

## **Title 11**

### **STREETS, SIDEWALKS, AND PUBLIC THOROUGHFARES**

#### **Chapters:**

- 11.05 Street and Building Numbers**
- 11.07 Infrastructure Improvements**
- 11.10 Street Excavations**
- 11.15 Local Improvements**
- 11.20 Assessment for Construction of Streets and Sidewalks**
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- 11.30 Street Rights-of-Way**
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Chapter 11.05

STREET AND BUILDING NUMBERS

Sections:

Article I. Building Numbers

- 11.05.010 Designation.
- 11.05.020 Numbering.
- 11.05.030 Guidelines.

Article II. Street Numbers

- 11.05.040 Requirements.
- 11.05.050 Failure to comply – Civil infraction.

Article I. Building Numbers

11.05.010 Designation.

All buildings in the town of La Conner shall be numbered in accordance with the numbering designation set out upon the map which is attached as Exhibit A\* and is by this reference incorporated herein. [Ord. 465 § 1, 1979.]

\*Code reviser’s note: Exhibit A is on file in the clerk’s office.

11.05.020 Numbering.

The buildings shall be numbered odd on the left and even on the right on those streets running north and south from Morris Street and in the same manner from those streets running east from the Swinomish Channel. [Ord. 465 § 2, 1979.]

11.05.030 Guidelines.

A number shall be assigned each 25 feet from each intersection and each house or building shall be assigned one number. [Ord. 465 § 3, 1979.]

Article II. Street Numbers

11.05.040 Requirements.

Commencing July 1, 1986, all property owners within the town of La Conner shall be required to display the correct street number on any residence, business, dwelling, building, or other habitable structure within the limits of the town of La Conner. The street numbers shall be required to conform with the following guidelines:

- (1) The street numbers shall be five inches in height.

- (2) They shall be made of light reflective material.

- (3) The background of the street numbers shall contrast with the street numbers.

- (4) The street numbers shall be displayed in such a manner as to be easily visible from the street. [Ord. 539 § 1, 1986.]

11.05.050 Failure to comply – Civil infraction.

Any property owner who willfully fails to comply with the provisions of this chapter shall be guilty of a civil infraction and subject to a civil penalty as set forth and established in Chapter 1.15 LCMC. [Ord. 839 § 12, 2001.]

Chapter 11.07

INFRASTRUCTURE IMPROVEMENTS

Sections:

11.07.010 Infrastructure improvements.

**11.07.010 Infrastructure improvements.**

Any work undertaken to modify, repair, replace, remove or extend roadways and/or public utilities within the public right-of-way or on public easements by private entities shall be performed per the procedures and requirements found in the infrastructure improvement manual. [Ord. 1000 § 3, 2007.]

Chapter 11.10

STREET EXCAVATIONS

Sections:

- 11.10.010 Permit – Required.
- 11.10.020 Permit – Application.
- 11.10.030 Permit – Fees.
- 11.10.040 Excavations.
- 11.10.050 Performance bond.
- 11.10.060 Permit – Performance bond.
- 11.10.070 Restoration materials and techniques.
- 11.10.080 Pavement cut requirement.
- 11.10.090 Requirements for overlay, overlay widths.
- 11.10.100 Maintaining traffic flows and fire access.
- 11.10.110 Guards and warning lights.
- 11.10.120 Liability of permittee.
- 11.10.130 Performance of work – Utility facilities protection.
- 11.10.140 Inspection.
- 11.10.150 Violation – Penalty.

**11.10.010 Permit – Required.**

No person, firm or corporation shall dig or excavate in the town streets or right-of-way any trench for utility installation, maintenance or for any other purpose in the town streets without first obtaining an excavation permit issued by the town clerk. The town clerk shall issue the permit upon the written approval and recommendation of the public works director, planning director or their designee. [Ord. 857, 2002; Ord. 486 § 1, 1981.]

**11.10.020 Permit – Application.**

All applicants for an excavation permit shall file a written application therefor in duplicate on forms furnished by the town clerk; one copy to be delivered to the applicant and the original to be retained by the town clerk. [Ord. 857, 2002; Ord. 486 § 2, 1981.]

**11.10.030 Permit – Fees.**

A permit for any excavation in any town street or right-of-way shall be issued only upon the applicant furnishing a bond as required by LCMC 11.10.050 and upon payment to the town clerk of the following fees:

- (1) Each excavation in a paved street or alley to install or maintain utilities serving one adjacent zoning lot for each separate trench excavation, \$100.00;

(2) Each excavation in an unpaved street or alley to install or maintain utilities serving one adjacent zoning lot for each separate trench excavation, \$45.00;

(3) For each excavation other than those described in subsections (1) and (2) of this section, the fee shall be the reasonable cost to the town, as estimated by the public works director or town engineering firm, of restoring the site area to the original pre-excavation condition. [Ord. 857, 2002; Ord. 486 § 3, 1981.]

**11.10.040 Excavations.**

(1) In order to minimize excavations in paved streets, no permit shall be granted to excavate a paved street for the purpose of installing sewer where there exists in good working order an already installed sewer drain pipe leading to the sewer main from the zoning lot to be served by the new excavation.

(2) No excavation shall be permitted in streets that have been paved or overlaid within the previous five years. In the event of an emergency or new development, pavement excavation may be allowed subject to the provisions of LCMC 11.10.090, provided a more reasonable alternative is not feasible. Reasonable alternatives include alternate routes, alternate locations and boring.

(3) It is unlawful for any person to leave unguarded any excavation within four feet of any street or other public place, or to fail to maintain the lateral support of any such public place. [Ord. 857, 2002; Ord. 486 § 4, 1981.]

**11.10.050 Performance bond.**

The permittee shall file with the town clerk a performance bond fixed in such amount as deemed necessary by the public works director either with personal or corporate surety, approved by the town attorney, conditioned and as a guarantee that the permittee shall replace the surface of the street in the same condition and with the same material as same was prior to any excavation; the bond to remain in force for a period of one year after completion of excavation restoration to guarantee that the town shall not be required to expend any funds to repair any portion of any excavation restoration, should it be required. [Ord. 857, 2002; Ord. 486 § 5, 1981.]

