, Building and Public Works Director. As needed, the summary shall include recommendations regarding the need for textual code amendments that would clarify DMMC provisions.

**Sec. 15. 12.02.060. Appeal.** A decision of the Planning, Building and Public Works Director made in accordance with this chapter shall be considered a final administrative decision. A person aggrieved by such decision of the Planning, Building and Public Works Director may appeal such decision to the Hearing Examiner in accordance with DMMC 18.20.150 and 18.20.160 and chapter 18.240 DMMC.

**Chapter 12.05**  
**Use and Maintenance of Public Rights-of-Way.**

**Sections:**

12.05.010	Title.
12.05.020	Application.
12.05.030	Purpose.
12.05.040	Authority.
12.05.050	Right-of-way use permits.
12.05.060	Applications and processing of permits.
12.05.070	Permit fees and charges.
12.05.080	Specifications.
12.05.090	Permit exception.
12.05.100	Revocation of permits.
12.05.110	Renewal of permits.
12.05.120	Performance deposits/insurance.
12.05.130	Guarantee.
12.05.140	Inspections.
12.05.150	Correction and discontinuance of unsafe, nonconforming, or unauthorized conditions.
12.05.160	Warning and safety devices.
12.05.170	Clearance for fire equipment.
12.05.180	Protection of adjoining property - Access.
12.05.190	Preservation of monuments.
12.05.200	Protection of watercourses.
12.05.210	Excavated material.
12.05.220	Backfilling.
12.05.230	Right-of-way restoration.
12.05.240	Coordination of right-of-way construction.
12.05.250	Duty to maintain clean rights-of-way.
12.05.260	Billings and collections.
12.05.270	Appeals.
12.05.280	Hold harmless

**Sec. 16. 12.05.010. Title.** This chapter shall be entitled "Use and Maintenance of Public Rights-of-Way."

**Sec. 17. 12.05.020. Application.**

(1) This chapter and the procedures adopted under this chapter shall be applicable to all right-of-way throughout the City.

(2) It is unlawful for anyone to make private use of any public right-of-way without a right-of-way use permit issued

by the City, or to use any right-of-way without complying with all the provisions of a permit issued by the City.

(3) Additional permits for any use may be required by other City codes or ordinances. The City does not waive its right to use of the right-of-way by issuance of any permit under the provisions of this chapter.

**Sec. 18. 12.05.030. Purpose.** It is the purpose of this chapter, in order to protect the interest of the public health, safety, and welfare; to provide for the issuance of right-of-way use permits to regulate activities within the right-of-way in the City, provide for the maintenance of the right-of-way and provide for the fees, charges, warranties, and procedures required to administer the permit process.

**Sec. 19. 12.05.040. Authority.** Rights-of-way permits shall be issued by the Planning, Building and Public Works Director or approved by the City Council as is set forth in DMMC 12.05.060.

**Sec. 20. 12.05.050. Right-of-way use permits.**

(1) The following types of right-of-way use permits are established:

(a) Type A - Short-term, non-invasive

(i) Type A permits may be issued for use of a right-of-way for 72 or less continuous hours which do not involve the physical disturbance of the right-of-way.

(ii) This type of use may involve disruption of pedestrian and vehicular traffic or access to private property including temporary street closures and may require inspections, cleanup, and police surveillance.

(b) Type B - Invasive.

(i) Type B permits may be issued for use of a right-of-way for activities that will alter the appearance of or disturb the surface, supersurface, or subsurface of the right-of-way on a temporary or permanent basis.

(c) Type C - Long-term, non-invasive.

(i) Type C permits may be issued for use of a right-of-way for activities for extended periods of time but which will not physically disturb the right-of-way.

(ii) The use of a right-of-way for structures, facilities, and uses that involve capital expenditures and long-term commitments of use require this type of permit.

**Sec. 21. 12.05.060. Applications and processing of permits.**

(1) To obtain a right-of-way use permit the applicant shall file an application with the Planning, Building and Public Works Department.

(2) Every application shall include the location of the proposed right-of-way use, a description of the use, the planned duration of the use, applicant contact information, and all other information which may be required as specified in procedures adopted under this chapter, and shall be accompanied by payment of the required fees.

(3) The Planning, Building and Public Works Director shall examine each application submitted for review and approval to determine if it complies with the applicable provisions of this chapter and procedures adopted under this chapter. Other departments that have authority over the proposed use or activity may be required to review and approve or disapprove the application. The Planning, Building and Public Works Director may inspect the right-of-way proposed for use to determine any facts which may aid in determining whether a permit should be granted. If the Planning, Building and Public Works Director finds that the application conforms to the requirements of this chapter and procedures adopted under this chapter, that the proposed use of such right-of-way will not unduly interfere with the rights and safety of the public, and if the application has not been disapproved by a department with authority, the Planning, Building and Public Works Director may approve the permit, and may impose such conditions thereon as are reasonably necessary to protect the public health, welfare, and safety and to mitigate any impacts resulting from the use.

Notwithstanding the above, City Council approval by resolution shall be required for a right-of-way use permit for any use or

event that is outside of the City's ordinary course of business and:

(a) Involves the use of a City right-of-way for more than 24 hours; or

(b) Shuts down a major arterial street for more than 24 hours; or

(c) Charges an admission fee; or

(d) Allows concessions for sale of food, drinks, merchandise or services; or

(e) Where the expected attendance at the event utilizing the right of way, is over 100 persons.

(4) All applications for permits will be submitted 90 days or more before the planned need for the permit unless the time period is waived, in writing, by the Planning, Building and Public Works Director for good cause.

(5) Upon submittal of a completed application, the Planning, Building and Public Works Department shall collect from the applicant an application fee in the amount set forth in the current fee schedule adopted by the City Manager.

**Sec. 22. 12.05.070. Permit fees and charges.** The fee for each permit shall be set forth in a fee schedule to be adopted by the City Manager.

(1) Application fee. A nonrefundable application fee shall be charged for each right-of-way use permit application that is accepted for processing. This fee covers the costs of initial processing, counter service, and recordkeeping. The application fee shall be the same for all types of right-of-way use permits.

(2) Daily use fee. All permits shall include a fee for each day (or part thereof) of use of the right-of-way. The fee will compensate the City for monitoring and inspecting the site.

(3) Large structure move charges. When a permit allowing a large structure to be moved over the City's right of way, is issued, the City shall impose an additional charge based on the actual cost to compensate for its time and expense. These costs may include the costs for street crews, signal crews, and

police, if required to assist in the move. A minimum fee will be established and charged at the time of such permit issuance. A refundable deposit will also be required. Costs for damage to City property occurring as a result of the move, or assistance on the house move by City crews, shall either be deducted from the deposit or billed to the house or building mover and permittee directly.

(4) Repair and replacement charges. If the City should incur any costs in repairing or replacing any property as the result of a permittee's actions, the costs of repair and replacement will be charged to the permittee. These charges will be for the actual costs to the City.

(5) Persons using rights-of-way by permit will be required and shall agree to protect, defend, save, and hold the City, its elected and appointed officials and employees, while acting within the scope of their duties, harmless from and against all claims, demands, and causes of action of any kind or character, including the cost of defense thereof, arising in favor of a person or group's members or employees or third parties on account of any action, including but not limited to personal injuries, death, or damage to property arising out of the use of City rights-of-way, or in any way arising out of the acts or omissions of the person, group, and/or its agents, employees or representatives.

(6) During all periods of use, persons using City rights-of-way by permit shall obtain and maintain public liability insurance in such form and amounts as determined and approved by the City.

(7) Costs. The permittee shall reimburse the City its costs of supporting the event, including, but not limited to, police, parks, marina, and public works costs.

(8) Waiver of fees and costs.

(a) Franchised utilities which must apply for permits because of City-initiated construction projects may be granted a waiver by the Planning, Building and Public Works Director of normal permit fees. This provision shall only apply to work that would not normally have been done by the utility.

(b) The City Council may, in its sole discretion, waive normal permit fees and the reimbursement of the City's

costs of supporting an event if it finds that there is or has been a significant public benefit for the event.

**Sec. 23. 12.05.080. Specifications.** All work to be performed under any permit issued under this chapter shall conform to all other City codes and ordinances, the current Street Development Standards of the Planning, Building and Public Works Department, and all other standards used by the City in the administration of this Title.

**Sec. 24. 12.05.090. Permit exception.**

(1) A right-of-way use permit shall not be required of franchised utilities or City contractors when responding to emergencies that require work in the right-of-way, such as water or sewer main breaks, gas leaks, downed power lines, or similar emergencies; provided, that the Department shall be notified by the responding utility or City contractor verbally or in writing, as soon as practicable following onset of an emergency. Nothing in this chapter shall relieve a responding utility or City contractor from the requirement to obtain a right-of-way use permit after beginning emergency work in the right-of-way.

(2) Permits shall not be required for routine maintenance and construction work performed by City utilities and City maintenance crews.

**Sec. 25. 12.05.100. Revocation of permits.**

(1) The Planning, Building and Public Works Director may revoke or suspend any permit issued under this chapter whenever:

(a) The work does not proceed in accordance with the plans as approved, or conditions of approval, or is not in compliance with the requirements of this chapter or procedures, or other City ordinances, resolutions, or state law;

(b) The City has been denied access to investigate and inspect how the right-of-way is being used;

(c) The permittee has made a misrepresentation of a material fact in applying for a permit;

(d) The progress of the approved activity indicates that it is or will be inadequate to protect the public

and adjoining property or the street or utilities in the street, or any excavation or fill endangers or will endanger the public, the adjoining property or street, or utilities in the street.

(2) Upon suspension or revocation of a permit, all use of the right-of-way shall cease, except as authorized or directed by the Planning, Building and Public Works Director.

**Sec. 26. 12.05.110 Renewal of permits.** Each permit shall be of a duration as specified on the permit and may not be renewed. If continued use of the right-of-way is desired by the permittee after expiration of a permit, he/she must apply for a new permit.

**Sec. 27. 12.05.120 Performance deposits/insurance.**

(1) If the Planning, Building and Public Works Director determines that there is a potential for injury, damage, or expense to the City as a result of damage to persons or property arising from an applicant's proposed use of any right-of-way, the applicant shall be required to make a cash deposit with the City Clerk or to provide a security device or insurance in a form acceptable to the Planning, Building and Public Works Director for the activities described in the subject permit. The amount of the cash deposit, security device, or insurance shall be determined by the Planning, Building and Public Works Director.

(2) The requirements for performance deposits and insurance are based on considerations of applicant's prior performance, nature of the proposed use, cost of the activity, length of use, public safety, potential damage to right-of-way, and potential liability or expense to the City.

**Sec. 28. 12.05.130. Guarantee.** When there is a need to ensure conformance with the City's Street Development Standards, City or state construction standards, or other requirements, the applicant shall be required to provide a guarantee of workmanship and materials for a period of ten (10) years. Such guarantee may be in the form of a cash deposit or a security device in a form and amount approved by the Planning, Building and Public Works Director.

**Sec. 29. 12.05.140. Inspections.** As a condition of issuance of any permit or authorization which requires approval of the Planning, Building and Public Works Department, each

applicant shall be required to consent to inspections by the Planning, Building and Public Works Department or any other appropriate City department.

**Sec. 30. 12.05.150. Correction and discontinuance of unsafe, unconforming, or unauthorized conditions.**

(1) Whenever the Planning, Building and Public Works Director determines that any condition on any right-of-way is in violation of, or any right-of-way is being used contrary to any provision of this chapter or procedures adopted under this chapter or other applicable codes or standards, or without a right-of-way use permit, the Planning, Building and Public Works Director may order the correction or discontinuance of such condition or any activity causing such condition.

(2) The Planning, Building and Public Works Director is authorized to order correction or discontinuance of any such condition or activities following the methods specified in procedures adopted pursuant to this chapter.

(3) The Planning, Building and Public Works Director shall also have all powers and remedies which may be available under state law, this chapter, and procedures adopted under this chapter for securing the correction or discontinuance of any condition specified in this section.

