

Title 12

MATTERS AFFECTING THE RIGHT-OF-WAY—VISIBILITY—OUTDOOR FIXTURES*

Chapters:

- 12.04 Improvements, Excavations and Obstacles**
- 12.08 Visibility**
- 12.12 Outdoor Fixtures (Fences, Walls, Gates, etc.)**
- 12.24 Street Right-of-Way Improvements**
- 12.28 Exceptions**

* **Editor's note:** Ordinance 614 amended Title 12, Chapters 12.04 through 12.20 in their entirety. All provisions previously contained in Chapters 12.04 through and including 12.20, are now contained in Chapters 12.04 through and including 12.12. The prior code sections for those sections no longer appearing in the Municipal Code are as follows: Sections 50.20.04, 50.20.16, 50.28.68, 90.6.24, 90.6.32 and 90.6.36.

Chapter 12.04

IMPROVEMENTS, EXCAVATIONS, AND OBSTACLES*

Sections:

- 12.04.010 Outdoor fixtures in the right-of-way.**
- 12.04.020 Permit—Required.**
- 12.04.030 Excavation notification.**
- 12.04.040 Permit—Application and payment of fees and deposit.**
- 12.04.050 Permit—Penalty fee.**
- 12.04.060 Performance deposit.**
- 12.04.070 Inspection.**
- 12.04.080 Appeal—Filing and fee.**
- 12.04.090 Construction standards.**
- 12.04.100 Violation—Misdemeanor.**
- 12.04.110 Traffic controls.**
- 12.04.120 Frontage improvements—Duty to construct, repair, maintain.**

* Prior history: Prior code § 90.6.12; Ord. 369.

12.04.010 Outdoor fixtures in the right-of-way.

Outdoor fixtures (as defined in Section 12.12.010) located in the right-of-way are subject to the provisions of Chapter 12.12 and not this chapter. (Ord. 614 § 4 (part), 2000)

12.04.020 Permit—Required.

A. Unless an encroachment permit has first been obtained as provided in this chapter, it is unlawful for any individual or entity to do any of the following within any portion of any public street in the town or (except for subsection (A)(4) of this section) right-of-way in the town:

1. Construct, alter, repair or replace any driveway approach;
2. Construct, alter, repair or replace any improvement in the public street or right-of-way, including, but not limited to, pavement, sidewalk/parking strip, retaining wall eighteen inches or

less in height, curb, gutter, culvert, wiring, conduit, sewer system, water system or storm drain system;

3. Cut into the public street pavement or right-of-way surface or excavate in the public street or right-of-way for the installation of any improvement referred to in subsection (A)(1) or (A)(2) of this section or for any other purpose, hereinafter sometimes “excavations” or “excavation”;

4. Leave standing in any portion of any public street for more than forty-eight continuous hours any structure, lumber, gravel, foreign substance, machinery or vehicle of any kind, collectively “obstacle.”

Subsections (A)(1) through (A)(4) of this section are referred to collectively as “right-of-way activities” or “ROW activities” and individually as “right-of-way activity” or “ROW activity.” For purposes of this section, beginning any ROW activity shall constitute the performance of such ROW activity.

B. ROW activities and/or work done in conjunction with ROW activities may also require building or other permits as applicable. (Ord. 661 § 1, 2005; Ord. 614 § 4 (part), 2000)

12.04.030 Excavation notification.

Prior to beginning any excavation and upon the request of the director of public works or the director’s designee, a permittee shall provide at least seventy-two hours advance written notice to the Central County Fire, police and public works departments of the town and to immediate neighbors and any other appropriate party, as identified by the director of public works or the director’s designee. (Ord. 661 § 9 (part), 2005; Ord. 614 § 4 (part), 2000)

12.04.040 Permit—Application and payment of fees and deposit.

A. All applications under this chapter shall be made in writing to the director of public works or the director’s designee, on the form provided, describing the proposed ROW activity and setting forth its precise location, together with a general explanation of what sewers, pipes, drains, conduits, culverts, gutters, curbs, pavements and sidewalk/parking strips will be involved and how they will be affected. Upon re-

quest, the applicant shall also furnish plans and specifications for the ROW activity.