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**11.10.060 Permit – Performance bond.**

The town shall make an estimate of the restoration cost and shall set a bond amount equal to 120 percent of the estimated cost. [Ord. 857, 2002; Ord. 486 § 6, 1981.]

**11.10.070 Restoration materials and techniques.**

The town has adopted standards for materials and techniques to be used in construction. The requirements can be found in:

- (1) The town of La Conner sewer developer extension manual;
- (2) The town of La Conner comprehensive water system plan;
- (3) Washington State Department of Transportation (WSDOT) Standard Specifications (latest edition) except as modified by subsections (1) or (2) of this section.

All requirements listed in the manuals are the minimum requirements and may be modified by the public works director or town engineer to meet traffic loading or site-specific conditions. [Ord. 857, 2002; Ord. 486 § 7, 1981.]

**11.10.080 Pavement cut requirement.**

The following guidelines shall be followed when doing trench or excavation work with the paved portion of any town of La Conner right-of-way:

- (1) Before commencing excavation in a paved street, every permittee doing so shall first cut the pavement around the circumference of the excavation.
- (2) Modifications or exemptions to these policies may be authorized by the planning/public works directors, upon formal request by the permittee and demonstration of an equivalent alternative. [Ord. 857, 2002; Ord. 486 § 8, 1981.]

**11.10.090 Requirements for overlay, overlay widths.**

Lane-width or a full street-width overlay will be determined based upon the location and length of the proposed trench within the roadway cross-section.

- (1) Pavement Overlay Requirements on Five Years and Older Roadway.

(a) Longitudinal trenches or crossings, perpendicular to the roadway edge, shall be repaired either by sawcut and removal, or by grinding the

top two inches and paving two inches with class B asphalt, per standard detail. At the discretion of the director, an overlay may be required over wide longitudinal trenches or crossings.

(b) If the trenching is down the middle of a single lane, then a lane-width overlay will be required.

(c) If the trenching is down the middle of two lanes, or is within three feet of any lane line, the lanes affected will be overlaid.

(d) If the trenching is greater than or equal to 40 percent of lane per block, then the lanes affected will be overlaid.

(e) The minimum length of overlay shall be 10 feet.

(f) Pavement restoration associated with potholing shall be a minimum of two feet around the excavation.

(2) Pavement Overlay Requirements for Five Years and Newer Roadway Sections – Longitudinal Trenching.

(a) Arterial Streets. The entire roadway width for the length of the trench and an additional 10 feet at each end of the trench will be ground down to a depth of one and one-half inches and a one and one-half-inch overlay of Class B asphalt will be applied per standards.

(b) Nonarterial Streets. The entire half of the roadway width for the length of the trench and an additional 10 feet at each end of the trench will be ground down to a depth of one and one-half inches. A one and one-half-inch overlay of Class B asphalt will be applied per standards. If the trench is in the center of the roadway, or within three feet of the center of the roadway, the entire roadway width must be ground down and repaved.

(3) Pavement Overlay Requirement for Five Years and Newer Roadway Sections – Transverse Trenching.

(a) Arterial Streets. An area including the trench and 10 feet on each side of the trench for the entire width of the street will be ground down to a depth of one and one-half inches. A one and one-half-inch overlay of Class B asphalt will be applied per standards.

(b) Nonarterial Streets. An area including the trench and five feet on each side of the trench for the entire width of the street will be ground down to a depth of one and one-half inches. A one

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and one-half-inch overlay of Class B asphalt will be applied per standards.

(4) Pavement Requirements for Concrete Roadway – 1st Street. Trench area shall be replaced with four inches of Portland cement concrete per standards and to widths to be determined by the public works director at the time of occurrence.

(5) Pavement Removal in Lieu of Grinding. The contractor may in all cases remove the pavement area instead of grinding out the specified one and one-half inches of asphalt. Full pavement replacement shall meet or exceed the existing pavement depth for the area of removal. [Ord. 857, 2002.]

### 11.10.100 Maintaining traffic flows and fire access.

(1) All permittees shall, unless authorized by the public works director, excavate only one-half of any street at any one time and shall backfill the portion so excavated prior to the excavation of the remaining one-half so that traffic may not be unduly interfered with, or in the alternative the permittee, with written approval of the public works director, may bridge across a trench so as to maintain proper traffic flow.

(2) Permittee shall take appropriate measures to ensure pedestrian and traffic safety during the performance of work.

(3) In the event of a street closure, permittee shall route and control traffic as directed by the public works director and submit a temporary traffic control plan in compliance with the Manual on Uniform Traffic Control Devices (MUTCD) for approval a minimum of three working days prior to commencement of work.

(4) Permittee shall notify the La Conner fire department, Cascade Dispatch and public transit offices of a street closure.

(5) If determined necessary by the public works director, flagmen and/or other protective measures shall be furnished by the permittee at their expense.

(6) Any work performed pursuant to this chapter shall be performed so as not to prevent access to fire stations and hydrants. Materials or other obstructions shall not be placed within 15 feet of fire hydrants. Passageways leading to fire lanes or firefighting equipment shall be kept free of all obstructions. [Ord. 857, 2002; Ord. 486 § 9, 1981. Formerly 11.10.090.]

### 11.10.110 Guards and warning lights.

All permittees shall at all times during period of excavation and backfill maintain proper guards and warning lights including but not limited to advance warning signs and OSHA compliant barricading and shoring. [Ord. 857, 2002; Ord. 486 § 10, 1981. Formerly 11.10.100.]

### 11.10.120 Liability of permittee.

(1) Any permittee shall be responsible for any injury to persons or damage to property by reason of such excavation or manner of performance of work, including but not limited to damage done by mobile equipment required to be present at the site; the permittee to be so liable for a period of one year after completion of backfill.

(2) All damage shall be repaired by the permittee, or if the public works director determines, the town shall repair such damage and the cost thereof shall be billed to the permittee. [Ord. 857, 2002; Ord. 486 § 11, 1981. Formerly 11.10.110.]

### 11.10.130 Performance of work – Utility facilities protection.

(1) Permittee shall not interfere with any existing utilities without the written consent of the utility company or person owning the utility.

(2) If it becomes necessary to remove or relocate an existing utility, this shall be done at the expense of the permittee.