(4) The Planning, Building and Public Works Director is authorized to use any or all of the following methods in ordering correction or discontinuance of any such conditions, or activities as the Planning, Building and Public Works Director determines appropriate:

(a) Serving of oral or written directives to the permittee or other responsible person requesting immediate correction or discontinuance of the specified condition;

(b) Service of a written notice of violation, ordering correction or discontinuance of a specific condition or activity within five days of notice, or such other reasonable period as the Planning, Building and Public Works Director may determine;

(c) Revocation of previously granted permits where the permittee or other responsible person has failed or

refused to comply with requirements imposed by the City related to such permits;

(d) Issuance of an order to immediately stop work until authorization is received from the City to proceed with such work;

(e) Service of summons and complaint certified by the City Attorney or a citation and notice to appear by an arresting peace officer upon the permittee or other responsible person who is in violation of this chapter or other City ordinances.

(5) Any object or thing which shall occupy any right-of-way without a permit is a nuisance. The Panning, Building and Public Works Department may attach a notice to any such object or thing stating that if it is not removed from the right-of-way within 24 hours of the date and time stated on the notice, the object or thing may be taken into custody and stored at the owner's expense. The notice shall provide an address and phone number where additional information may be obtained. If the object or thing is a hazard to public safety, it may be removed summarily by the City. Notice of such removal shall be thereafter given to the owner, if known. This section shall not apply to motor vehicles.

(6) All expenses incurred by the City in abating the condition or any portion thereof shall constitute a civil debt owing to the City jointly and severally by such persons who have been given notice or who own the object or thing or placed it in the right-of-way, which debt shall be collectible in the same manner as any other civil debt.

(7) The City shall also have all powers and remedies which may be available under law, this chapter, and procedures adopted under this chapter for securing the correction or discontinuance of any conditions specified by the City.

**Sec. 31. 12.05.160. Warning and safety devices.**

(1) Warning lights, safety devices, signs, and barricades shall be provided on all rights-of-way when at any time there might be an obstruction or hazard to vehicular or pedestrian traffic. All obstructions on rights-of-way shall have sufficient barricades and signs posted in such a manner as to indicate plainly the danger involved. Warning and safety devices

may be removed when the work for which the right-of-way use permit has been granted is complete and the right-of-way restored to the conditions directed by the Planning, Building and Public Works Department.

(2) As a condition for the issuance of any right-of-way use permit, the traffic engineer may require an applicant to submit a traffic detour plan showing the proposed detour routing and location and type of warning lights, safety devices, signs, and barricades intended to protect vehicular or pedestrian traffic at the site for which the right-of-way use permit is requested. If a traffic plan is required, no right-of-way use permit shall be issued until the traffic plan is approved.

(3) Unless otherwise specified in adopted right-of-way use procedures, the current editions of the following standard manuals shall apply to the selection, location, and installation of required warning and safety devices; provided, that the traffic engineer may impose additional requirements if site conditions warrant such enhanced protection of pedestrian or vehicular traffic:

(a) Manual on Uniform Traffic Control Devices for Streets and Highways, as adopted by the Federal Highway Administration;

(b) Street Development Standards, Planning, Building and Public Works Department;

(c) Part VIII, "Regulations for Use of Public Streets and Projections over Public Property," Uniform Building Code.

(4) Any right-of-way use permit that requires a partial lane or street closure shall require a licensed flag person, properly attired, or an off-duty police officer for the purpose of traffic control during the construction.

(5) All decisions of the designated street use official shall be final in all matters pertaining to the number, type, locations, installation, and maintenance of warning and safety devices in the public right-of-way during any actual work or activity for which a duly authorized right-of-way use permit has been issued.

(6) Any failure of a permit holder to comply with the oral or written directives of the street use official related to the number, type, location, installation, or maintenance of warning and safety devices in the public right-of-way shall be handled as provided for in this chapter.

**Sec. 32. 12.05.170. Clearance for fire equipment.**

All excavation work shall be performed and conducted so as not to interfere with access to fire stations and fire hydrants. Materials or obstructions shall not be placed within 15 feet of fire hydrants. Passageways leading to fire escapes or firefighting equipment shall be kept free from obstructions at all times.

**Sec. 33. 12.05.180. Protection of adjoining property**

**- Access.** The permittee shall at all times and at the permittee's expense, preserve, and protect from injury any adjoining property by providing proper foundations and taking other measures which, in the opinion of the Planning, Building and Public Works Director, are suitable for such purposes. The permittee shall at all times maintain adequate access to all property adjoining the excavation or work site.

**Sec. 34. 12.05.190. Preservation of monuments.**

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

**Sec. 35. 12.05.200. Protection of watercourses.**

The permittee shall provide for the flow of all watercourses, sewers, or drains intercepted during the excavation work and shall replace the same in as good condition as it/he/she found them, or shall make such provisions for them as the Planning, Building and Public Works Director may direct. The permittee shall not obstruct the gutter of any street, but shall use all proper measures to provide for the free passage of surface water. The permittee shall make provision to take care of all surplus water, muck, silt, slickings, or other runoff pumped from excavations or resulting from sluicing or other operations, and shall be responsible for any damage resulting from its/his/her failure to so provide.

**Sec. 36. 12.05.210. Excavated materials.** All excavated material which is piled adjacent to the excavation shall be piled and maintained in such manner so as not to endanger those working in the excavation or pedestrians or users of the right-of-way. When the confines of the area being excavated are too small to permit the piling of excavated material beside the excavation, the Planning, Building and Public Works Director shall have the authority to require the permittee to haul the excavated material to a storage site and then rehaul it to the excavation at the time of backfilling. It is the responsibility of the permittee to secure the necessary permission and make all necessary arrangements for any required storage and disposal of excavated material.

**Sec. 37. 12.05.220. Backfilling.** Backfilling in a right-of-way opened or excavated pursuant to a permit issued under the provisions of this chapter shall be compacted to a degree equivalent to that of the undisturbed ground in which the excavation was begun, unless the Planning, Building and Public Works Director determines a greater degree of compaction is necessary to produce a satisfactory result. All backfilling shall be accomplished according to City standards and specifications and shall meet the approval of the Planning, Building and Public Works Director. All backfills shall be inspected and approved by the Planning, Building and Public Works Director prior to any overlaying or patching.

**Sec. 38. 12.05.230. Right-of-way restoration.**

(1) Permanent restoration of the right-of-way shall be made by the permittee in strict accordance with the standards and specifications of the City and in a manner meeting the approval of the Planning, Building and Public Works Director. Permanent restoration may include overlays of portions of the right-of-way which have been disrupted by the excavation work.

(2) The permittee shall guarantee and maintain the site of the excavation work to City standards and specifications for a period of not less than 10 years following the completion of the restoration and acceptance by the City. Acceptance or approval of any excavation work or right-of-way restoration by the Planning, Building and Public Works Director shall not prevent the City from asserting a claim against the permittee and his or its surety under the surety bond required by this chapter for incomplete or defective work, if such incompleteness or defective work is discovered within the period of guarantee

and maintenance. The presence of the Planning, Building and Public Works Director during the performance of an excavation work shall not relieve the permittee of its responsibilities under this chapter.

**Sec. 39. 12.05.240. Coordination of right-of-way construction.** The applicant, at the time of submitting an application for a Type C right-of-way use permit, shall notify all other public and private utility entities known to be using or proposing to use the same right-of-way of the applicant's proposed construction and the proposed timing of such construction. Such entity notified may, within seven days of such notification, request of the Planning, Building and Public Works Director a delay in the commencement of such proposed construction for the purpose of coordinating other right-of-way construction with that proposed by the applicant. The Planning, Building and Public Works Director may delay the commencement date for the applicant's right-of-way construction for 90 days or less, except in case of emergencies, if he/she finds that such delay will reduce inconvenience to City right-of-way uses from construction activities and he/she finds that such delay will not create undue economic hardship on the applicant.

**Sec. 40. 12.05.250. Duty to maintain clean rights-of-way.** No person shall willfully or negligently cause or allow dirt, mud, rocks, vegetation, grease, oil, or other foreign material or substance to be deposited, stored, abandoned, discharged, or spread on a public street, alley, sidewalk, walkway, trail, shoulder, or drainage ditch; provided, however, nothing contained in this chapter shall require an adjacent property owner to maintain any drainage ditch.

**Sec. 41. 12.05.260. Billings and collections.** The Planning, Building and Public Works Department, jointly with the Finance Director, may establish administrative rules and procedures pertaining to the billing and collection of fees and charges adopted pursuant to this chapter.

**Sec. 42. 12.05.270. Appeals.** A decision of the Planning, Building and Public Works Director made in accordance with this chapter shall be considered a final administrative decision. A person aggrieved by such decision of the Planning, Building and Public Works Director may appeal such decision to the Hearing Examiner in accordance with DMMC 18.20.150 and 18.20.160 and chapter 18.240 DMMC. The City Manager or the City Manager's designee may at any time prior to the decision of the

Hearing Examiner review and revise such decision by the Planning, Building and Public Works Director. If a resolution by the City Council is required any appeal shall be only to the Superior Court as allowed by law.

**Sec. 43. 12.05.280. Hold harmless.** As a condition to the issuance of any permit under this chapter, the permittee shall agree to defend, indemnify, and hold harmless the City, its officers, employees, and agents, for any and all suits, claims, or liabilities caused by or arising out of any use authorized by any such permit.

### **Chapter 12.10 Vacation of Public Rights-Of-Way**

**Sections:**

12.10.010 Title.  
12.10.020 Application.  
12.10.030 Purpose.  
12.10.040 Authority  
12.10.050 Road classification.  
12.10.060 Procedures.  
12.10.070 Fees and compensation.  
12.10.080 Condition precedent.  
12.10.090 Manner of payment.  
12.10.100 Appeal.

**Sec. 44. 12.10.010. Title.** This chapter shall be entitled "Vacation of Public Rights-of-Way."

**Sec. 45. 12.10.020. Application.** This chapter shall apply to the vacation of public rights-of-way within the City.

**Sec. 46. 12.10.030. Purpose.** The purpose of this chapter is to set forth the process and procedures for the vacation of public rights-of-way and to make provisions for compensation as set forth below.

**Sec. 47. 12.10.040. Authority.** Petitions for the vacation of City rights-of-way may be granted by the City Council in accordance with the provisions of chapter 35.79 RCW.

**Sec. 48. 12.10.050. Road classification.** For the purposes of this chapter, all public rights-of-way within the City are declared to be within one of three classes:

(1) All streets or alleys that have been part of a dedicated public right-of-way for 25 years or more, all rights-of-way conveyed to or held by the City for transportation purposes for which public funds have been expended in the acquisition, improvement or maintenance of such rights-of-way interests, and rights-of-way that abut a body of fresh or salt water, are classified Class A rights-of-way.

(2) All City rights-of-way conveyed to or held by the City for transportation purposes for which no public funds have been expended in the acquisition of the same, excluding any Class A rights-of-way and any rights-of-way subject to being vacated by the provisions of section 32, chapter 19, Laws of 1889-90, are classified Class B rights-of-way.

(3) All City rights-of-way originally conveyed to the City by a party who subsequently petitions for the vacation of said rights-of-way for which no public expenditures have been made in the acquisition of the same and any rights-of-way or portions thereof subject to being vacated by the provisions of section 32, chapter 19, Laws of 1889-90; or any other rights-of-way not included within Classes A or B are classified Class C rights-of-way.

**Sec. 49. 12.10.060. Procedures.** The procedures for the vacation of the public rights-of-way shall be as follows:

(1) The petition for rights-of-way vacation is filed with the Planning, Building and Public Works Director on a form prescribed by the Planning, Building and Public Works Director, and shall contain sufficient facts to enable the Planning, Building and Public Works Director to determine whether the petition(s) have complied with the provisions in this section and chapter 35.79 RCW as presently constituted or as may be subsequently amended.

(2) After a review of the petition, the Planning, Building and Public Works Director shall make a recommendation to the City Council who shall proceed under the provision cited in this section.

**Sec. 50. 12.10.070. Fees and compensation.**

(1) Each petition must be accompanied by an application fee to be set by administrative order of the City Manager or the

City Manager's designee. Such fee is used to defray examination, report, publication, investigation, and other costs connected with the applications. Such fee shall not be returned to the petitioner.