B. At the time of filing the permit application, the applicant shall pay a permit fee in an amount established from time to time by resolution of the city council to cover the town's administrative costs (including, without limitation, the costs of inspection under Section 12.04.070).

C. Prior to receiving the encroachment permit for the ROW activity, the applicant shall pay the performance deposit (as defined in Section 12.04.060), if applicable.

D. A copy of the encroachment permit shall be kept at the site of the ROW activity. (Ord. 614 § 4 (part), 2000)

12.04.050 Permit—Penalty fee.

Any individual or entity who begins any ROW activity without first obtaining the encroachment permit required under this chapter shall pay, in addition to other applicable fees, a penalty fee of one hundred percent of the permit fee. (Ord. 614 § 4 (part), 2000)

12.04.060 Performance deposit.

The director of the public works department or the director's designee may, prior to granting the encroachment permit pursuant to this chapter, require the applicant to deposit a bond or sum of money ("performance deposit") in an amount which, in the good faith judgment of the director of the public works department or the director's designee, will cover the estimated cost of the ROW activity. In the event and to the extent that the ROW activity is not properly and timely completed in accordance with the permit application and applicable law or if a potential or actual hazardous or injurious (to persons or property) condition results from the ROW activity and town staff is required to remedy the problem, the director of the public works department or the director's designee may cause the ROW activity to be completed or rectified using all or part of the performance deposit, as needed. Otherwise or to the extent that the performance deposit is not needed to complete or rectify the ROW activity, the perform-

ance deposit shall be returned to the applicant upon completion of the ROW activity in accordance with the permit application and applicable law (which shall be deemed to include having the site returned to a clean and tidy condition). (Ord. 614 § 4 (part), 2000)

12.04.070 Inspection.

Any ROW activity may be inspected as needed by the director of the public works department or the director's designee. Additional inspections may be required by other departments of the town. (Ord. 614 § 4 (part), 2000)

12.04.080 Appeal—Filing and fee.

A. Any action taken or decision made by the director of public works or the director's designee under this chapter may be appealed to the city council by the party affected by filing a written appeal with the city clerk within twenty days after notice of such action or decision is mailed (or, if not mailed, otherwise communicated) to such party. The written appeal shall explain the reasons for the appeal and shall be accompanied by payment of the appeal fee in the amount established from time to time by resolution of the city council.

B. The city clerk shall set the appeal for public hearing before the next regular council meeting occurring more than fifteen days after city clerk receives the written appeal and payment of the appeal fee. The city clerk shall give notice of the hearing under the Type B notice procedure set forth in Chapter 1.20. The city council's decision shall be final. (Ord. 614 § 4 (part), 2000)

12.04.090 Construction standards.

All ROW activities shall be performed under the direction of the director of public works or the director's designee and in accordance with the permit application, town standards and applicable law. (Ord. 614 § 4 (part), 2000)

12.04.100 Violation—Misdemeanor.

Failure to comply with any provision of this chapter is misdemeanor. (Ord. 614 § 4 (part), 2000)

12.04.110 Traffic controls.

Every permittee hereunder shall implement appropriate traffic controls for the permittee's ROW activity in compliance with the current "Manual of Traffic Controls for Construction and Maintenance Work Zones" issued by the State of California, Business, Transportation and Housing, Department of Transportation (Caltrans). The requirements of this section shall also apply to all obstacles (as defined in Section 12.04.020(A)(4)) left in any portion of any public street for any period of time (even less than forty-eight hours). (Ord. 614 § 4 (part), 2000)

12.04.120 Frontage improvements—Duty to construct, repair, maintain.

A. Whenever the director of public works or the director's designee determines (or the city council directs) that construction of a culvert or gutter, or repair of an existing culvert or gutter, or replacement of an existing culvert with a gutter is necessary in order to handle effectively the customary drainage along the side of a street fronting upon any parcel of real property in town, it shall be the duty of the owner of the property to have the construction done. The gutter or culvert involved shall be of a capacity sufficient to handle all drainage that may customarily flow through it. The determination of the city council as to the necessity for construction shall be conclusive.