(3) In the case of any such utilities being damaged by the work, it shall be repaired at the expense of the permittee.

(4) The permittee is responsible for ascertaining, prior to commencement of work, the location of all underground utilities and shall protect same against damage. [Ord. 857, 2002.]

### 11.10.140 Inspection.

The town reserves the right to inspect all work addressed in this chapter. No work shall be covered prior to town inspection. The public works director may determine in the field that a full street-width overlay is required due to changes in the permit conditions such as the following:

(1) Trenches need to be relocated due to conflicts with existing utilities.

(2) There has been additional damage to the existing asphalt surface due to the contractor's equipment.

(3) The trench width or depth was increased significantly or the existing pavement is undermined.

(4) There were significant problems discovered during construction. [Ord. 857, 2002.]

**11.10.150 Violation – Penalty.**

Any person, firm or corporation violating the provisions of this chapter shall be guilty of a civil infraction and upon conviction thereof be subject to a fine of not to exceed \$500.00. Each day’s violation of the terms of this chapter constitutes a separate violation thereof. [Ord. 857, 2002; Ord. 839 § 24, 2001; Ord. 486 § 12, 1981. Formerly 11.10.120.]

**Chapter 11.15**

**LOCAL IMPROVEMENTS**

Sections:

- 11.15.010 Authorization.
- 11.15.020 Petition.
- 11.15.030 Improvement.
- 11.15.040 Preliminary determination.
- 11.15.050 Jurisdiction of council.
- 11.15.060 Enlarged district.
- 11.15.070 Trunk sewers.
- 11.15.080 Protection.
- 11.15.090 Preparation of plans and specifications.
- 11.15.100 Bids for contract.
- 11.15.110 Contracts.
- 11.15.120 Subdivisions.
- 11.15.130 Validity.
- 11.15.140 Subject to review.
- 11.15.150 Approval.
- 11.15.160 Town clerk.
- 11.15.170 Interest.
- 11.15.180 Delinquency.
- 11.15.190 Certificate of delinquency.
- 11.15.200 Moneys collected.
- 11.15.210 Collection.
- 11.15.220 Methods of payment.
- 11.15.230 Bonds.
- 11.15.240 Holder or owner of bond.
- 11.15.250 Failure to pay.
- 11.15.260 Payment of interest.
- 11.15.270 Condemnation proceedings.
- 11.15.280 Costs.
- 11.15.290 Leases of tide lands.
- 11.15.300 Omission.
- 11.15.310 Reassessment.
- 11.15.320 Assessments.
- 11.15.330 Authorization.
- 11.15.340 Ordinances.
- 11.15.350 Failure to pay.
- 11.15.360 Warrants.

**11.15.010 Authorization.**

Whenever the public interest or convenience may require the town council of the town of La Conner is hereby authorized and empowered to order the whole or any part of the streets, avenues, lanes, alleys, boulevards, park drives, park ways, public squares and places within the town of La Conner to be graded or regraded, planked or replanked, paved or repaved, macadamized, graveled or regraveled, piled or repiled, capped or recapped, or otherwise improved, and to order the

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sidewalks, drains, sewers, and all appurtenances, culverts, bulkheads, retaining walls, curbing and crosswalks, dikes and embankments, bridges and trestles, and approaches thereto, or other local improvements whatsoever to be constructed or reconstructed, repaired or renewed therein, and to order the planting, setting out, cultivating, maintaining, and renewing of shade or ornamental trees and shrubbery thereon, and to order any or all work to be done which shall be necessary to complete any such improvement; and to levy and collect special assessments to pay the whole or any part if the expense of such improvement in accordance with the proceedings provided by this chapter, and upon being ordered by any ordinance of the town based either on petition of the property owners, or by resolution of the town council. [Ord. 185 § 1, 1914.]

### 11.15.020 Petition.

When the assessment district shall not extend beyond the termini of such improvement, such improvement may be initiated by petition signed by the owners of a majority of lineal frontage upon the improvement to be made, and of the area within the limits of the assessment district to be created therefor and presented to and filed with the town engineer, if any such property stands in the name of any deceased person or any person whom a guardian has been appointed the signature of the executor, administrator or guardian, as the case may be, shall be equivalent to the signature of the owner of the property on such petition. The town engineer shall at once proceed to ascertain if the facts set forth in the petition are true and shall cause an estimate of the cost and expense of such improvement to be made and shall transmit the same to the council, together with all papers and information in his possession touching such improvement with the estimated cost thereof, and his recommendation thereof, together with a description of the boundaries of the district and a statement of the proportionate amount of the cost and expense of such improvement which should be borne by the property within the proposed assessment district, and a statement of the aggregate assessed valuation of the real estate exclusive of improvements in the district according to the valuation last placed on it for the purpose of general taxation and in case such petition shall be found sufficient he shall also transmit to the council a diagram or print thereon showing the lots, tracts or parcels of land or other

property which will be specially benefited thereby and the estimated amount of the costs and expense of such improvement to be borne by each lot, tract or parcel of land or other property which will be included in the assessment district proposed to be established. Upon receipt of such petition and estimate, the town council shall pass a resolution fixing a time for hearing of such petition and shall give notice thereof by publication in at least two consecutive issues of the official newspaper of the town, the date of the first publication to be at least 15 days prior to the date of the hearing and which notice shall set forth the nature and territorial extent of such improvement and the estimate of the cost and expense of the improvement as made by the town engineer. [Ord. 185 § 2, 1914.]

### 11.15.030 Improvement.

(1) Any such improvement may be initiated directly by the town council by resolution declaring its intention to order such proposed improvement and notifying all persons who may wish to object thereto, to appear and present such objections at a meeting of the council at the specified time in such resolution, and directing the town engineer to the council at or prior to the date fixed for such hearing, the estimated cost and expense of such improvement, and a statement of the proportionate amount thereof which shall be borne by the property within the proposed assessment district and a statement of the aggregate assessed valuation of the real estate exclusive of improvement within the district according to the valuation last placed upon it for the purposes of general taxation, together with a diagram or print showing thereon the lots, tracts, parcels of land and other property which will be especially benefited thereby and the estimated amount of the cost and expense of such improvement to be borne by the lot, tract or parcel of land or other property.