(2) The amount of compensation, if required by this chapter, is determined by the City Council according to the following criteria:

(a) Vacation of all City rights-of-way included in Class A, if granted, shall require compensation at the full appraised value as of the effective date of the vacation; or, which amount, for the purposes of this chapter, may be determined from the records of the King County Department of Assessments or by informal or formal appraisal; provided, that the City Council shall have the authority to accept real property of equal or greater value in lieu of cash compensation.

(b) Vacation of all City rights-of-way included in Class B, if granted, shall require compensation at 50 percent of the full appraised value as of the effective date of the vacation, which amount, for the purposes of this chapter, may be determined from the records of the King County Department of Assessments or by informal or formal appraisal.

(c) Vacation of all City rights-of-way included in Class C, if granted, requires no compensation.

(d) When a right-of-way is vacated for a governmental agency, compensation shall be in accordance with the classification of the right-of-way.

(e) The City Council may waive some or all of the compensation for any classification of right-of-way, if it determines and makes written findings that such action would benefit the residents of the City.

**Sec. 51. 12.10.080. Condition precedent.** Subsequent to City Council approval, payment of compensation as ordered by the City Council is a condition precedent to the final vacation of any public right-of-way and shall be paid to the City by responsible parties within 90 days of receipt of the request for compensation prepared by the City. In the event of the failure of the responsible parties to pay such sum within 90 days, the petition of vacation shall be denied.

**Sec. 52. 12.10.090. Manner of payment.** Payment is made to the Finance Director and shall be credited as follows:

(1) Revenue received by the City as compensation for the area vacated, excluding revenue received as compensation for vacation of rights-of-way that abut a body of fresh or salt water, shall be dedicated to the acquisition, improvement, development, and related maintenance of public transportation capital projects within the City.

(2) Revenue received by the City as compensation for vacation of rights-of-way that abut a body of fresh or salt water shall be dedicated to the acquisition of additional beach or water access, acquisition of additional public view sites to a body of water, or acquisition of additional moorage or launching areas.

**Sec. 53. 12.10.100. Appeal.** A decision of the City Council may be appealed to the King County Superior Court to the extent allowed by law.

#### **Chapter 12.15 Street Development Standards**

**Sections:**

12.15.010 Title.  
12.15.020 Application.  
12.15.030 Purpose.  
12.15.040 Authority.  
12.15.050 Street development standards.  
12.15.060 Street Development Standards, filed and maintained in the office of City Clerk.

**Sec. 54. 12.15.010. Title.** This chapter shall be entitled "Street Development Standards."

**Sec. 55. 12.15.020. Application.** This chapter shall be applicable to all street, work and sidewalk development within the City.

**Sec. 56. 12.15.030. Purpose.** The purpose of this chapter is to adopt the City's street development standards.

**Sec. 57. 12.15.040. Authority.** Street development standards are adopted pursuant to the general police powers granted to the City pursuant to Title 35A RCW.

**Sec. 58. 12.15.050. Street Development Standards.** Streets and sidewalks in the City shall be constructed in accordance with the provisions of a document entitled "City of Des Moines Street Development Standards." The Street Development Standards shall be approved by the City Council and amended as is necessary by approval of the City Council.

**Sec. 59. 12.15.060.** The City Clerk shall file, maintain and make available for public inspection a current version of the "City of Des Moines Street Development Standards."

**Chapter 12.20**  
**Street System Improvement Requirements**

**Sections:**

- 12.20.010 Title.
- 12.20.020 Application.
- 12.20.030 Purpose.
- 12.20.040 Authority
- 12.20.050 Street system improvements required as a condition of building permit approval.
- 12.20.060 All development sites shall be served by paved streets.
- 12.20.070 Development sites fronting unpaved street surface.
- 12.20.080 Development sites fronting paved street surface.
- 12.20.085 Special provisions, construction of one single-family residence
- 12.20.090 Special provisions.
- 12.20.100 SEPA review.
- 12.20.110 Street system improvements assessment reimbursement agreements.
- 12.20.120 Appeals.

**Sec. 60. 12.20.010. Title.** This chapter shall be entitled "Street System Improvement Requirements."

**Sec. 61. 12.20.020. Application.** This chapter shall apply to property owners constructing real property improvements unless specifically excepted by the City's street development standards, adopted by chapter 12.15 DMMC. Persons constructing

real property improvements are responsible for street system improvements to the extent those street system improvements do not exist at the time of building permit application.

**Sec. 62. 12.20.030. Purpose.** It is the intent and policy of this chapter that all persons constructing "real property improvements" on lots abutting public rights-of-way are responsible for street system improvements, constructed in accordance with the "City of Des Moines Street Development Standards," and the provisions of this chapter, on public rights-of-way adjacent to such lots, and in limited circumstances, on public rights-of-way which connect to a paved street surface. The fundamental principle of this chapter is that the owner, developer, and/or building permit applicant for proposed real property improvements is responsible for constructing street system improvements as defined in this chapter, or paying a street system improvement fee in lieu of construction as provided for in this chapter.

**Sec. 63. 12.20.040. Authority.** The Planning, Building and Public Works Director, subject to the authority of the City Manager or the City Manager's designee, has the authority to require improvement as more specifically set forth in this chapter.

**Sec. 64. 12.20.050. Street system improvements required as a condition of building permit approval.**

(1) General Obligation. As a condition of building permit approval, the developer shall construct street system improvements in accordance with this chapter.

(2) Payment of Street System Improvement Fee in Lieu of Construction, Based upon Anticipated Public Development. If the Planning, Building and Public Works Director finds that a required street system improvement will be destroyed, altered or otherwise made obsolete due to development plans of the City or another governmental entity within six years, the Planning, Building and Public Works Director may require the developer make an in-lieu cash payment to the City. As determined by the Planning, Building and Public Works Director, the cash payment shall be based on the estimated cost of the improvements plus engineering and administrative costs. If the anticipated public project does not occur, the City will complete the improvements required under this chapter.

**Sec. 65. 12.20.060. All development sites shall be served by paved streets.** All development sites shall be served by a paved street surface which connects to an existing paved street surface.

**Sec. 66. 12.20.070. Development sites fronting unpaved street surface.** If the development site fronts an unpaved street surface, the developer is required to construct street system improvements in accordance with this section.

(1) If the distance of the development site along a connecting right-of-way from a paved street surface is not greater than two times the frontage of the development site or the frontage of the development site is greater than 150 feet, the developer shall construct complete street system improvements, as defined in chapter 12.15 DMMC, along the frontage of the development site and extending off-site to a paved street surface.

(2) If the distance of the development site along a connecting right-of-way from a paved street surface is greater than two times the frontage of the development site and the frontage of the development site is 150 feet or less, the developer shall construct street pavement, surface water drainage facilities, and curb and gutter along the right-of-way frontage of the development site and shall construct street pavement off-site to connect with a paved street surface.

**Sec. 67. 12.20.080. Development sites fronting paved street surface.** If the development site fronts a paved street surface, the developer shall construct street system improvements along the right-of-way frontage of the development site in accordance with this section.

(1) The developer shall construct surface water drainage facilities.

(2) The developer shall construct sidewalks if the development site fronts a sidewalk route.

(3) The developer shall construct curb, gutter, and right-of-way landscaping.

(4) If the developer is required to construct either curb, gutter, and sidewalk or solely curb and gutter, the developer is required to construct such street pavement as is

necessary to provide continuity between the sidewalk, curb, and gutter or curb and gutter and the paved street surface.

**Sec. 68. 12.20.085. Special provisions, construction of one single-family residence.** Notwithstanding "Real property improvements" defined in the provisions of DMMC 12.01.050 that exclude construction of one single-family residence from the definition of real property improvements, the developer of one single-family residence shall construct the following street system improvements as a condition of building permit approval:

(1) If the development site fronts entirely on an unpaved street surface, the developer shall construct a half-street section of street pavement along the frontage of the development site abutting the unpaved surface or, in the alternative, the property owner shall enter into an agreement with the City waiving the right of the property owner under RCW 35.43.180 to protest formation of a local improvement district for the construction of a paved street surface and surface water drainage facilities. The agreement shall specify the improvements to be financed by the district and shall set forth the effective term of the agreement, which shall not exceed 10 years. The agreement shall be recorded with the King County Auditor;

(2) If the development site is a corner lot and fronts on both a paved street surface and an unpaved street surface, the developer shall construct half-street section of street pavement and surface water drainage facilities along the frontage of the development site abutting the unpaved street surface;

(3) If the development site is contiguous to a parcel that is served by paved street surface, the developer shall construct a half-street section of street pavement and surface water drainage facilities along the frontage of the development site abutting the existing paved street surface;

(4) Surface water drainage facilities in all cases, whether the development site fronts a paved street surface or an unpaved street surface; and

(5) If the development site fronts a paved street surface, minor edge improvements to the street pavement as required by the Planning, Building and Public Works Director.

**Sec. 69. 12.20.090. Special provisions.** The following special provisions shall apply to additions, alterations, repairs, accessory buildings, and campus additions:

(1) In the case of real property improvements consisting of additions, alterations, or repairs to an existing structure where square footage is added to the structure, or the construction of accessory buildings as defined in Title 18 DMMC, street system improvements shall be constructed, to be selected by the Planning, Building and Public Works Director, the cost of which is not more than ten percent (10%) of the total cost of the improvement. The Planning, Building and Public Works Director is authorized to waive construction of street system improvements if the Planning, Building and Public Works Director has made a written finding that the street system improvements required to be constructed in accordance with this section will be negligible and not in the public interest.

(2) In the case of real property improvements consisting of construction of an additional structure or structures on a private campus, such street system improvements shall be constructed, to be selected by the Planning, Building and Public Works Director, the cost of which is not more than 10 percent of the total cost of the improvement. In the case of real property improvements consisting of construction of an additional structure or structures on a campus owned by a public entity, street system improvements shall be constructed along the full frontage.

(3) In the case of corner lots or other development sites fronting more than one right-of-way, should the cost of the real property improvement be such that street system improvements would not be required on all rights-of-way fronting the development site, street system improvements shall be constructed on the right-of-way or rights-of-way selected by the Planning, Building and Public Works Director.

**Sec. 70. 12.20.100. SEPA review.** Nothing contained in this chapter shall be construed to limit the responsible official in directing construction of additional street system improvements as mitigation measures under chapter 16.05 DMMC and the State Environmental Policy Act (SEPA) or a discretionary decision of the City Council.

**Sec. 71. 12.20.110. Street system improvements assessment reimbursement agreements.** A developer required to

construct off-site street system improvements as required by this chapter shall be entitled to reimbursement as provided in chapter 12.35 DMMC.

**Sec. 72. 12.20.120. Appeals.** Discretionary decisions of the Planning, Building and Public Works Director made in accordance with this chapter are subject to appeal as either an appeal from administrative decisions and may be appealed to the Hearing Examiner pursuant to DMMC 18.20.150 and 18.20.160 and chapter 18.240 DMMC, or as part of the underlying application process as set forth in chapter 18.20 DMMC.

### **Chapter 12.25 Underground Utilities Requirements**

**Sections:**

12.25.010	Title.
12.25.020	Application.
12.25.030	Purpose.
12.25.040	Authority.
12.25.050	Requirements for electrical or communication systems.
12.25.060	Minor additions, rebuilds, and replacements.
12.25.070	Requirement for no increase in poles, exception.
12.25.080	Requirements for service lines in non-single-family residential areas.
12.25.090	Requirements for service lines in single-family residential areas.
12.25.100	Landscaping and screening.
12.25.110	Improvement of streets, utility undergrounding.
12.25.120	Cost.
12.25.125	Variance procedure.
12.25.130	Joint trenches for several utilities.
12.25.140	Notice requirements of service availability and noncompliance action.
12.25.150	Mandatory disconnection/ removal of overhead services - Owner objections - Public hearing - Final action.
12.25.155	Undergrounding of utilities local improvement district.
12.25.160	Undergrounding of utilities in Pacific Ridge.
12.25.170	Appeal.

**Sec. 73. 12.25.010. Title.** This chapter shall be entitled "Underground Utilities Requirements."

**Sec. 74. 12.25.020. Application.** The provisions of this chapter shall apply to all new electrical or communication systems, including but not limited to, electric power, telephone, and cable television facilities.