B. Before the start of construction of a new residence on any lot in the town, the director of public works or the director's designee shall determine the adequacy of any existing system of gutters, curbs or culverts along the street in front of the lot. The director of public works or the director's designee may require as a condition of the improvement of the lot, that the owner or developer (1) install curbs, gutters or culverts sufficient to complete the line of any curbs, gutters or improvements on adjoining real property, or to protect the real property in question, or (2) complete or install any related facilities (in-

cluding, but not limited to, water pipes, water valves, fire hydrants, sewer clean-outs and flap gates, and storm drain inlets) usually required along the street frontage. All of the improvements listed in this paragraph and paragraph A of this section may be referred to as "Frontage improvements."

C. The director of public works or the director's designee shall notify in writing any property owner required to construct or repair frontage improvements under the provisions of subsection A or B of this section. Such notice shall be mailed by U.S. mail to the address of the owner of the property as listed in the records of the San Mateo County assessor. If there is no response within two weeks from the date of mailing, a second notice shall be mailed by U.S. mail to the same address and to the address (if different) to which water bills for such property are sent, certified mail, return receipt requested.

D. In the event that a property owner fails to respond to the second notice within thirty days from the date of mailing (or such shorter time as set forth in subsection E of this section) or fails to have the required construction, repair or replacement completed by the deadline set forth in the notice(s) (which shall take into account the nature of the work needed, the urgency of the work, and the availability of workers to perform the work), the director of public works or the director's designee shall cause the construction or repair to be done. In such event, the cost thereof, including, but not limited to, all permit and any other administrative fees that would be been charged to the property owner or the owner's representative had the owner caused the construction or repair to be done, shall be assessed against the owner and referred to collection or recoverable in a civil action in any court of competent jurisdiction, and the judgment of the court shall include costs and a reasonable attorney's fee to be fixed by the court.

E. The time periods in subsections C and D of this section may be shortened as necessary by the director of public works or the director's designee if a hazardous condition exists which requires prompt or immediate abatement in order to protect the public health, safety or welfare. Any shortened time period shall be set forth in the notice(s).

F. Except as temporarily necessary to complete construction, repair or replacement required under this section, every owner or occupant of real property in the town shall keep any culvert or gutter located on such property clean and free at all times from all obstructions to the free passage of water.

G. 1. No person shall paint or cause to be affixed address numbers or related symbol, legend or marking upon the streets, gutters or curbs located within the town without the prior written approval of the owner of the property (a) served by the address number or related symbol, legend or marking so painted or affixed, or (b) adjoining the streets, gutters or curbs so painted or marked. Such written approval shall not create nor imply an obligation to pay for work performed unless such obligation is specifically set forth therein, in which case the amount to be paid or donated for the service shall be specifically listed on the written approval.

2. Persons engaged in the painting of address numbers, symbols, legends or markings for profit or for charity shall, before advertising, soliciting or performing such work, comply with the provisions of all resolutions and ordinances of the town pertaining to such work.

3. Painted address numbers, symbols, legends or markings shall be painted with black paint, four inches in height, stenciled and centered on a reflective, white painted, rectangular background not to exceed fifteen inches in length by six inches in height. The paint used shall be standard, highway traffic quality, quick-drying paint meeting U.S. Department of Transportation standards. The address number shall be identical to the number assigned by the city engineer.

4. The provisions of this subsection G shall not apply to employees or contractors of the town or employees of public utilities or cable television corporations (as those terms are defined under the California Public Utilities Code) when such are engaged in marking the locations of the underground utilities, valve covers, above-ground valves, or the painting of restricted parking designations or other official traffic control devices as provided under the Hillsborough Municipal Code. The provisions of this subsection G

shall also not apply to construction markings on streets, curbs and gutters (for example, markings indicating the location of gas, electricity, water and sewer lines, markings indicating survey data, and similar markings) necessary to and made in connection with private construction projects. (Ord. 654 § 14, 2004; Ord. 614 § 4 (part), 2000; Ord. 611 § 6, 2000; Ord. 466, 1989; prior code § 50.28.20(j))

Chapter 12.08

VISIBILITY*

Sections:

