

## **CHAPTER 12.12 ADMINISTRATIVE PROVISIONS RELATING TO UTILITIES IN THE PUBLIC RIGHT OF WAY**

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### HISTORY

*Amended by Ord. 2020-005 §1 on 1/1/2021*

#### **12.12.010 Applicability**

DCC 12.12 shall apply to all public and private utilities, including electric power, communications, television, water, gas, oil, petroleum products, steam, chemicals, sewage, drainage, irrigation and similar lines and structures that are to be located, adjusted or relocated within the right of way of County roads or local access roads. No such utility facility shall be constructed or relocated upon any County road right of way or local access road right of way without first obtaining a permit applied for and issued in accordance with DCC 12.12.

### HISTORY

*Adopted by Ord. 203-7 §2.010 on 2/4/1976*

*Amended by Ord. 2020-005 §1 on 1/1/2021*

#### **12.12.020 Authority**

Wherever DCC 12 provides for review, decision or action by the Board, the authority is delegated to the Administrator subject to review by the Board and to be exercised in

accordance with the policies set forth in DCC 12.16 and for this purpose the Administrator is designated as the authorized representative of the Board. However, only the Board sitting in regular session may exercise the authority provided in DCC 12.08.040, 12.08.050(A) and 12.12.130.

#### HISTORY

*Adopted by Ord. 203-7 §2.020 on 2/4/1976*

*Amended by Ord. 2020-005 §1 on 1/1/2021*

#### **12.12.030 Allocation Of Costs**

The entire cost of installing, maintaining, repairing, operating or using the pole line, buried cable or pipeline and of any other expense whatsoever incident to the facilities or operations authorized by the permit shall be paid by the applicant.

#### HISTORY

*Adopted by Ord. 203-7 §2.100 on 2/4/1976*

#### **12.12.040 Reimbursement Of Expenses**

The applicant shall, in addition to DCC 12.12.030, reimburse the County for any reasonable and necessary expenses that the County may incur in connection with the facilities or operations authorized by the permit, including but not limited to the actual cost of inspection by County personnel. The reimbursement shall be made by the applicant within 30 days after receiving a statement therefor from the County.

#### HISTORY

*Adopted by Ord. 203-7 §2.101 on 2/4/1976*

#### **12.12.050 Reimbursement For Damage**

The applicant when billed by the County, shall pay the current market value for any existing forest products on any land belonging to the County which are damaged or destroyed as a result of operations authorized by the permit.

#### HISTORY

*Adopted by Ord. 203-7 §2.102 on 2/4/1976*

#### **12.12.060 Hold Harmless Agreement**

- 1.—The applicant shall indemnify and hold harmless the County, the Board, the members thereof, and all officers or employees of the County against any and all damages, claims, demands, actions, causes of action, costs and expenses of whatsoever nature which may result from any injury to or the death of any persons

or from the loss of or damages to property of any kind or nature, including the County, road and County road facilities or structures, property or equipment used or owned by the County, and facilities which now or may hereafter occupy the right of way of the County road, when such injury, death, loss or damage arises out of the construction, installation, maintenance, repair, removal, relocation, operation or use of the pole line, buried cable or pipeline authorized by the permit.

2.—The County, its officers or employees shall not be held responsible or liable for injury or damage that may occur to facilities covered by the permit or any connection or connections thereto by reason of County road maintenance and construction operations or resulting from motorist or road user operations, or County road contractor or permittee operations.

#### HISTORY

*Adopted by Ord. 203-7 §2.200 on 2/4/1976*

#### **12.12.070 Protective Measures**

During the initial installation or construction of the facilities authorized by the permit, or during any future repair, removal or relocation thereof, the applicant shall at all times maintain such flagmen, signs, lights, flares, barricades and other safety devices as the Administrator may reasonably deem necessary to properly protect traffic and the general public upon the County road, and to warn and safeguard the public against injury or damage. The applicant shall maintain such signs, lights, flares, barricades, and other safety devices during nonwork hours and the Administrator may request and be furnished the telephone number and address of the person in charge of such maintenance.

#### HISTORY

*Adopted by Ord. 203-7 §2.210 on 2/4/1976*

#### **12.12.080 Traffic Interference Restrictions**

The applicant shall so conduct his operations that there will be a minimum of interference with or interruption of traffic upon and along the County road. Except in emergencies there shall be no interference with or interruption of traffic upon and along the County road until a plan for the satisfactory handling of traffic has been worked out and approved by the Administrator. In emergencies the applicant shall notify the Administrator as soon as practicable.