**Sec. 75. 12.25.030. Purpose.** The purpose of this chapter is to establish minimum requirements and procedures for the underground installation and relocation of electrical and communication facilities within the City. It is the policy of the City to require the underground installation of all new electrical and communication facilities, with certain exceptions noted in this chapter. The City Council finds that the convenience, health, safety, and general welfare of the residents of the community require that all new facilities specified in this chapter be installed underground.

**Sec. 76. 12.25.040. Authority.** The Planning, Building and Public Works Director, under the authority of the City Manager or the City Manager's designee, shall have the authority to impose conditions as set forth in this chapter.

**Sec. 77. 12.25.050. Requirements for electrical or communication systems.** All electrical or communication systems located in public rights-of-way and private roads shall be installed underground by the utility owning such facility:

(1) When it becomes necessary to move, remove, or relocate existing electrical or communication system overhead facilities for a distance of 500 feet or more because of development; or

(2) When electrical or communication system facilities are extended beyond those facilities existing on March 27, 1993, including proposals requiring dedication of land for rights-of-way or easements for public facilities.

**Sec. 78. 12.25.060. Minor additions, rebuilds, and replacements.** Minor additions, rebuilds, and replacements may be constructed aerially in accordance with this section:

(1) Minor additions of new secondary electrical facilities may be constructed aerially where existing facilities are aerial.

(2) A minor rebuild, replacement, or relocation of existing aerial facilities that does not alter the essential system configuration may be constructed aurally.

(3) When there is casualty damage to an overhead service system, the facilities may be restored aurally.

(4) Installation of additional conductors to provide one three-phase circuit is allowed on existing aerial facilities.

(5) Reconductoring for routine maintenance which does not constitute a major rebuild is allowed on existing aerial facilities. Routine maintenance is also allowed on existing aerial facilities for pole replacements and replacement of miscellaneous hardware.

(6) No work permitted by this subsection shall result in an increase in the number of utility poles.

**Sec. 79. 12.25.070. Requirement for no increase in poles, exception.** No installation of underground facilities shall result in an increase in poles, except an additional pole may be installed if an existing pole that is suitable as a termination pole for underground installation is not available within 300 feet of the closest property line of the development site.

**Sec. 80. 12.25.080. Requirements for service lines in non-single family residential areas.** In all areas of the City zoned in Title 18 DMMC for uses other than single-family residential, all new electrical or communication service lines from either existing overhead or underground facilities to the service connection of new and existing structures shall be installed underground.

**Sec. 81. 12.25.090. Requirements for service lines in single-family residential areas.** In all areas of the City zoned in Title 18 DMMC for uses as single-family residential, all electrical or communication service lines from either existing overhead or underground facilities to the service connection of new structures shall be installed underground.

**Sec. 82. 12.25.100. Landscaping and screening.** All work performed under this chapter shall conform with the

applicable provisions of chapter 18.195 DMMC (Landscaping and Screening).

**Sec. 83. 12.25.110. Improvement of streets, utility undergrounding.** The City Council, when ordering the improvement of a street, shall determine whether the relocation of electrical and communication systems underground is required, and if so, the manner of payment.

**Sec.84. 12.25.120. Cost.**

(1) The cost and expense of relocating an existing facility, or installing new facilities, underground is borne by the serving utilities, the owners of the real property served, or persons applying for such underground service in accordance with the applicable filed tariffs, rules, regulations, or the policies of the respective utilities furnishing such service, or as may be agreed upon by contract between the utility and such owner or applicant.

(2) The cost and expense of relocating an existing facility, or installing new facilities, underground, may be financed by a local improvement district or as otherwise permitted by law, as further authorized by chapters 35.43 and 35.96 RCW as presently constituted or as may be subsequently amended, and in accordance with DMMC 12.25.140.

**Sec. 85. 12.25.125. Variance procedure.**

(1) All applications for variances from the foregoing underground requirements shall first be filed with the Hearing Examiner through the City Clerk. The provisions of the Hearing Examiner Code are followed as it relates to fees, hearings, notices, decisions, appeals, and the like.

(2) A variance shall not be granted by the Hearing Examiner unless the Hearing Examiner finds that the utility owner or user or other affected party can demonstrate that it would be an undue hardship to place the facilities concerned underground. For purposes of this chapter, undue hardship is intended to mean a technological or environmental difficulty associated with the particular facility or with the particular real property involved.

(3) When granting a variance, the Hearing Examiner may attach conditions to the granting of said variance including placing a time limit on the duration of such variance.

**Sec. 86. 12.25.130. Joint trenches for several utilities.** Where several utilities' facilities are planned or required in the same corridor, every effort shall be made by the utilities to use joint trenches for such facilities.

**Sec. 87. 12.25.140. Notice requirements of service availability and noncompliance action.** When service from underground electrical or communication service facilities becomes available by virtue of undergrounding of existing wires, the City Clerk shall provide notice, by certified mail with return receipt requested, to the owners of structures or improvements served by existing overhead facilities to which service from the underground installation is available. Such notice shall state that:

(1) Service from the underground facilities is available; and

(2) All electrical and communication service lines from the existing overhead facilities within the area to a structure or improvement shall be disconnected and removed within 90 days after the date of mailing the notice; and

(3) Should an owner fail to convert such service lines from overhead to underground within the required period, the City shall order all electrical and communication system utilities to disconnect and remove the service lines from the noncomplying property.

(4) Should the owner object to the ordered disconnection and removal of the service lines, the owner may request a hearing within 30 days after the date of the mailing of the notice in accordance with the provisions of the Hearing Examiner Code. Failure to object within such time will constitute a waiver of all rights thereafter to object to such disconnections and removal of service to the noncomplying property.

**Sec. 88. 12.25.150. Mandatory disconnection / removal of overhead services - Owner objections - Public hearing - Final action.** If the owner has filed an appeal pursuant to DMMC 12.25.170 with the City Clerk not later than the close of

business 30 days after the mailing of the notice, the City shall stay such disconnection and removal until final City action in the matter.

(1) If the owner of a structure or improvement served from an existing overhead electrical and communication system facility fails to convert to the available underground service within 90 days after the notice to do so was mailed, the City Manager at the City Manager's discretion shall order all electrical and communications system utilities to disconnect and remove all overhead service lines from the noncomplying property; provided, that if the owner has filed a written objection to such disconnection and removal with the City Clerk not later than the close of business 30 days after the mailing of the notice, the City shall stay such disconnection and removal until final City action in the matter.

(2) Upon the timely filing by the owner of the subject property of written objections to the disconnection and removal of the service lines, the Hearing Examiner shall be directed to conduct a public hearing to determine whether the removal of all or part of the overhead service lines is in the public benefit. The Hearing Examiner shall schedule the public hearing within 45 days of receipt of the owner's written objection.

(3) Notice of the public hearing is given by publication in the official newspaper of the City not less than 14 days prior to the scheduled hearing date and by mailing an appropriate notice, by certified mail, not less than 14 days of the hearing date to the owner of record and to the occupant/tenant of real property which may be affected by the proceedings. Thereafter, the Hearing Examiner shall conduct the hearing in general conformity with the Hearing Examiner Code. At the conclusion of the hearing, the Hearing Examiner shall enter findings and conclusions and transmit the same to the City Council.

(4) Upon receipt of the findings and conclusions of the Hearing Examiner, the City Council shall consider the issue at a public meeting, giving again notice as provided in DMMC 12.25.140 to the owner and/or occupant/tenant of the real property affected by the proceedings. Testimony and evidence may not go beyond the scope of that presented to the Hearing Examiner. The decision of the Hearing Examiner shall be given substantial weight upon consideration of the City Council. A

determination by the City Council to affirm the Hearing Examiner is considered a final decision.

**Sec. 89. 12.25.155. Undergrounding of utilities local improvement district.**

(1) In all zones there is available an undergrounding of utilities local improvement district (UULID) that shall be formed in accordance with the provisions of chapter 35.43 RCW as presently constituted or as may be subsequently amended.

(2) In residential areas the conversion area must be not less than one City block in length, or in the absence of City blocks, not less than six contiguous building lots abutting each side of the public thoroughfare with all real property on both sides of each public thoroughfare to receive electric service from the main distribution system.

(3) In commercial areas and in such other areas which have electrical load requirements that are comparable with developed commercial areas the conversion area must be not less than two contiguous City blocks in length with all real property on both sides of each public street to receive electric service from the main distribution system.

(4) The amount assessed each property owner is amortized in not more than 15 equal annual payments. If the UULID is financed by the City general fund, the interest rate shall be set by the Finance Director at the estimated rate of return for long term City investments.

**Sec. 90. 12.25.160. Undergrounding of utilities in Pacific Ridge.** In the Pacific Ridge area as identified by the City of Des Moines Comprehensive Plan:

(1) New and existing electrical and communication distribution and service lines shall be placed underground when rights-of-way are improved as specified by the street development standards for Pacific Ridge.

(2) The undergrounding requirements of this section shall not apply to 115kV transmission lines.

**Sec. 91. 12.25.170. Appeal.** Should the owner object to the ordered disconnection and removal of the service lines, the owner may appeal that decision to the Hearing Examiner

within 30 days after the date of the mailing of the notice in accordance with the provisions of DMMC 18.20.150 and 18.20.160 and chapter 18.240 DMMC. The time period for filing an appeal set forth in this section and in DMMC 12.25.150 shall supersede that set forth in DMMC 18.20.160. Failure to object within such time will constitute a waiver of all rights thereafter to object to such disconnections and removal of service to the noncomplying property.

**Chapter 12.30**  
**Transportation Benefit District**

**Sections:**

- 12.30.010 Title.
- 12.30.020 Application.
- 12.30.030 Purpose.
- 12.30.040 Authority.
- 12.30.050 Establishing Transportation Benefit District.
- 12.30.060 Governing board.
- 12.30.070 Transportation improvements funded.
- 12.30.080 Establishment of vehicle license fee revenue source.
- 12.30.090 Dissolution of district.

**Sec. 92. 12.30.010. Title.** This chapter shall be entitled "Transportation Benefit District."

**Sec. 93. 12.30.020. Application.** This chapter shall apply to all properties contained within a Transportation Benefit District formed pursuant to chapter 36.73 RCW.

**Sec. 94. 12.30.030. Purpose.** The purpose of this chapter is to encourage and provide an alternative means to improve streets and walkways within the City.

**Sec. 95. 12.30.040. Authority.** The chapter is created pursuant to provisions of chapter 36.73 RCW.

**Sec. 96. 12.30.050. Establishing Transportation Benefit District.** There is created a Transportation Benefit District with geographical boundaries comprised of the corporate limits of the City as they currently exist or as they may exist following future annexations.

**Sec. 97. 12.30.060. Governing board.**

(1) The governing board of the Transportation Benefit District shall be the Des Moines City Council acting in an ex officio and independent capacity, which shall have the authority to exercise the statutory powers set forth in chapter 36.73 RCW.

(2) The treasurer of the Transportation Benefit District shall be the City Finance Director.

(3) The board shall develop a material change policy to address major plan changes that affect project delivery or the ability to finance the plan, pursuant to the requirements set forth in RCW 36.73.160(1).

(4) The board shall issue an annual report, pursuant to the requirements of RCW 36.73.160(2). The City Clerk shall file, maintain and make available for public inspection the board's annual reports.

**Sec. 98. 12.30.070. Transportation improvements funded.** The funds generated by the Transportation Benefit District shall be used for transportation improvements that preserve and maintain the transportation infrastructure of the City, consistent with the requirements of chapter 36.73 RCW, and shall be used primarily for improvements to preserve and maintain the City's previous investments in the transportation infrastructure, reduce the risk of transportation facility failure, improve safety, continue the cost-effectiveness of the City's infrastructure investments, and continue the optimal performance of the transportation system.

**Sec. 99. 12.30.080. Establishment of vehicle license fee revenue source.** The board shall have the authority to establish an annual vehicle license fee in the amount of twenty dollars (\$20.00), consistent with RCW 36.73.065, to be collected by the Washington Department of Licensing on qualifying vehicles, set forth in RCW 82.80.140 and chapters 36.73 and 46.16 RCW.

**Sec. 100. 12.30.090. Dissolution of district.** The benefit district shall be dissolved when all indebtedness of the district has been retired and when all of the District's anticipated responsibilities have been satisfied.