(2) The resolution shall be published in at least two consecutive issues of the official newspaper of the town and the date of the first publication to be at least 15 days prior to the date fixed by such resolution for hearing before the council. [Ord. 185 § 3, 1914.]

### 11.15.040 Preliminary determination.

The diagram or print directed to be submitted to the council shall be in the nature of a preliminary determination by the town engineer upon the

method and relative estimated amount of assessment to be levied upon the property specially benefited by such improvement, and in no case be construed as being binding or conclusive in any way upon him in the preparation of the assessment roll for such improvement or upon the council upon any hearing affecting such roll. [Ord. 185 § 4, 1914.]

#### **11.15.050 Jurisdiction of council.**

The council may continue the hearing upon any petition or resolution provided for in this chapter, and shall retain jurisdiction thereof until the same is finally disposed of. The action and decision of the council as to all matters passed upon by it in relation to any such petition or resolution shall be final and conclusive. At the time of the hearing or any time to which the hearing shall have been adjourned, the council shall hear all objections which may be offered to the improvements and shall then and there determine whether it will or will not proceed with such improvement, it shall pass an ordinance ordering such improvement, providing that payment for such improvement shall be made in whole or in part by special assessment establishing a Local Improvement District # \_\_\_\_ which district may embrace as near as may be all the property especially benefited by such improvement. Except in the case herein otherwise provided for, and unless otherwise provided for in the ordinance ordering such improvement, such district shall include all the property between the termini of the improvement abutting upon, adjacent, vicinal or approximate to the street, avenue, lane, alley, boulevard, park drive, park way, public place or square proposed to be improved to a distance back from the marginal lines thereof the center line of the blocks, facing or abutting thereon; provided, that in any case such distance back shall be at least 90 feet; and provided further, that in case of unplatted property the distance back shall be the same distance as that included in the assessment of the platted lands immediately adjacent thereto; and establishing a Local Improvement Fund # \_\_\_\_ (which shall correspond to the number of the district). Such ordinance shall also provide that such improvement shall be made and that the whole or such part of the cost and expense thereof as may at that time be determined by the council, shall be taxed and assessed upon all the property within such improvement district in accordance to the spe-

cial benefits conferred on such property in proportion to area and distance back from the marginal line of the street or other public way improved. [Ord. 185 § 5, 1914.]

#### **11.15.060 Enlarged district.**

(1) Whenever any local improvement shall be of such nature and character that the special benefits resulting therefrom extend beyond the boundaries of the local improvement district hereinbefore described and defined, the council may create an enlarged district which shall include as may be all the property specially benefited by such improvement.

(2) In such case, the petition or resolution initiating such improvement shall state that it is proposed to create an enlarged district to pay the whole or portion of the cost and expense of such improvement and shall specify a fixed amount of the cost and expense of such improvement to be assessed against that portion of the property with such enlarged district, lying between the termini of the proposed improvement and extending back from the marginal lines thereof to the middle of the block on each side thereof, in the mode hereinafter prescribed and that such portion of the remainder of such cost and expense as may not be borne by any general fund shall be distributed and assessed against all the property included in the remainder if such an enlarged district in accordance with the special benefits. The council, in case it shall order such improvements, shall in the ordinance therefor specify and describe the boundaries of such district as defined in such petition or resolution. [Ord. 185 § 6, 1914.]

#### **11.15.070 Trunk sewers.**

(1) The council may have power to provide for the construction of trunk sewers, and for the payment of all or any part of the cost and expense thereof by the levying and collecting of assessments upon property specially benefited thereby. In such case the district created to bear such assessments shall be outlined in conformity with the topographical conditions and in case of trunk sewers shall include as near as may be all the territory which can be sewerred or drained through such trunk sewer and sub-sewers connected thereto such improvement shall be initiated as provided in LCMC 11.15.020; provided, that the resolution provided to be passed by the council shall set forth

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in the general nature of such improvement describing the routes along which such trunk sewer, sub-sewer and branches and laterals is to be constructed, and notifying all persons who may desire to object thereto to appear at a meeting of the council at a time specified in such resolution thereto, and directing the town engineer to report to the council at least five days prior to the date fixed for such hearing the estimated cost and expense of such improvement.

(2) Such resolution shall be published in all respects the same as provided for the publication or resolutions mentioned in LCMC 11.15.020 and provided further that the town engineer shall in addition to furnishing the date therein provided to be furnished at the same time furnish topographical maps of the district with the line of sewer proposed to be constructed together with all laterals traced thereon all of which shall be filed at least five days before the time set for the hearing of the objections. If at the time of the hearing the council shall determine to construct the sewer, it shall pass an ordinance in the manner as provided for in LCMC 11.15.050 hereof; which ordinance shall describe the routes along which the improvement is to be constructed and establish and fix the boundaries to of the district to be assessed for such improvement. [Ord. 185 § 7, 1914.]

### 11.15.080 Protection.

The council shall have the power to provide for the protection of the town or any part thereof, from overflow, and to establish, construct and maintain dike levels, embankments or other structures or works or to open, straighten or to otherwise enlarge natural waterways and other channels, including the acquisition or damaging of lands, rights-of-way and property therefor within or without the corporate limits of the town, and to manage, regulate and control the same. The council before ordering the construction of any such improvement if the same or any part thereof is to be paid by special assessment as hereinafter provided, shall pass a resolution declaring its intention to order such improvement which resolution shall set forth the general nature of such improvement, the place of commencement and ending thereof, the route to be used, the estimated cost and expense thereof, the boundaries of the special assessment district to be formed and notifying all persons who may desire to object thereto to appear at a meeting of the council

at the time specified in such resolution and present their objections thereto. Such resolution shall be published in all respects as other resolutions provided for in LCMC 11.15.020. If protests against such improvement are filed by the owners of the property representing an aggregate amount of two-thirds of the area included in such proposed district, the council shall not proceed further with the work under such resolution. If at the time of the hearing the council shall determine to construct the improvement, it shall pass an ordinance in the manner provided for in LCMC 11.15.050 which ordinance shall describe the place of commencement and ending of such improvement, the route to be used, shall establish and fix the boundaries of such district and shall adopt the map plans and specifications for such improvement. [Ord. 185 § 8, 1914.]