#### HISTORY

*Adopted by Ord. 203-7 §2.250 on 2/4/1976*

#### **12.12.090 Traffic Control And Safety Devices**

All traffic control and safety devices used for protection of the work areas shall conform to the current edition of the Manual on Uniform Traffic Control Devices for Streets and Highways, as adopted by the Federal Highway Administration.

HISTORY

*Adopted by Ord. 203-7 §2.251 on 2/4/1976*

**12.12.100 Inspections Necessary**

To insure compliance with the terms and conditions of the permit, the County reserves the right to inspect the job during such periods as the Administrator deems necessary, to check compliance with the terms of the permit by the applicant, and to require the applicant to correct all deviations from those terms and conditions. The cost of the first inspection will be borne by the County, and additional required inspections shall be paid by the applicant under the terms outlined in DCC 12.12.040.

HISTORY

*Adopted by Ord. 203-7 §2.270 on 2/4/1976*

**12.12.110 Supervision And Control**

Any supervision and/or control exercised by the Administrator shall in no way relieve the applicant of any duty or responsibility to the general public nor shall such supervision or control relieve the applicant from any liability for loss, damage or injury to persons or property as provided in DCC 12.12.060.

HISTORY

*Adopted by Ord. 203-7 §2.275 on 2/4/1976*

**12.12.120 Decisions Of The Board**

The decision of the Board shall be final with respect to any of the conditions, terms, stipulations and provisions of the permit. This shall not foreclose applicant's right of appeal.

HISTORY

*Adopted by Ord. 203-7 §2.299 on 2/4/1976*

**12.12.130 Insurance**

The applicant or his contractor shall obtain and carry, for the period of time required for the complete installation of the facilities authorized by the permit, including the repair and restoration of the County road facilities, and also during such future periods of time when operations are performed involving the repair, relocation or removal of such facilities

~~authorized by the permit, a liability and property damage insurance policy or policies providing the coverage against any claim, demand, suit or action for property damage, personal injury or death resulting from any activities of the applicant, his officers, employees, agents or contractors in connection with the construction, installation, repair or removal of the facilities authorized by the permit and the repair and restoration of the County road facilities, and the policy or policies, in addition, shall include as named insureds the County, Board and members thereof, its officers, agents and employees. The insurance shall provide coverage in amounts required by the County. The insurance policy or policies shall be in an insurance company duly authorized and licensed to do business in the state. A copy of the policy or policies, or a certificate evidencing the same, shall be submitted to the Administrator and approved by him before any work is commenced under the permit.~~

#### HISTORY

*Adopted by Ord. 203-7 §2.300 on 2/4/1976*

*Amended by Ord. 2020-005 §1 on 1/1/2021*

#### **12.12.140 Bond Or Cash Deposit Required**

- ~~1.—In order to assure full and faithful compliance with all of the terms, conditions and obligations of the permit agreement, the Administrator may require the permittee or his contractor to furnish for the period of time required for the complete installation of such facility, including the repair and restoration of the highway facilities, and, also, during such period of time when future maintenance may be performed upon the facility, a bond or cash deposit in the amount specified in the permit. If a bond is furnished it must be written by a surety company duly qualified and licensed to do business in the state and in a form satisfactory to the Administrator. No work shall be commenced under the permit agreement until the bond has been submitted to and approved by, or the cash deposit has been received by the Administrator.~~
- ~~2.—In lieu of posting a cash deposit, the permittee or his contractor may file an assignment agreement form assigning his savings account with a federally licensed savings institution in an amount equal to the required cash deposit, with the Administrator. Alternatively, in lieu of posting a cash deposit, the permittee may deposit with the Administrator a certified check payable to the County road fund drawn on a federally insured bank in an amount equal to the required cash deposit.~~
- ~~3.—The amount of the deposit shall be that necessary to restore the affected area of the roadway to a safe and serviceable condition at least as good as it was in before it was cut. Unless the Administrator requires a greater sum, based on unusual~~

~~conditions, the amount of deposit required for pavement cuts shall be defined in the County fee schedule..~~

~~4.—The bond, deposit or surety agreement shall guarantee that the roadway surface shall be repaired within 24 hours after completion of backfilling the last portion of the roadway cut. It shall further provide that in the event the repairs are not completed within the time limit set forth in DCC 12.12, the Administrator may repair the road to his reasonable satisfaction in accordance with the standards of this title and the standard specifications for design and construction of the County Road Department with County forces, or at his option, by letting a public contract, and recover the costs of such repair from the surety or deposit without notice or demand on the permittee.~~

#### HISTORY

*Adopted by Ord. 203-7 §2.400 on 2/4/1976*

*Amended by Ord. 203-7 on 11/19/1979*

*Amended by Ord. 2020-005 §1 on 1/1/2021*