**Chapter 12.35**  
**Assessment Reimbursement Contracts**

**Sections:**

12.35.010	Title.
12.35.020	Application.
12.35.030	Purpose.
12.35.040	Authority.
12.35.050	Assessment Reimbursement Contracts.
12.35.060	Right of Refusal, Waiver of Liability.
12.35.070	Guidelines establishment authority.
12.35.080	Application - Contents.
12.35.090	Application requirements, fees.
12.35.100	Notices.
12.35.110	Notice to property owners.
12.35.120	City Council action.
12.44.130	Contract execution and recording.

**Sec. 101. 12.35.010. Title.** This chapter shall be entitled "Assessment Reimbursement Contracts."

**Sec. 102. 12.35.020. Application.** This chapter shall be applicable an owner required to construct or improve street projects which the owners elect to install as a result of ordinances that require the projects as a prerequisite to further property development, that meets the requirements of chapter 35.72 RCW.

**Sec. 103. 12.35.030. Purpose.** This chapter is intended to implement and thereby make available to the public the provisions of chapter 35.72 RCW.

**Sec. 104. 12.35.040. Authority.** Assessment reimbursement areas and contracts may only be authorized by the City Council pursuant to chapter 35.72 RCW.

**Sec. 105. 12.35.050. Assessment reimbursement contracts.** An owner may apply to the City to establish a street assessment reimbursement contract ("ARC") for recovery by the owner or the owner's assigns, of a pro rata share of the costs of constructing such improvements, from other property owners that are determined to be within the assessment reimbursement area pursuant to RCW 35.72.040 and determined to have a reimbursement share based upon a benefit to the property owner pursuant to RCW 35.72.030. No latecomer agreement shall extend

for a period longer than 15 years from the date of final acceptance by the City.

**Sec. 106. 12.35.060. Right of refusal, Waiver of liability.** The City Council reserves the right to refuse to enter into any ARC or to reject an application. All ARCs shall include language indicating that the applicant releases and waives any claims for liability of the City in the establishment and enforcement of ARCs. The City is not responsible for locating a beneficiary or survivor entitled to benefits by or through ARCs. Any collected funds unclaimed by developers after three years from the expiration of the contract are returned to parties making payment to the City. Any remaining undeliverable funds shall inure to the benefit of the appropriate utility and/or fund approved by the City Council.

**Sec. 107. 12.35.070. Guidelines establishment authority.** The Planning, Building and Public Works Director, working under the direction of the City Manager or the City Manager's designee, shall establish administrative rules, regulations, policies, and procedures necessary to implement the provisions of this chapter.

**Sec. 108. 12.35.080. Application - Contents.** Applications for the establishment of an assessment reimbursement area are accompanied by the application fee as set by this chapter and shall include the following items:

(1) Detailed construction plans and drawings of the entire project to be borne by the assessment reimbursement area prepared and stamped by a state licensed engineer.

(2) Itemization of all costs of the project including, but not limited to, design, grading, paving, installation of curbs, gutters, storm drainage, sidewalks, street lights, right-of-way landscaping, street trees, engineering, construction, property acquisition, and contract administration.

(3) A map and legal description identifying the proposed boundaries of the assessment reimbursement area and each separately owned parcel within such area. Such map shall identify the location of the project in relation to the parcels of property in such area.

(4) A proposed assessment reimbursement roll stating the proposed assessment for each separate parcel of property

within the proposed assessment reimbursement area as determined by apportioning the total project cost on the basis of the benefit of the project to each such parcel of property within said area.

(5) A complete list of record owners of property within the proposed assessment reimbursement area certified as complete and accurate by the applicant and which states names and mailing addresses for each such owner.

(6) Envelopes addressed to each of the record owners of property within the assessment reimbursement area who have not contributed their pro rata share of such costs. Proper postage for certified mail shall be affixed or provided.

(7) Copies of executed deeds and/or easements in which the applicant is the grantee for all property necessary for the installation of such project.

**Sec. 109. 12.35.090. Application requirements, fees.**

All applications for ARCs are on forms approved by the City Attorney and are accompanied by a nonrefundable application fee in an amount to be determined by written executive order of the City Manager or the City Manager's designee to reimburse the City for expenses in processing the application. The application fee shall include a separate fee for each parcel to be encumbered by the agreement.

**Sec. 110. 12.35.100. Notices.** All notices required by this chapter, including notices approved as to form by the City, and pre-addressed envelopes with proper postage affixed are the responsibility of the applicant for Latecomers Agreement. The City is responsible for mailing the notices.

**Sec. 111. 12.35.110. Notice to property owners.** Prior to the execution of a contract with the City establishing an assessment reimbursement area, the Planning, Building and Public Works Director or designee shall mail, via certified mail, a notice to all property owners of record within the proposed assessment reimbursement area as determined by the City on the basis of information and materials supplied by the applicant, stating the preliminary boundaries of such area and assessments along with substantially the following statement:

As a property owner within the assessment reimbursement area whose preliminary boundaries are enclosed with this notice, you

or your heirs and assigns will be obligated to pay under certain circumstances a pro rata share of construction and contract administration costs of a certain street and/or utility project that has been preliminarily determined to benefit your property. The proposed amount of such pro rata share or assessment is also enclosed with this notice. You, or your heirs and assigns, will have to pay such share if any development permits are issued for development on your property within 15 years of the date a contract establishing such area is recorded with King County, provided such development is included within the assessment reimbursement area and would have required similar street improvements for approval. You have a right to request a hearing before the City Council within 20 calendar days of the date of this notice. All such requests must be made in writing and filed with the City Clerk. After such contract is recorded it is binding on all owners of record within the assessment area who are not a party to the contract.

**Sec. 112. 12.35.120. City Council action.** If an owner of property within the proposed assessment reimbursement area requests a hearing, notice of such is given to all affected property owners in the manner provided in DMMC 12.35.080, 12.35.100, and 12.35.110. At such hearing the City Council shall take testimony from affected property owners and make a final determination of the area boundaries, the amount of assessments, length of time for which reimbursement is required, and shall authorize the execution of appropriate documents. The City Council's ruling on these matters is determinative and final. If no hearing is requested, the council may consider and take final action on these matters at any public meeting 20 calendar days after notice was mailed to the affected property owners.

**Sec. 113. 12.35.130. Contract execution and recording.**

(1) Within 30 days of final City Council approval of an ARC, the applicant shall execute and present such contract for the signature of the appropriate City officials.

(2) The ARC must be recorded in the King County Department of Records within 30 days of the final execution of the agreement. It is the sole responsibility of the applicant to record said agreement and to provide the City with a copy of the recorded instrument. Failure to comply with the requirements of this subsection is grounds for unilateral rescission of the contract by the City.

(3) Once recorded, the ARC is binding on owners of record within the assessment area who are not party to the agreement.

**Chapter 12.40**  
**Transportation Impact Fees**

**Sections:**

12.40.010	Title.
12.40.020	Application.
12.40.030	Purpose and intent.
12.40.040	Authority.
12.40.050	Findings and authority.
12.40.060	Adopted by reference.
12.40.070	Definitions.
12.40.080	Transportation impact fees established.
12.40.090	Establishment of service area.
12.40.100	Imposition of transportation impact fees on development activity.
12.40.110	Independent calculations.
12.40.120	Exemptions.
12.40.130	Credits for dedications and construction of improvements.
12.40.140	Disposition of transportation impact fee revenues.
12.40.150	Refunds.
12.40.160	Appeals.
12.40.170	Existing authority unimpaired.
12.40.180	Administrative guidelines.

**Sec. 114. 12.40.010. Title.** This chapter shall be entitled "Transportation Impact Fees."

**Sec. 115. 12.40.020. Application.** This chapter shall apply to all transportation impact fees.

**Sec. 116. 12.40.030. Purpose and intent.** The purpose and intent of this chapter is for the collection of transportation impact fees for streets, and providing for certain other matters in connection therewith.

**Sec. 117. 12.40.040. Authority.** This chapter is created pursuant to RCW 82.02.050 -.090.

**Sec. 118. 12.40.050. Findings and authority.** The City Council of the City of Des Moines hereby finds and determines

that development activities, including but not limited to new residential, commercial, retail, office, and industrial development in the City of Des Moines will create additional transportation demand and need for public facilities in the City, and the City Council finds that such new growth and development should pay a proportionate share of the cost of new transportation facilities needed to serve the new growth and development. The City of Des Moines has conducted extensive research and analysis documenting the procedures for measuring the impact of new developments on public facilities, and has prepared a "Rate Study for Transportation Impact Fees, City of Des Moines" dated August 17, 2009 ("rate study"). The rate study utilizes a methodology for calculating impact fees that fulfills all of the requirements of RCW 82.02.060(1). A copy of the rate study shall be kept on file with the City Clerk and is available to the public for review. Therefore, pursuant to chapter 82.02 RCW, the Council adopts this chapter to assess transportation impact fees for streets and roads. The provisions of this chapter shall be liberally construed in order to carry out the purposes of the Council in establishing the transportation impact fee program.

**Sec. 119. 12.40.060. Adopted by reference.** The "Rate Study for Transportation Impact Fees, 2009 Update, City of Des Moines" dated August 17, 2009, is hereby adopted as set forth in Exhibit A, which is attached to the ordinance codified in this chapter and incorporated herein by reference.

**Sec. 120. 12.40.070. Definitions** - Use of words and phrases. As used in this chapter, unless the context or subject matter clearly requires otherwise, the words or phrases defined in this section shall have the indicated meanings. Terms otherwise not defined herein shall be defined pursuant to RCW 82.02.090, or given their usual and customary meaning.

"Accessory living quarters" is as defined in DMMC 18.01.050.

"Building permit" means an official document or certification which is issued by the Planning, Building and Public Works Director and which authorizes the construction, alteration, enlargement, conversion, reconstruction, remodeling, rehabilitation, erection, demolition, moving, or repair of a building or structure.

"Capital facilities plan" means the capital facilities element of the City Comprehensive Plan.

"City Comprehensive Plan" means the City of Des Moines Comprehensive Plan, adopted pursuant to chapter 36.70A RCW, and such plan as subsequently amended or revised.

"Department" means the City's Planning, Building, and Public Works Department.

"Development activity" means any construction or expansion of a building, structure, or use, any change in use of a building or structure, or any change in the use of land, that generates at least one p.m. peak hour trip.

"Development approval" means any written authorization from the City of Des Moines which authorizes the commencement of a development activity.

"Dwelling" is as defined in DMMC 18.01.050.

"Encumbered" means to reserve, set aside, or otherwise earmark the transportation impact fees in order to pay for commitments, contractual obligations, or other liabilities incurred for public facilities.

"Feepayer" is a person, corporation, partnership, an incorporated association, or any other similar entity, or department or bureau of any governmental entity or municipal corporation commencing a development activity which creates the demand for additional system improvements and which requires the issuance of a permit for a given development activity. "Feepayer" includes an applicant for a transportation impact fee credit.

"GMA" means the Washington State Growth Management Act, codified as chapter 36.70A RCW, as now in existence, or as hereinafter amended.

"Hearing Examiner" means the Hearing Examiner of the City of Des Moines, pursuant to chapter 18.240 DMMC.

"Impact fee" means a payment of money imposed by the City upon development approval pursuant to this chapter as a condition of issuance of a permit for a given development activity to pay for public facilities needed to serve new growth

and development, and to mitigate the impacts of the development activity on the transportation facilities of the City. "Impact fee" does not include a reasonable permit or application fee, an administrative fee for collecting and handling impact fees, or the cost of reviewing independent calculations.

"Independent calculation" means the street and road impact calculation, and/or economic documentation prepared by a feepayer, to support the assessment of a transportation impact fee other than by the rate listed in DMMC 12.40.100, the rate study, or the department's fee schedule; or the calculations prepared by the Planning, Building and Public Works Director where none of the land use categories or fee amounts in the rate study or the department's fee schedule accurately describe or capture the impacts of the development activity on public facilities.

"ITE Land Use Code" means the classification code number assigned to a type of land use by the Institute of Transportation Engineers in the most recent edition of the *Trip Generation Manual*, unless otherwise noted.