### 11.15.090 Preparation of plans and specifications.

As soon as the council shall have determined to proceed with any local improvement being considered by it, the town engineer shall as soon as practicable prepare maps, plans and specifications thereof and file the same with the town public works director for review and approval. [Ord. 1000 § 4, 2007; Ord. 185 § 9, 1914.]

### 11.15.100 Bids for contract.

As soon as the ordinance mentioned in LCMC 11.15.090 shall have been passed and approved the town clerk shall at once advertise for sealed bids for such improvement by publishing in the official newspaper for at least one week and such additional time as the council may order a "Notice to Contractors" specifying the work to be done, and that the maps, plans and specifications, together with a blank contract to be signed by the successful bidder are at his office open for inspection and asking for sealed bids thereof, which bids must be deposited with the town clerk accompanied by a certified check in such amount as the council shall have determined, drawn to the order of the town treasurer as a guarantee that should the bid be accepted, the party bidding will execute the contract and furnish the necessary bond to comply with the terms thereof, and should such party whose bid is accepted fail to enter into such con-

tract and furnish bonds as required within 10 days after the acceptance of the same, the certified check shall be forfeited to the town, otherwise to be returned to the party bidding. All bids shall be filed with the town clerk within such time as may be specified in the notice and none other shall be considered by the council. The council may renew such invitations for bids from time to time by publishing notice as aforesaid, the council may reject any and all such bids, or may adopt that of the lowest bid or bidders. [Ord. 185 § 10, 1914.]

#### **11.15.110 Contracts.**

All such contracts shall be in writing and no such contracts may be executed by the town until the contractors shall give bond to the town with one or more sureties, to the satisfaction of the town council, in an amount to be fixed by the council when authorizing the making of such contracts, conditioned for the faithful performance of such contract on the part of the contractors, and that such contractors shall pay all laborers, mechanics and subcontractors and material men, and all such person or persons or subcontractors with provisions and supplies for carrying on such work, and all just debts, dues and demands incurred in performance of such work. All such improvements made by contracts shall be made and completed to the satisfaction of the town engineer or other officers designated by the council. [Ord. 185 § 11, 1914.]

#### **11.15.120 Subdivisions.**

(1) As soon as the contracts shall have been let for any improvement, the town engineer shall prepare an assessment roll of all of the property included within the limits of such local improvement district upon which he shall separate tract or parcel of land for the purpose of paying the cost and expense of the improvement, including the cost and expense of engineer's work and supervision, which cost and expense he shall apportion upon all of the property in the district in accordance with the special benefits conferred upon the property in proportion to area and distance back from the marginal line or other public way or area improved, and for the purpose of ascertaining the amount to apportioned or assessed against such separate lot, tract or parcel of land or other property within such district he shall divide such property into subdivisions or zones, paralleling the margin of the street, avenue, alley, lane, boulevard, park

drive, park way, public place or square to be improved, the subdivision to be numbered respectively first, second, third, fourth, fifth. The first division shall include all the lands within the district lying between the street margins and lines drawn parallel therewith and 30 feet and 60 feet, respectively, from the street margins. The third subdivision shall include all lands within the district lying between lines drawn parallel with and 60 feet and 90 feet, respectively, from the street margins. The fourth subdivision shall include all lands if any, between the lines drawn parallel with and 90 feet and 120 feet, respectively, from the street margins. The fifth subdivision shall include all lands if any, within the district lying between a line drawn parallel with and 120 feet from the street margin and the outer limit of the local improvement as hereinbefore described and shall show thereon that the rate of assessment per square foot in each subdivision is fixed on the basis that the special benefits conferred on a square foot of land in subdivision first, second, third, fourth and fifth, respectively, are related to each other as are the numbers 45, 25, 20, 10 and 5, respectively, which shall be ascertained in the following manner: The products of the number of square feet in subdivisions first, second, third, fourth and fifth, respectively, and the numbers, 45, 25, 20, 10 and 5, respectively, shall be ascertained and their sum taken which sum shall be divided into the total cost and expense of the improvement. The products of the resultant quotient and the numbers 45, 25, 20, 10 and 5, respectively, shall be the separate rates of assessment per square foot for subdivisions first, second, third, fourth and fifth, respectively, the total assessments thus ascertained against each separate lot, tract, parcel of land, or other property within the district shall be by the engineer entered upon the assessment roll as being assessed against each separate lot, tract, parcel of land or other property; provided, however, that in all districts where the local improvement shall be of such nature and character that the benefits resulting extend beyond the boundaries of a local improvement district, and an enlarged district shall have been created, the amount placed upon the assessment roll by the engineer against that portion of property within such enlarged district which lies between the termini of the proposed improvement and against all the property included in the remainder of the dis-

## 11.15.130

district shall be respectively in accordance with the amount specified by the council as the amount to be so assessed and provided further, that in making out the assessment roll to provide for the payment of the cost and expense of trunk sewers, the engineer shall distribute the assessment so that there shall be levied against the property lying between the termini of the trunk sewer and back to the middle of the block along the marginal lines of the streets or areas improved, such amounts as would represent the reasonable cost of a local sewer and its appurtenances, and the remainder of the cost and expense of such sewer shall be distributed over and assessed against all the property within the bounds of the entire district in accordance with the special benefits thereon and in proportion to the area and the assessment roll so prepared by the town engineer shall show its separate column as follows:

First: That name of the owner or owners as shown by the records in the office of the auditor of Skagit County of each lot, tract, parcel of land or other property to be separately assessed.

Second: A number placed against each separate lot, tract, parcel of land or other property to be assessed.

Third: A brief description of each lot, tract, parcel of land or other property to be assessed, sufficient for the identification thereof.

Fourth: The separate columns to the right of the description of land sufficient space so that the first column can be used by the town engineer for the purpose of placing the amount assessed against such separate tract, so that the second column can be used for placing the amount of equalized assessment.

Fifth: The assessment number against each subdivision of land be by the town engineer placed upon the plat filed by him so that the separate subdivision can be identified thereon.