12.08.010 Visibility.

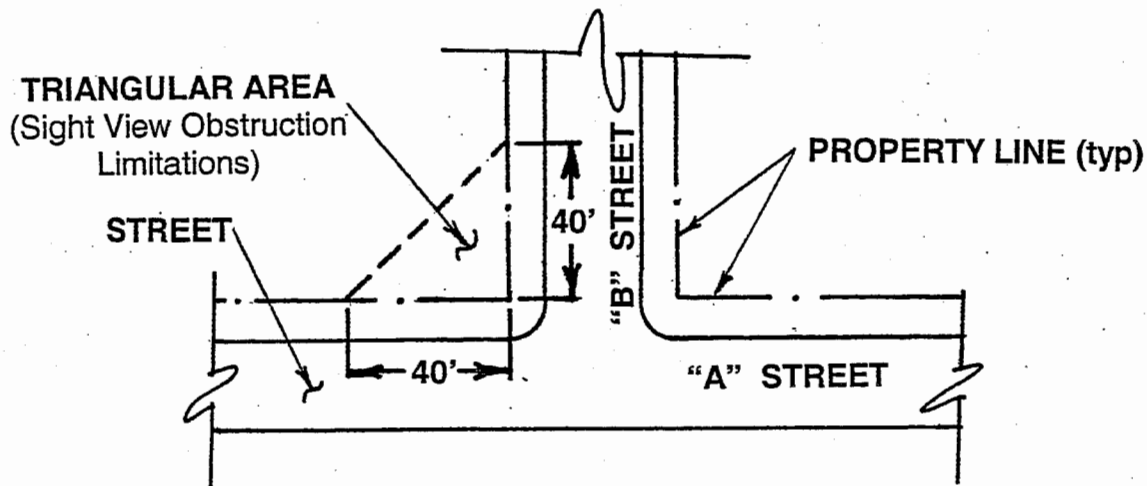
*Prior history: Prior code § 90.6.08.

12.08.010 Visibility.

A. Whenever any outdoor fixture (as defined in Section 12.12.010), hedge, shrubbery or tree, located on or growing in any street right-of-way or upon any private property significantly obstructs the view of any intersection or of any traffic upon the streets approaching such intersection and, in the good faith judgment of the director of public works or the director's designee, creates a safety hazard, the director of public works or the director's designee may require the owner of the outdoor fixture, hedge, shrubbery or tree promptly to modify the same to the extent necessary to remove the obstruction to the view.

B. For street intersections having a ninety degree angle or less (or any larger angle where nonetheless, in the good faith judgment of the director of public works or the director's designee, certain outdoor

fixtures or vegetation would constitute a traffic hazard), no vegetation which can exceed two and one-half feet in height, at maturity, above existing grade at the property line or pavement grade of the street, whichever is higher, shall be planted or maintained in the triangular area, defined below (provided, however, that this restriction shall not apply to certain types of trees of a certain size and spacing as set forth in a policy established by the director of public works or the director's designee setting forth the height, trunk diameter, spacing, type, and other specifications of trees which do not obstruct the view), and no outdoor fixture taller than two and one-half feet above existing grade at the property line or pavement grade of the street, whichever is higher, shall be located in the triangular area (provided, however, that the director of public works or the director's designee may except any specific outdoor fixture which does not, in fact, obstruct the view). The triangular area is that area bounded on two sides by forty feet of the property lines abutting the street, as measured from the intersection of the property lines, and on the third side by a line connecting the property lines at points forty feet from their intersection, as illustrated in the following diagram:



C. Subject to the provisions of subsection B of this section, which shall control in the event of a conflict between that paragraph and this one, no hedge shall be maintained at a height greater than four feet if the hedge is twenty-five feet or less from the center line of the street; provided, however, that any hedge so located which was higher than four feet as of December 1998 may be maintained at its existing height until such time, if ever, as the hedge is reduced to below four feet, in which case the hedge shall thereafter be limited to a maximum height of four feet.