"Owner" means the owner of record of real property. If real property is being purchased under a real estate contract, the purchaser shall be considered the owner of the real property if the contract is recorded.

"Permit for change in land use" means an official document which is issued by the Planning, Building and Public Works Director which authorizes a change in use of an existing building, structure, or land that does not require a building permit.

"P.M. peak hour" means the 60-minute period generally between 4:00 p.m. and 6:00 p.m. which experiences the highest volume of traffic on a road or street or passing through a road or street intersection.

"P.M. peak hour trips" means the total vehicular trips entering and leaving a place of development activity on the adjacent public road or street during the p.m. peak hour.

"Project improvements" means site improvements and facilities that are planned and designed to provide service for a particular development project and are necessary for the use and convenience of the occupants or users of the project, and

are not system improvements. No improvement or facility included in a capital facilities plan adopted by the council shall be considered a project improvement.

"Public facilities," as used in this chapter, refers to public streets, roads and rights-of-way owned or operated by the City or other governmental entities, including trails, paths, bikeways, other transportation facilities and all attendant improvements.

"Planning, Building and Public Works Director" means the Planning, Building, and Public Works Director, or the Planning, Building and Public Works Director's designee.

"Rate study" means the rate study identified in DMMC 12.40.060.

"Service area" means the transportation impact fee service area of the City identified in DMMC 12.40.090.

"System improvements" means public facilities that are included in the City of Des Moines' capital facilities plan, and such plan as amended, and are designed to provide service to service areas within the community at large.

"Transportation facilities" means and refers to streets and roads, but includes all publicly owned streets, roads, alleys and rights-of-way within the City and street services, traffic control devices, curbs, gutters, sidewalks and related facilities and improvements.

**Sec. 121. 12.40.080. Transportation impact fees established.** There is established, subject to the provisions of this chapter, a transportation impact fee program.

**Sec. 122. 12.40.090. Establishment of service area.**

(1) The City hereby establishes, as the service area for transportation impact fees, the City of Des Moines, including all property located within the corporate limits of the City.

(2) The scope of the service area is hereby found to be reasonable and established on the basis of sound planning and engineering principles, and consistent with RCW 82.02.060.

**Sec. 123. 12.40.100. Imposition of transportation impact fees on development activity.**

(1) The City hereby authorizes the assessment and collection of transportation impact fees on development activity within the City, based on the methodology described in the rate study. The maximum allowable transportation impact fee rate established by the rate study is \$6,088. Instead of setting the base rate at this level, the base rate for the calendar year 2009 is established at \$5,000 per new p.m. peak hour trip. The base transportation impact fee rate is subject to annual adjustment in accordance with subsection (5) of this section. Accordingly, using the methodology described in the rate study, the department will annually update the fee schedule identified in the rate study, and make the fee schedule available for public use.

(2) The collection of transportation impact fees will be modified for those subareas of the Pacific Ridge Zone that are also subject to SEPA mitigation fees pursuant to Exhibit B of Ordinance No. 1298, as presently written or as subsequently amended or revised.

(3) Transportation impact fee rates are based upon the formula for calculating the proportionate share of the cost of the system improvements, including the costs of previously constructed system improvements, necessitated by new development to be borne by transportation impact fees, which formulas are described in the rate study.

(4) The City Council may review the base transportation impact fee rate set forth in subsection (1) of this section at any time the City Council deems appropriate, including, but not limited to, the update of the capital facilities element of the City's comprehensive plan, and the council may adjust the transportation impact fee base rate as the council deems just and appropriate, up to the maximum rate identified in the rate study.

(5) The Planning, Building and Public Works Department will annually adjust the transportation impact fee base rate based on the construction cost index for the Seattle area as

reported in the Engineering News Record periodical, typically in March. The first adjustment will occur in March 2010.

(6) The transportation impact fee shall be phased in as follows. The base rate identified in subsection (1) of this section shall be at 50 percent through December 31, 2011, as adjusted in accordance with subsection (5) of this section. For the calendar year 2012 the transportation impact fee shall be 55 percent of the then-current base rate; for the calendar year 2013 the transportation impact fee shall be 65 percent of the then-current base rate; for the calendar year 2014 the transportation impact fee shall be 75 percent of the then-current base rate; for the calendar year 2015 the transportation impact fee shall be 85 percent of the then-current base rate; for the calendar year 2016 the transportation impact fee shall be 95 percent of the then-current base rate; for the calendar year 2017 and thereafter the transportation impact fee shall be 100 percent.

(7) For a change in use of an existing building or dwelling, including any alteration, expansion, replacement or new accessory living quarters, the net transportation impact fees shall be the applicable transportation impact fees calculated for the land use category of the new use, reduced by an amount equal to the current transportation impact fees calculated for the prior use.

(8) No reduction based on prior use shall be made for a vacant structure or a vacant property that once contained a structure if the structure or property had been vacant for more than 10 years.

(9) For mixed use developments, transportation impact fees shall be imposed for the proportionate share of each applicable land use.

(10) The transportation impact fees imposed pursuant to this chapter shall be assessed by the City. A preliminary assessment will be provided by the department during the review and approval of a given development activity, typically a building permit application or a permit for a change in land use. A final assessment, based upon the transportation impact fee rate in effect as of the date the actual permit is issued, shall be made by the department, and the fee shall be due and payable in full at the time of issuance of the permit. Failure to pay the transportation impact fees for a given development

activity at the time that such transportation impact fees are due and payable shall result in denial of the permit for which the applicant has applied.

(11) Development activities that have been allowed credits prior to the submittal of the complete building permit application or an application for a permit for a change in land use shall submit, along with the complete application, a copy of the letter or certificate issued by the Planning, Building and Public Works Director pursuant to DMMC 12.40.130 setting forth the dollar amount and basis of the approved credit. The net transportation impact fees, as determined after the reduction of appropriate credits, shall be collected from the applicant in accordance with subsection (10) of this section.

(12) Where the transportation impact fees imposed are determined by the square footage of the development, the department may at its discretion or at the written request of the feepayer review the constructed development prior to the issuance of a certificate of occupancy or an occupancy permit to confirm that the square footage of the constructed development is consistent with the square footage used to determine the final assessment and payment of the transportation impact fee. If the final square footage of the development is in excess of the square footage used to determine the final assessment and payment of the transportation impact fee, any difference will be due prior to the issuance of a certificate of occupancy or an occupancy permit, using the transportation impact fee rate in effect at that time. If the final square footage is less than the square footage used to determine the final assessment and payment of the transportation impact fee, the department shall give a refund for the difference.

**Sec. 124. 12.40.110. Independent calculations.**

(1) If in the judgment of the Planning, Building and Public Works Director none of the land use categories or fee amounts set forth in the rate study or the department's fee schedule accurately describes or captures the impacts of a new development on roads, the department may conduct independent calculations and the Planning, Building and Public Works Director may impose alternative fees on a specific development based on those calculations. The alternative fees and the calculations shall be set forth in writing and shall be mailed to the feepayer.

(2) A feepayer may opt not to have the impact fees determined according to the department's fee schedule identified in DMMC 12.40.100(1), in which case the feepayer shall prepare and submit to the Planning, Building and Public Works Director an independent calculation for the development activity for which a permit is being sought. The documentation submitted shall show the basis upon which the independent calculation was made. An independent calculation shall use the same methodology used to establish the transportation impact fee set forth in the rate study, shall be limited to adjustments in trip generation rates and lengths used in the rate study, and shall not include travel demand forecasts, trip distribution, transportation service areas, costs of road projects, or cost allocation procedures.

(3) Any feepayer submitting an independent calculation will be required to pay the City a fee to cover the cost of reviewing the independent calculation. The fee required by the City for conducting the review of the independent calculation shall be \$500.00, unless otherwise established by the City Manager or the City Manager's designee, and shall be paid by the feepayer prior to initiation of review.

(4) There is a rebuttable presumption that the calculations set forth in the rate study and the fees set forth in the department's fee schedule are valid. The Planning, Building and Public Works Director shall consider the documentation submitted by the feepayer, but is not required to accept such documentation or analysis which the Planning, Building and Public Works Director reasonably deems to be inapplicable, inaccurate, or not reliable. The Planning, Building and Public Works Director may require the feepayer to submit additional or different documentation for consideration. The Planning, Building and Public Works Director is authorized to adjust the transportation impact fees on a case-by-case basis based on the independent calculation, the specific characteristics of the development, and/or principles of fairness. The fees or alternative fees and the calculations shall be set forth in writing and shall be mailed to the feepayer.

(5) Determinations made by the Planning, Building and Public Works Director pursuant to this section shall be subject to the appeal procedures set forth in DMMC 12.40.160.

**Sec. 125. 12.40.120. Exemptions.**

(1) Except as provided for below, the following shall be exempted from the payment of transportation impact fees:

(a) Alteration or replacement of an existing structure that does not expand the usable space, add any residential units or generate any additional p.m. peak trips.

(b) Miscellaneous improvements which do not generate increased p.m. peak trips, including, but not limited to, fences, decks, walls, residential swimming pools, and signs.

(c) Demolition or moving of a structure when additional p.m. peak hour trips are not generated.

(d) A change of use that does not generate one or more p.m. peak hour trips.

(2) The Planning, Building and Public Works Director shall be authorized to determine whether a particular development activity falls within an exemption identified in this section or under other applicable law. Determinations of the Planning, Building and Public Works Director shall be in writing and shall be subject to the appeals procedures set forth in DMMC 12.40.160.

**Sec. 126. 12.40.130. Credits for dedications and construction of improvements.**

(1) A feepayer can request that a credit or credits for the value of system improvements, including dedications of land, improvements and/or construction provided by the feepayer, be applied toward the calculated transportation impact fee. The application for credits shall be presented by the feepayer on forms to be provided by the department and shall include the content designated in such forms. Credits will be given only if the land, improvements, and/or the facility constructed are:

(a) Included within the capital facilities plan or would serve the goals and objectives of the capital facilities plan; and

(b) Are at suitable sites and constructed at acceptable quality as determined by the Planning, Building and Public Works Director; and

(c) Serve to offset impacts of the feepayer's development activity; and

(d) Are for one or more of the transportation projects listed in the rate study as the basis for calculating the transportation impact fee.

(2) The transportation impact fee program shall provide credits for mitigation fees imposed under the State Environmental Policy Act (RCW 43.21C.060) and chapter 16.05 DMMC for system improvements identified in the comprehensive transportation plan as "intersection and roadway capacity improvement projects for the traffic impact fee program."

(3) The Planning, Building and Public Works Director shall determine if requests for credits meet the criteria in subsection (1) or (2) of this section, or under other applicable law. Determinations of the Planning, Building and Public Works Director may be appealed pursuant to DMMC 12.40.160.

(4) Each request for a credit or credits shall include a legal description of the dedicated land, a detailed description of improvements or construction provided, and a legal description or other adequate description of the development to which the credit will be applied.

(5) For each request for a credit or credits, the Planning, Building and Public Works Director shall determine the value of the dedicated land, improvements, or construction on a case-by-case basis.

(6) In the event that the feepayer disagrees with the Planning, Building and Public Works Director's valuation of the dedicated land, the feepayer may submit an appraisal for the Planning, Building and Public Works Director's consideration, prepared by a state certified MAI (member of the American Institute of Appraisers) in accordance with the most recent version of the Uniform Standards of Professional Appraisal Practice. In the event that that feepayer disagrees with the Planning, Building and Public Works Director's valuation of improvements or construction provided, the feepayer may submit a valuation for the Planning, Building and Public Works Director's consideration, prepared by a licensed engineer. The appraiser and/or engineer must be licensed and in good standing pursuant to chapter 18.43 RCW et seq., in the category for the property

and/or improvements to be appraised/valued, and shall not have a fiduciary or personal interest in the property being appraised.

(7) Appraisals and/or engineering valuations submitted by the feepayer shall be subject to review by the Planning, Building and Public Works Director and, at the Planning, Building and Public Works Director's discretion, an independent review appraiser/engineer selected by the Planning, Building and Public Works Director. The feepayer shall pay for the actual costs for the appraisal/valuation and the independent review. An estimate of the appraisal and review costs will be prepared by the department, and the feepayer shall pay the estimated costs prior to commencement of the appraisal and review. If the final cost of the appraisal and review is in excess of the initial estimate and payment, any difference will be due prior to the issuance of a letter or certificate from the Planning, Building and Public Works Director. If the final cost of the appraisal and review is less than the initial estimate and payment, the department shall give a refund for the difference.