(2) When such assessment roll shall have been prepared it shall be filed with the town clerk. The council shall thereupon fix a date for hearing upon such roll before the council and directing the clerk to give notice of such hearing and the time and place thereof, such notice shall specify such time and hearing upon such roll, and all persons who may desire to object thereto, to make such objections in writing and to file the same with the clerk, at or prior to the date fixed for such hearing; and

that at the time fixed, and at such other times as the hearing may be continued to, the council will sit as a board of equalization for the purpose of considering such roll at hearing or hearings, and will consider such objections made thereto, or any part thereof, and will correct, revise, lower, change or modify such roll or any part thereof or set aside such roll and order that such assessment be made de novo as to the council shall appear just and equitable and then proceed to confirm the same by ordinance. Such notice shall be published at least five times in the official weekly newspaper of the town or two times in the official newspaper of the town; provided that at least 15 days must elapse between the date of last publication thereof and the date fixed for the hearing. The council at the time fixed for hearing objections to the confirmation of the roll, or at such time or times as the hearing may be adjourned to, shall have power to correct, revise, raise, lower, change or modify such roll or any part thereof and to set aside such roll and order that such assessment be made de novo as the council may appear equitable and just, and then shall conform the same by ordinance. All objections shall state clearly the grounds of objections; and objections not made within the time and in the manner herein provided shall be conclusively presumed as waived.

(3) Whenever any such roll shall be amended so as to raise any assessment appearing thereon, or to include omitted property a new time and place for hearing, and a notice of hearing on such roll as amended shall be fixed and given as in the case of an original hearing; provided, that whenever any property shall have been entered originally upon such roll and the assessment upon any such property shall not be raised, no objection thereto shall be considered by the council or by any court on appeal, unless such objections be made in writing at or prior to the date fixed for the original hearing on such roll. [Ord. 185 § 12, 1914.]

### 11.15.130 Validity.

Whenever any assessment roll for local improvement shall have been confirmed by the council as herein provided, the regularity, validity and correctness of the proceedings relative to such improvement and assessment thereof, including the action of the council upon such assessment roll and the confirmation thereof, shall be conclusive in all things, upon all parties and cannot in any man-

ner be contested or questioned in any proceeding whatsoever or by any person not filing written objections to such roll in the manner and within the time provided in this chapter and not appealing from the action of the council in conforming such assessment roll in the manner and within the time provided in this chapter, and no proceedings of any kind shall be commenced or prosecuted for the purpose of defeating or contesting any such assessment or the sale of any property to pay for such assessment, or any certificate of delinquency issued therefor; provided, that this section shall not be construed as prohibiting the beginning of injunction proceedings to prevent the sale of any real estate upon the grounds (1) that the property to be sold does not appear upon the assessment roll, or (2) that the assessment has been paid. [Ord. 185 § 13, 1914.]

#### **11.15.140 Subject to review.**

The decision of the council upon any objections made within time and in the manner herein prescribed may be reviewed by the superior court upon any appeal thereto taken in accordance with Chapter 35.44 RCW. [Ord. 185 § 14, 1914.]

#### **11.15.150 Approval.**

At the time of approval of the assessment roll in the ordinance providing the same, the council shall prescribe within what time such assessment or installment thereof shall be paid, and in all cases when the town shall issue bonds as herein provided to pay the cost and expense of any local improvement such ordinance shall also provide that the sum charged thereby against each such lot, tract, parcel of land or other property or any portion of such sum may be paid during the 30 days provided for in LCMC 11.15.170 and thereafter the sum remaining unpaid be paid in equal annual installments, the number of which installments shall be equal to the number of years which the bonds issued to pay for such improvement may run, with interest upon the whole unpaid sum charged at the rate not to exceed eight percent per annum, and each year thereafter one of such installments, together with the interest due thereon and in all installments thereafter to become due shall be collected in the same manner as shall be hereinafter provided for the collection of assessments where no bonds are issued. [Ord. 185 § 15, 1914.]

#### **11.15.160 Town clerk.**

The town clerk shall upon approval of the assessment roll by the council as hereinafter provided certify the assessment roll and annex thereto a copy of this chapter approving the same, and issue and annex to the assessment roll a warrant directing the treasurer to collect the assessments named therein and deliver the same to the town treasury and shall charge the town treasurer with the full amount shown upon the assessment roll. The town treasurer shall forthwith give notice by publishing in the official newspaper of the town for 10 consecutive issues that the same roll is in his hands for collection and that any assessment thereon or any portion of the assessment may be paid at any time within 30 days from the date of the first publication of the notice without interest, penalty or costs. [Ord. 185 § 16, 1914.]

#### **11.15.170 Interest.**

All assessments shown upon the assessment roll shall draw interest after the expiration of 30 days after the first publication of the notice mentioned in the preceding section, and until such time as may be fixed by the council in the ordinance providing for such improvement district when such assessment shall be deemed delinquent, and after delinquency a penalty of seven percent shall be added to the interest and all assessments shown upon the assessment roll together with interest thereon shall be a lien upon the property assessed; the assessment from the time it shall be placed in the hands of the town treasurer. The interest and penalty from the time that they or any part thereof shall have become due such lien shall be paramount and superior to any lien or encumbrance whatsoever theretofore or thereafter created except a lien of general taxes. [Ord. 185 § 17, 1914.]

#### **11.15.180 Delinquency.**

Upon the assessment or any installment thereof becoming delinquent the town treasurer shall certify such delinquent assessment installment or installments thereof delinquent to the county treasurer of Skagit County, Washington, the same to be by the county treasurer entered upon the general tax rolls and collected as other general taxes are collected; provided, however, that prior to the assessment or delinquent installments being so certified upon the demand of any person whomsoever, the town treasurer shall issue certificates of delin-

## **11.15.190**

quency as hereinafter provided. The town treasurer shall furnish the town clerk a copy of all certificates certified by him to the county treasurer thereon and charge the county treasurer therewith. [Ord. 185 § 18, 1914.]