D. Whenever, in the good faith judgment of the director of public works or the director's designee, any material, plantings, shrubs, fences, walls, hedges, trees, vines, clippings, trimmings, or similar items (which are attached to, installed, constructed, planted, grown, stored, stacked or piled around, near, in front of or adjacent to any public fire hydrant, directional sign, regulatory or warning sign, catch basin, spillway, culvert or other public object) obstruct the view or clear visibility of or interfere in any manner with the primary purpose of such public fire hydrant, directional sign, regulatory or warning sign, catch basin, spillway, culvert or other public object, the director of public works or the director's designee may require the owner of the material, plantings, shrubs, fences, walls, hedges, trees, vines, clippings, trimmings, or similar items promptly to modify the same to the extent necessary to remove the obstruction or interference. (Ord. 614 § 4 (part), 2000)

Chapter 12.24

STREET RIGHT-OF-WAY IMPROVEMENTS

Sections:

- 12.24.010 Permit—Required.**
- 12.24.020 Permit—Application.**
- 12.24.030 Permit—Issuance.**
- 12.24.040 Permit—Fee.**
- 12.24.050 Permit—Denial.**
- 12.24.060 Permit—Conditional approval.**
- 12.24.070 Violation—Correction.**

12.24.010 Permit—Required.

It is unlawful for any person, firm or corporation to construct or install, or commence or proceed with the construction or installation of any improvements, landscaping or gardening of any kind or nature, over, on or within the right-of-way adjacent to public streets or highways of the town, unless a permit so to do has first been obtained as provided in this chapter. (Ord. 369 § 1 (part), 1980: prior code § 90.6.16 (part))

12.24.020 Permit—Application.

A. Any person, firm, or corporation desiring such permit shall make application in writing therefor to the superintendent of streets. Such applicant shall set forth the particular place where the improvements, landscaping or gardening are to be constructed by description sufficient to locate the same. Upon demand of the superintendent of streets, the applicant shall further furnish him with plans and specifications thereof.

B. All such work within the right-of-way shall be done and be completed in accordance with the application, and under the supervision and direction of the superintendent of streets, and shall incorporate a sidewalk area in conformance with the city engineer's standards for public work. (Ord. 369 § 1 (part), 1980: prior code § 90.6.16(a))

12.24.030 Permit—Issuance.

The superintendent of streets after the filing of

such application, shall consider and act upon such application within fifteen days after receiving the same. In the event of approval, a copy thereof shall be delivered to the building department which shall, upon receipt of the prescribed fee, issue a form of receipt or permit to do the work. (Ord. 369 § 1 (part), 1980: prior code § 90.6.16(b))

12.24.040 Permit—Fee.

The fees payable to the Town for issuing a permit to do any work as regulated by this chapter shall be a permit application fee and an inspection fee in amounts determined from time to time by the City Council to be reasonable fees covering the costs of processing the permit application and inspecting the improvements, landscaping, or gardening, such fees to be set by resolution of the City Council. (Ord. 417, 1985; Ord. 369 § 1 (part), 1980: prior code § 90.6.16(c))

12.24.050 Permit—Denial.

In the event that the application is disapproved, the reason for such disapproval shall be given in a statement attached to such application and be returned to the applicant. (Ord. 369 § 1 (part), 1980: prior code § 90.6.16(d))

12.24.060 Permit—Conditional approval.

The superintendent of streets shall have the power to grant the permit upon such conditions as he may deem necessary for the preservation of the public health, safety and welfare, and may further provide therein that the permit may be revoked by him, when in his opinion it shall be become necessary to do so for the preservation of the public health, safety and welfare. (Ord. 369 § 1 (part), 1980: prior code § 90.6.16(e))

12.24.070 Violation—Correction.

Any work found to be in violation of this chapter as of January 1, 1981 shall be determined to be nonconforming and shall be corrected in one of the following ways:

A. Upon the issuance of a building permit for a new dwelling or a permit which exceeds fifty per-

cent of the living area of the dwelling, the sidewalk along the entire frontage shall be brought into conformance with the city engineer's standards for sidewalks; or

B. Upon the issuance of a permit to do work within the right-of-way adjacent to any public street, the sidewalk along that frontage shall be brought into conformance with the city engineer's standards for sidewalks as part of that permit. (Ord. 369 § 1 (part), 1980: prior code § 90.6.16(f))

Chapter 12.28

EXCEPTIONS

Sections:

12.28.010 Exceptions.

12.28.010 Exceptions.

Chapter 1.24 sets forth the exceptions procedure applicable to Title 12. (Ord. 639 § 29, 2003)