(8) After receiving and reviewing the appraisal, the Planning, Building and Public Works Director shall provide the applicant with a letter or certificate setting forth the dollar amount of any credit, the reason for the credit, the legal description of the real property dedicated where applicable, and the legal description or other adequate description of the project or development to which the credit may be applied. The feepayer must sign and date a duplicate copy of such letter or certificate indicating his/her agreement to the terms of the letter or certificate, and return such signed document to the Planning, Building and Public Works Director before the impact fee credit will be applied. The failure of the feepayer to sign, date, and return such document within 60 calendar days shall nullify the credit. If credit is denied, the feepayer shall be notified in a letter that includes the reasons.

(9) If the total value of any credit for such dedication, improvement or construction costs exceeds the amount of the transportation impact fee obligation, the developer will not be entitled to reimbursement of the difference.

(10) No credit shall be given for project improvements.

(11) Any claim for credit must be made no later than 14 calendar days after the submission of an application for a building permit or an application for a permit for a change in

use. The failure to timely file such a claim shall constitute a final bar to later request any such credit.

(12) Determinations made by the Planning, Building and Public Works Director pursuant to this section shall be subject to the appeals procedures set forth in DMMC 12.40.160.

**Sec. 127. 12.40.140. Disposition of transportation impact fee revenues.**

(1) The transportation impact fees collected pursuant to the provisions of this chapter shall be deposited into a transportation impact fee fund. Pending application as provided in this chapter, the moneys deposited in the transportation impact fee fund shall be invested in any investment authorized for the investment of City funds. All interest and profits derived from the investment of moneys in each account in the transportation impact fee fund shall be retained in such account.

(2) The transportation impact fees deposited in each account in the transportation impact fee fund and the interest and profit received from the investments therefrom shall be expended only for system improvements for which such transportation impact fees were collected, in conformity with the City of Des Moines comprehensive plan and comprehensive transportation plan, and expended or encumbered within six years of receipt by the City, unless written findings by the City Council identify an extraordinary and compelling reason for the City to hold the fees for a longer time. The City shall account for annual expenditures and shall comply with this section in successive comprehensive plans, transportation plans and capital facilities plans as appropriate.

(3) The transportation impact fees may also be used to recoup system improvement costs previously incurred by the City to the extent that new growth and development will be served by the previously constructed improvements or incurred costs.

(4) In the event that bonds or similar debt instruments are or have been issued for the advanced provision of system improvements for which transportation impact fees may be expended, transportation impact fees may be used to pay debt service on such bonds or similar debt instruments to the extent that the facilities or improvements provided are consistent with

the requirements of this section and are used to serve the new development.

(5) The City shall prepare an annual report on the transportation impact fee fund which shows the source and amount of all moneys collected, earned or received and the public facilities that were financed in whole or in part by impact fees.

**Sec. 128. 12.40.150. Refunds.**

(1) The City shall, in accordance with RCW 82.02.080, refund to the current owners of property on which a transportation impact fee has been paid any transportation impact fees paid with respect to such property that has not been expended or encumbered for public facilities of the type of which such transportation impact fees were collected.

(2) The City shall also refund to the current owner of property on which a transportation impact fee has been paid all transportation impact fees paid with respect to such property if the development activity for which the transportation impact fee was imposed did not occur and no impact has resulted.

(3) If some, but not all, of the development activity for which the transportation impact fee was imposed occurred, the transportation impact will be deemed to have occurred, and no refund will be payable; provided, however, that the property on which the transportation impact fee was paid shall be eligible to receive a credit toward any subsequent development activity on the property up to the full amount of the payment.

(4) Owners seeking a refund of transportation impact fees must submit a written request for a refund of transportation impact fees to the Planning, Building and Public Works Director or designee within one year of the date the right to claim the refund arises, which, for purposes of refund claims authorized pursuant to subsection (2) of this section only, shall be the date of voluntary or involuntary abandonment of the permit, or the date that notice is given as provided in subsection (1) of this section, whichever occurs later. Refunds of transportation impact fees shall not include interest or any profits earned on the transportation impact fees from the date of their receipt to the date of refund. Any transportation impact fees not expended within the time limitations, and for which no application for a refund has been made within the one-

year claim period, shall be retained by the City and expended on system improvements for which such transportation impact fees were initially collected, without further limitation as to the time of expenditure.

**Sec. 129. 12.40.160. Appeals.**

(1) The determination of the Planning, Building and Public Works Director or designee regarding the applicability of the transportation impact fee to a given development activity within the service area shall be final; however, an owner may pay a transportation impact fee imposed pursuant to this chapter under protest in order to obtain a permit and, after such payment, file an appeal regarding the amount of the transportation impact fee or a determination made pursuant to DMMC 12.40.110, 12.40.120 or 12.40.140 to the Hearing Examiner pursuant to DMMC 18.20.150 and 18.20.160 and chapter 18.240 DMMC.

(2) Appeal regarding the amount of the transportation impact fee imposed on any development activity may only be made by the owner of the property where such development activity shall occur.

**Sec. 130. 12.40.170. Existing authority unimpaired.**

Nothing in this chapter shall preclude the City from requiring the applicant to mitigate adverse environmental impacts of a specific development pursuant to the State Environmental Policy Act, chapter 43.21C RCW, based on the environmental documents accompanying the underlying development approval process, and/or chapter 58.17 RCW governing plats and subdivisions; provided, that the exercise of this authority is consistent with the provisions of chapters 43.21C and 82.02 RCW.

**Sec. 131. 12.40.180. Administrative guidelines.**

The Planning, Building and Public Works Director shall be authorized to adopt internal guidelines for the administration of transportation impact fees, which may include the adoption of standard operating procedures and administrative policy for transportation impact fees.

**Chapter 12.45  
Building Transport Code**

**Sections:**

- 12.45.010 Title.
- 12.45.020 Application.
- 12.45.030 Purpose.
- 12.45.040 Authority.
- 12.45.050 Notification of date - Inspection to be made on original location.
- 12.45.060 Fees for inspection.
- 12.45.070 Interior wall and ceiling coverings to be removed for inspection.
- 12.45.080 Filing plans required before approval of application is granted.
- 12.45.090 Agreement - Required.
- 12.45.100 Agreement - Time period - Posting security.
- 12.45.110 Notice of demolition - Appeal.

**Sec. 132. 12.45.010. Title.** This chapter is known as and may be referred to as the "Building Transport Code."

**Sec. 133. 12.45.020. Application.** A person who proposes to move an existing building from any site to another site within the City shall, prior to such move, apply for an on-site inspection by the Building Official.

**Sec. 134. 12.45.030. Purpose.** The purpose of this chapter is to regulate the improvement of buildings and minimize adverse impacts, and to provide for the costs associated therein.

**Sec. 135. 12.45.040. Authority.** This chapter is authorized by the general police provisions granted to the City pursuant to Title 35A RCW and other applicable laws.

**Sec. 136. 12.45.050. Notification of date - Inspection to be made on original location.** Upon such application and upon payment of the fee provided in DMMC 12.45.060, the Building Official shall notify the applicant of the date and time of his/her inspection. The inspection shall be made at the original location of the building prior to its removal therefrom to any site within the City.

**Sec. 137. 12.45.060. Fees for inspection.** For an application provided for there shall be charged and collected an

inspection fee set by administrative order of the City Manager or the City Manager's designee. There shall be one fee if the building is situated within two miles of the City, and another fee if the building is situated at a distance in excess of two miles from the City. A separate permit shall be required for each building. In addition to the inspection fee, the applicant shall pay reasonable costs of transportation for the inspecting official.

**Sec. 138. 12.45.070. Interior wall and ceiling coverings to be removed for inspection.** The applicant shall remove from the building or buildings all interior wall and ceiling coverings, including plaster, plaster board, and all similar material to the extent required by the inspecting official. Removal of the interior wall and ceiling coverings, including plaster, plaster board and all similar materials is for the purpose of enabling the inspecting official to make an adequate inspection of all studs, girts, plates, rafters, joints, and other structural members, together with all electrical wiring and rough plumbing. Defective parts or materials and those not in conformance with the ordinances of the City shall be removed from the building prior to its removal to a site within the City.

**Sec. 139. 12.45.080. Filing plans required before approval of application is granted.** No approval shall be given to an application until the applicant has filed with the Building Official two sets of plans for the foundation and/or any proposed alterations or additions for the building.

**Sec. 140. 12.45.090. Agreement - Required.** No structure requiring a house moving permit shall be moved into the City unless and until the owner of the structure enters into an agreement with the City in accordance with this chapter.

**Sec. 141. 12.45.100. Agreement - Time period - Posting security.** The agreement shall specify the maximum time period (expressed in a date certain) for the rendering of the structure suitable for human occupancy. The time shall not exceed six months. The building department is authorized to grant one extension of such time, not to exceed six months. Time shall be calculated from the date the structure is physically placed on the lot. The agreement shall require the owner to post adequate security in the form of a bond, cash, or blocked bank account to pay the estimated cost of demolition. The form of the security shall be in the sole discretion of the City. The agreement shall

authorize the City to enter the property and demolish the structure and expend the security for the purposes of demolition and lot clearance.

**Sec. 142. 12.45.110. Notice of demolition - Appeal.**

(1) Prior to the demolition of a structure pursuant to DMMC 12.45.100, the City shall notify the owner, at the address specified in the agreement, by certified mail, of its intent to do so. The notice shall be mailed 20 days prior to the initiation of demolition. The owner may appeal such notice of intent to demolish to the Hearing Examiner pursuant to DMMC 18.20.150 and 18.20.160 and chapter 18.240 DMMC.

(2) The criteria for extending the initiation of demolition include consideration of the following: (a) whether because of extenuating circumstances an extension of time should be granted, and (b) whether the structure is suitable for human occupancy. The burden of proof shall be on the owner of the structure to establish either proposition. If an appeal is not taken timely, demolition and lot clearance shall proceed immediately.

**Chapter 12.50  
Street Names And Building Addresses**

**Sections:**

12.50.010	Title.
12.50.020	Application.
12.50.030	Purpose.
12.50.040	Authority.
12.50.050	Grid system adopted.
12.50.060	Street designations.
12.50.070	Council redesignation.
12.50.080	Block designations.
12.50.090	Street signs.
12.50.100	Address designations.
12.50.110	Address assignments.
12.50.120	Notification of address assignments.
12.50.130	Building official powers and duties.
12.50.140	Compliance required.
12.50.150	Appeal.

**Sec. 143. 12.50.010. Title.** This chapter shall be entitled "Street Names and Building Addresses."

**Sec. 144. 12.50.020. Application.** The chapter shall apply to all building and structures within the City.

**Sec. 145. 12.50.030. Purpose.** The purpose of this chapter is to grant the Building Official the authority to assign street names and numbers and to address the principal entrances of all buildings or other uses in conformance with the grid system adopted by this chapter.

**Sec. 146. 12.50.040. Authority.** This chapter is authorized by the general police provisions granted to the City pursuant to Title 35A RCW and other applicable laws.

**Sec. 147. 12.50.050. Grid system adopted.** The grid system adopted by King County Resolution No. 16622, as amended by Ordinance Nos. 1630, 1721, 1874, 1970, 2081, 2221, and 2362, as presently constituted or as may be subsequently amended, and as amended, added to, or excepted in this chapter, together with all amendments and additions provided in this Title, is adopted and is applicable within the City.

**Sec. 148. 12.50.060. Street designations.**

(1) The Building Official shall:

(a) Designate all public and private streets using the guidelines of the grid system; and

(b) Not name a street unless the Building Official determines that the number assigned to the street by the grid system is not feasible.

(2) The Building Official may redesignate existing streets if the Building Official determines the street name or number is inconsistent with the grid system.

(3) Public and private streets shall carry a cardinal point prefix or suffix. Public and private streets designated as:

(a) Avenues are preceded by a numerical designation, are assigned a cardinal point suffix, and are in a generally north-south direction;

(b) Streets are preceded by a numerical designation, are assigned a cardinal point prefix, and are in a generally east-west direction; and

(c) Circles, courts, drives, highways, lanes, places, and ways are assigned a cardinal point:

(i) Suffix if it is in a generally north-south direction; and

(ii) Prefix if it is in a generally east-west direction.