### **11.15.190 Certificate of delinquency.**

The town treasurer shall issue certificates of delinquency for any and all delinquent assessments or installments thereof and any penalty thereon to date of issue upon any time prior to the time when the assessment shall have been certified to the county treasurer for collection, to any person who shall pay the full amount of the assessment or installment and interest and penalty thereon to date, together with \$0.50 for the issuance of such certificate, and the county treasurer is likewise authorized to issue certificates of delinquency upon such property after the same has been certified as hereinbefore provided. The certificate of delinquency shall constitute a lien against the property against which such assessments are levied, and shall bear interest at the rate of 15 percent per annum, and may be foreclosed after two years after the date of their issuance in the same manner and the same effect as mortgages upon real estate are foreclosed. Such certificates may be issued to the town the same as any other person applying therefor, they may be assigned in writing, and the town may sell and assign any and all certificates which may be issued to it upon the payment of the value thereof in principal and accrued interest in cash. No such certificate shall be issued upon any property for an assessment or installment thereof during the pendency of any proceedings in court affecting such assessment or installment thereof. [Ord. 185 § 19, 1914.]

### **11.15.200 Moneys collected.**

All moneys collected for assessments, interest and penalties, and all cash received from the sale of bonds, shall be deposited in the local improvement fund of the assessment district in which the property assessed is located, and shall be used for no other purpose than the redemption of warrants or bonds drawn or issued upon or against such fund. [Ord. 185 § 20, 1914.]

### **11.15.210 Collection.**

The town at any time after the assessment or installment becomes delinquent whether the same becomes a lien after or prior to the 7th day of June, 1911, may proceed with the collection for any delinquent installment whether the same was levied under this chapter or prior to the enactment thereof, by an action in the superior court of the state of Washington, in and for the county of Skagit, under the supervision and direction of the town attorney, who will forthwith institute the action on being ordered to so do by the council. It shall not be necessary to bring a separate suit for each separate piece or parcel of land or property delinquent, but all or any liens for such delinquent assessment under any single assessment roll, or assessment district, may be proceeded against in the same action and all or any of the owners or persons interested in any of the property so delinquent may be joined as parties defendant in the action to foreclose and all or any liens for such delinquent assessments or installments thereof may be foreclosed in such proceedings. [Ord. 185 § 21, 1914.]

### **11.15.220 Methods of payment.**

At the time of the creation of the assessment district and in the ordinance creating the same, the council may provide one or two methods for the payment of the cost and expense of the improvement therein provided for to be paid by special assessment: "Immediate Payment" and "Payment by Bonds". If the mode "Immediate Payment" is selected, such mode shall be as heretowith provided in the contract for such improvement shall be made by warrants drawn upon the improvement fund of such district. Whenever any improvement shall be payable by the mode "Payment by Bonds" the whole or any portion of any assessment on account of the improvement may be paid during the 30-day period hereinbefore provided for the payment of assessment without interest, and thereafter the sum remaining unpaid may be paid in equal installments as provided in LCMC 11.15.150 and the contract; provided, that either such bonds so issued shall be sold for cash or issued direct to the contractor constructing the improvement in payment thereof. [Ord. 185 § 22, 1914.]

**11.15.230 Bonds.**

The bonds issued under the provisions of this chapter or such portion as remains unsold, if same is as hereinafter provided may be issued to the contractor constructing the improvement thereof, or the ordinance directing the issue of such bonds may provide that the same may be sold by the same authorized officer or officers of the town in the manner prescribed therein, and not less than their par value and accrued interest, and that the proceeds thereof shall be applied in payment of the cost and expense of the improvement. The bonds shall be issued only in pursuance of ordinance of the town and shall be made payable on or before a date not to exceed 10 years from and after the date of the issue of the bonds which latter date may be fixed by resolution of the council and shall bear interest at the rate of not to exceed seven percent per annum, and shall be made payable annually or semi-annually as may be provided by the ordinance, and each bond coupon for such interest payment shall have attached thereto interest coupons for each interest payment. Such bonds shall be in denomination as shall be provided in the ordinance ordering their issue and shall be numbered from one upwards consecutively, and each bond and coupon shall be signed by the mayor and attested by the clerk; provided, however, that such coupon shall be in lieu of being signed, have printed thereon, a facsimile of the signature of the officers, and such bonds shall have the seal of the town affixed thereto, and shall refer to the improvement to pay for which the same shall have been issued and to the ordinance ordering the same; each bond shall provide that the principal sum therein named and the interest shall be payable out of the local improvement fund created for the payment of the cost and expense of such improvement and not otherwise. Such bonds shall not be issued in any amount in excess of the cost and expense of the improvement. Such bonds shall not be issued prior to 20 days after the 30 days within which assessments may be paid without penalty, interest, or costs and only in such amount as may be necessary to pay the balance of the cost and expense of such improvement which cannot be paid by the funds already paid into the local improvement fund. [Ord. 185 § 23, 1914.]

**11.15.240 Holder or owner of bond.**

Neither the holder nor the owner of any bond issued under the authority of this chapter shall have any claim therefor against the town, except from the special assessment made for the improvement for which such bond was issued, but his remedy in case of nonpayment shall be confined to the enforcement of such assessment. A copy of RCW 35.45.030 and 35.45.070 shall be plainly written, printed or engraved on each bond so issued. [Ord. 185 § 24, 1914.]

**11.15.250 Failure to pay.**

If the town shall fail, neglect or refuse to pay the bonds or to promptly collect such assessment when due, the owner of any such bond may proceed in his own name to collect such assessment and foreclose the lien thereof in any court of competent jurisdiction and shall recover in addition to the amount of such bonds and interest thereon five percent together with the cost of such suit. Any number of holders of such bonds for any single improvement may join as plaintiffs and any number of owners of the property on which the same are a lien may be joined as defendants. [Ord. 185 § 25, 1914.]

**11.15.260 Payment of interest.**

The town treasurer shall pay the interest on the bonds authorized to be issued by the ordinance out of the respective local improvement funds from which they are payable. Whenever there shall be sufficient money in any local improvement fund against which bonds have been issued, the provisions of this chapter, over and above sufficient for the payment of the interest on all unpaid bonds, the treasurer shall call in and pay such bonds; provided, however, that such bonds shall be called in and paid in their numerical order; provided further, that such call shall be made by publication in the town official newspaper in its first publication following the delinquency of the installment of the assessment or as soon thereafter as is practicable, and shall state that bond number \_\_\_\_ (giving the serial number or numbers of the bonds called) will be paid on the day the next interest coupon on the bonds shall become due, and interest upon the bonds shall cease upon such date. [Ord. 185 § 26, 1914.]