(4) A person may appeal a street designation to the Hearing Examiner in accordance with the Hearing Examiner Code, provided a written appeal is filed with the City Clerk within 10 days following the designation.

**Sec. 149. 12.50.070. Council redesignation.**

(1) Notwithstanding DMMC 12.50.030 through 12.50.060, the City Council reserves the option of changing street names or changing numbered streets to named streets. Applications to the City Council for street renaming shall contain the signatures of the majority of persons having ownership in properties addressed on the street. The filing fee for a street name change application is established by administrative order of the City Manager or the City Manager's designee. The Building Official shall provide written notification to affected property owners at least 20 days before final City Council action.

(2) In its deliberations, the City Council shall consider technical information from the Building Official, location and development characteristics relative to the street, and the impact of the change on existing businesses and residences, as well as on emergency vehicle responsiveness. Only entire street lengths or distinct major portions of streets are eligible for renaming by the City Council. For the purposes of this chapter, "distinct major portion" means a separate portion of a street identifiable by either a directional shift of at least 45 degrees or an interrupted interval of at least one-quarter mile.

(3) A street name change is accomplished by the adoption of an ordinance directing the change.

**Sec. 150. 12.50.080. Block designations.** The grid system shall determine numerical block designations.

**Sec. 151. 12.50.090. Street signs.** The City traffic engineer shall provide for the placing of street identification signs at all intersections and at other locations determined necessary by the City traffic engineer. All signs shall have international style, size, and white lettering on a blue background.

**Sec. 152. 12.50.100. Address designations.**

(1) The Building Official shall assign building addresses using the following criteria:

(a) Even-numbered addresses are used on the:

(i) Northerly side of streets having a generally east-west direction; and

(ii) Easterly side of streets having a generally north-south direction; and

(b) Odd-numbered addresses are used on the:

(i) Southerly side of streets having a generally east-west direction; and

(ii) Westerly side of streets having a generally north-south direction.

(2) Buildings not visible from a public street or set back from a public street to the extent that the building address is not readily visible, are addressed from the driveway access.

(3) Addresses shall contain only whole numbers. The Building Official shall redesignate an existing address if the Building Official determines the address is inconsistent with this subsection.

(4) Multiple-dwelling units shall receive one building address. The location of the main entrance determines that number. The multiple-dwelling unit owner shall provide individual units within the complex a number composed of the

unit number and floor in a clockwise direction from the main entrance.

**Sec. 153. 12.50.110. Address assignments.**

(1) In existing subdivision or short subdivision plats, in binding site plans, planned unit developments, and in land not yet platted, the assignment of addresses for new buildings shall occur in conjunction with the issuance of a building permit.

(2) In subdivision or short subdivision plats approved after September 14, 1993, the assignment of addresses shall conform with DMMC 17.40.090.

**Sec. 154. 12.50.120. Notification of address assignments.** Upon assignment of a building address, the Building Official shall notify the:

- (1) United States Postal Service;
- (2) South King Fire and Rescue;
- (3) Des Moines Police Department; and
- (4) Other agencies as determined by the Building Official.

**Sec. 155. 12.50.130. Building Official powers and duties.**

(1) The Building Official shall promulgate rules to implement this chapter.

(2) The Building Official shall maintain the official record of current addresses.

**Sec. 156. 12.50.140. Compliance required.**

(1) Should the Building Official find that a building is not provided with an address, is not correctly addressed, or is not using the assigned address, the Building Official shall notify the owner or occupant of the correct address.

(2) The correct address number shall be placed and used by the effective date shown on the notice from the Building Official.

**Sec. 157. 12.50.150. Appeal.** Any decision of the Building Official under this chapter may be appealed to the Hearing Examiner pursuant to DMMC 18.20.150 and 18.20.160 and chapter 18.240 DMMC.

### **Chapter 12.60**

#### **Bicycle, Pedestrian, and Transit Facilities in the Right-of-Way**

##### **Sections:**

- 12.60.010 Title.
- 12.60.020 Application.
- 12.60.030 Purpose.
- 12.60.040 Authority.
- 12.60.050 Definitions.
- 12.60.060 Complete street principles and goals.
- 12.60.070 Exemptions.

**Sec. 158. 12.60.010. Title.** This chapter shall be entitled "Bicycle, Pedestrian, and Transit Facilities in the Right-of-Way."

**Sec. 159. 12.60.020. Application.** This chapter shall apply to the development of complete streets.

**Sec. 160. 12.60.030. Purpose.** The purpose of this chapter is to provide complete street principles and goals for the development of a multi-modal transportation system for all users.

**Sec. 161. 12.60.040. Authority.** The Planning, Building and Public Works Director shall have the power to prepare and adopt procedures as needed to implement the principles and goals of this chapter.

**Sec. 162. 12.60.050. Definitions.**

"Complete street" means an improved roadway that provides accommodations and transportation improvements with all users in mind, including motorists, pedestrians, bicyclists, and public transit users.

**Sec. 163. 12.60.060. Complete street principles and goals.**

(1) Bicycle and pedestrian ways shall be designed and built in accordance with the City's comprehensive transportation plan, and street design and construction standards.

(2) Bicycle and pedestrian facilities shall be accommodated in the planning, design, and construction of transportation facilities and transportation plans when feasible.

(3) Transit facilities shall be accommodated in the planning, design, and construction of transportation facilities when feasible and coordinated with transit providers. Transit facilities should be incorporated into transportation plans, projects, standards and programs.

(4) Complete streets shall be designed and constructed in such a manner that they complement the context of the surrounding neighborhoods, providing a balance of adequate facilities for bicyclists, pedestrians, transit users and persons of all abilities.

(5) Street connectivity is encouraged to create a comprehensive, integrated, connected roadway network for all transportation modes.

**Sec. 164. 12.60.070. Exemptions.**

(1) Notwithstanding the provisions of DMMC 12.60.060, bicycle, pedestrian, and public transit facilities are not required to be established:

(a) Where their establishment would be contrary to public safety.

(b) When the cost would be excessively disproportionate to the need or probable use.

(c) Where there is no identified need.

(2) All exceptions shall be approved by the Planning, Building and Public Works Director.

**Chapter 12.65**  
**Neighborhood Traffic Calming Program**

**Sections:**

12.65.010	Title
12.65.020	Application
12.65.030	Purpose
12.65.040	Authority
12.65.050	Coordination
12.65.060	Program guidelines
12.65.070	Minimum criteria
12.65.080	Neighborhood corridor projects

**Sec. 165. 12.65.010. Title.** This chapter shall be entitled "Neighborhood Traffic Calming Program."

**Sec. 166. 12.65.020. Application.** This chapter shall apply to the development traffic calming measures in the right-of-way.

**Sec. 167. 12.65.030. Purpose.** The purpose of this chapter is to address neighborhood concerns with regard to traffic safety issues. These issues include, but are not limited to, reducing the problems of accidents, nonlocal traffic, spillover parking, and vehicles speeding on residential streets. The procedures established by this chapter enable citizens and/or community groups to participate in the problem identification, planning, design, implementation, and evaluation stages of projects meant to remedy traffic safety problems.

**Sec. 168. 12.65.040. Authority.** The Planning, Building and Public Works Director shall have the power to prepare and adopt procedures as needed to implement the provisions of this chapter.

**Sec. 169. 12.65.050. Coordination.** The program is coordinated by the Planning, Building and Public Works with other Departments and agencies, including:

(1) The Police Department to ensure overall traffic safety and the best use of resources for target enforcement of traffic speeds in neighborhoods by the City Police Department.

(2) Fire and emergency services to ensure minimal impact on emergency access routes and response times.

(3) School districts and King County Metro transit to coordinate safe walking routes for students, to identify and correct specific safety problems around schools, and to minimize impacts on school and public bus operation.

(4) Other jurisdictions to ensure consistency in traffic control devices and procedures on the streets that cross through multiple jurisdictions.

**Sec. 170. 12.65.060. Program guidelines.** The administrative rules published by the Planning, Building and Public Works Department shall contain provisions to implement the following guidelines:

(1) Locations for proposed installation of traffic calming devices are prioritized to ensure that funds are spent on the most serious locations first.

(2) Neighborhood residents are responsible for the initiation and follow through of individual traffic calming projects. Placing the burden for project initiation on the public shall:

(a) Discourage frivolous requests;

(b) Minimize staff time spent in evaluating problem locations; and

(c) Build a neighborhood consensus before City funds are spent.

(3) Except for unusual situations, traffic speed enforcement through the City Police Department or a speed watch program should usually be the initial response to a petition requesting neighborhood traffic calming.

(4) Use the least restrictive traffic calming strategy/device that will solve the specific problem. Passive techniques should be explored before deciding to install physical devices. Passive techniques should include a range of possible solutions including brush trimming, improving sight distances, posting appropriate traffic control signs, speed watch programs, traffic enforcement, traffic safety campaigns, and any other techniques deemed appropriate by the Planning, Building and Public Works Director.

(5) If physical devices are necessary, the least intrusive or restrictive types of devices should be evaluated first. Physical devices can include speed humps, traffic circles, chicanes, traffic diverters, turn prohibitors, curb extensions, and any other techniques deemed appropriate by the Planning, Building and Public Works Director.

(6) Manage traffic in place rather than diverting it to another location. In some cases, through traffic should be on nearby arterials and physical devices would be appropriate to try to divert such traffic back to the arterial system. However, traffic should not be relocated from one neighborhood street to another.

(7) Use the most cost-effective traffic calming devices to solve identified problems so that City resources can be used to address as many locations as possible.

**Sec. 171. 12.65.070. Minimum criteria.**

(1) Neighborhood traffic calming projects should meet all of the following minimum criteria:

(a) Average daily traffic ("ADT") volumes should be greater than 500 ADT but less than 4,000 ADT.

(b) Traffic speed studies with a sample of at least 50 cars in each direction at a given location should show at least 20 percent of the vehicles exceeding the posted speed limit by at least five miles per hour.

(c) The street under consideration for a traffic calming project is not classified as an arterial.

**Sec. 172. 12.65.080. Neighborhood corridor projects.** Neighborhood corridor projects focus attention on larger-scale neighborhood projects to address nonlocal traffic and pedestrian safety. Projects of this type are considered when the neighborhood traffic safety problem is determined to be caused by a lack of adequate arterial facilities and sidewalks in the problem area.

The types of projects include: installing sidewalks, curbs, and gutters, and improving the capacity of the street by doing channelization and/or signalization improvements. Projects of this nature are prioritized under the six-year transportation plan.

**Sec. 173. Repealer.** Title 12 DMMC as presently constituted and codified is hereby repealed in its entirety along with all underlying Ordinances and replaced with this Ordinance to be effective on January 1, 2014.

**Sec. 174. Severability - Construction.**

(1) If a section, subsection, paragraph, sentence, clause, or phrase of this Ordinance is declared unconstitutional or invalid for any reason by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance.

(2) If the provisions of this Ordinance are found to be inconsistent with other provisions of the Des Moines Municipal Code, this Ordinance is deemed to control.

**Sec. 175. Effective date.** This Ordinance shall take effect and be in full force on January 1, 2014.

**PASSED BY** the City Council of the City of Des Moines this 26th day of September, 2013 and signed in authentication thereof this 26th day of September, 2013.

  
MAYOR

APPROVED AS TO FORM:

  
Assistant City Attorney

ATTEST:

  
City Clerk

Published: October 1, 2013

Effective Date: January 1, 2014

LEGAL NOTICE  
SUMMARY OF ADOPTED ORDINANCE  
CITY OF DES MOINES

ORDINANCE NO. 1578, Adopted September 26, 2013.

DESCRIPTION OF MAIN POINTS OF THE ORDINANCE:

This ordinance relates to streets, sidewalks, and public places; replaces Title 12 DMMC; and repeals the previously codified provisions of Title 12 DMMC and underlying ordinances.

The full text of the ordinance will be mailed without cost upon request.

Bonnie Wilkins  
City Clerk

Published: October 1, 2013