## **11.15.270**

### **11.15.270 Condemnation proceedings.**

Whenever it shall become necessary to take or damage private property for the purpose of making any local improvement mentioned herein, if the town cannot agree as to the price to be paid therefor, the council shall have the right to authorize condemnation proceedings therefor in the name of the town to be instituted, and to charge the whole or any part thereof of the cost and expense thereof and the whole or any part of the amounts to be paid to the owners for the taking or damaging of private property thereby to the land benefited, and collect the same as other cost and expense for such improvement. [Ord. 185 § 27, 1914.]

### **11.15.280 Costs.**

Whenever any local improvement herein authorized shall be ordered there shall be included in the cost and expense thereof to be assessed against the property specially benefited by such improvement and included in the district created to pay the same, or any part thereof, and the cost and expense of that portion of the improvement and included in the limits of any street intersections, space or spaces, the estimated cost and expense of all engineering and surveying necessary for the improvement to be done by and under the direction of the town engineer, ascertaining the ownership of the lots, or parcels of land included in the assessment district, advertising, mailing, publishing all notices required to be advertised, published or mailed, accounting and clerical labor, books and blanks expended or used by the town and the town clerk or the town treasurer in connection with the improvement together with the items mentioned in LCMC 11.15.270. [Ord. 185 § 28, 1914.]

### **11.15.290 Leases of tide lands.**

For the purpose of local assessment, all leases of tide lands owned in fee by the state of Washington shall be and the same are hereby declared to be real property. [Ord. 185 § 29, 1914.]

### **11.15.300 Omission.**

Whenever by mistake, inadvertence, or for any cause, property otherwise subject to assessment, without any assessment district heretofore or hereafter created, shall have been omitted from the assessment roll for such improvement, the council may upon its own motion or upon the application of any property within such district charged with

the lien of an assessment for such improvement in accordance with the special benefits accruing to such omitted property by reason of such improvement and in proportion to the assessment levied upon other property in such district. In any such case the council shall first pass a resolution setting forth that certain property therein described, was omitted from such assessment, and notifying all persons who may desire to object thereto, to appear at a meeting of the council at the time specified in such resolution and present their objections thereto, and directing the town engineer to report to the council at or prior to the date fixed for such hearing, the amount which should be borne by each lot, tract, or parcel of land or other property so omitted, which resolution shall be published in all respects as other resolutions provided for in LCMC 11.15.020. At the conclusion thereof, the council shall consider the matter as though the property had been included in the original roll, and may confirm the same or any portion thereof by ordinance. Thereupon such roll of omitted property shall be certified to the treasurer for collection as other assessments. [Ord. 185 § 30, 1914.]

### **11.15.310 Reassessment.**

In all cases of special assessments for local improvements, wherein the assessments have failed to be valid in whole or in part for want of form or insufficiency, informality, or nonconformance with the provisions of law or ordinance governing such assessments in the town, the council shall have power to reassess such assessments and to enforce their collection in accordance with the provisions of law and ordinance existing at the time of reassessment is made. Whenever an account of any mistake, inadvertence, or other cause the amount assessed shall not be sufficient to pay the cost and expense of the improvement made and enjoyed by the owners of the property in the assessment district where same is made, the council is authorized and directed to made reassessments on all the property in the assessment district to pay for such improvement; such assessment to be made in accordance with provisions of law and ordinance existing at the time of its levy. The council is hereby authorized to assess or reassess all the property which it shall find to be specially benefited to pay the whole or any part of the cost and expense of any local improvement which the town has heretofore made, is making or may hereafter

make at the expense in whole or in part of the property specially benefited thereby, whether or not such property to be so assessed or reassessed abuts upon, is adjacent to, or proximate to such improvement, or was included in the original assessment district; and the right to assess all property so found to be specially benefited shall also apply to any supplement assessed or reassessed which the town may find it necessary to make, for the purpose of providing for any deficiency in any local improvement fund caused by the invalidity of any portion of the original assessment in any such improvement district, or where for any cause the amount originally assessed shall not be sufficient to pay for the cost of the improvement, whenever any assessment for any local improvement, whether the same be an original assessment, assessment upon omitted property, supplemental assessment or reassessment heretofore or hereafter made, has been or hereafter may be declared void and its enforcement by any court for the cause whatever has been heretofore or hereafter may be set aside, annulled or declared void by any court either directly or by virtue or any decision of such court, the council shall make a new assessment or reassessment upon the property which has been or will be benefited by such local improvement, based upon the actual cost of such improvement at the time of its completion. [Ord. 185 § 31, 1914.]

#### **11.15.320 Assessments.**

The council shall proceed with any assessment authorized in LCMC 11.15.310, by passing an ordinance ordering the same and directing the preparation of the assessment roll therefor, which may include any property specially benefited by such improvement, whether or not the same was included in the original assessment district. Such additional property when so assessed shall become a part of the local improvement district theretofore created, or attempted to be created, to provide a fund to pay for such improvement, and all payment of assessments so ordered shall be paid into and shall become part of the local improvement fund provided to pay for the improvement. The fact that the contract has been let or such improvement has been made or completed in the whole or in part, shall not prevent such assessment from being made, nor shall the omission, failure or neglect of any officer to comply with the provisions of law the charter or ordinance governing the town, as to

petition, notice, resolution to improve, estimate, survey, diagram, manner of letting contract or execution or work, or any other matter whatsoever connected with the improvement thereof, operate to invalidate or in any way affect the making of any assessment authorized in LCMC 11.15.310; provided, that such assessment shall be for an amount which shall not exceed the actual cost and expense of the improvement, together with the accrued interest thereon, it being the true intent and meaning of this chapter to make the cost and expense of local improvements payable by the property specially benefited thereby, notwithstanding the proceedings of the council, or other officer or authority of the town, may be found irregular or defective whether jurisdictional or otherwise; when such assessment is completed, all sums paid on the former attempted assessment shall be credited to the property on account of which the same were paid. In any case where any property within the original local improvement district shall not be affected by any assessments authorized in LCMC 11.15.310, such property need not be entered upon such assessment roll. After the certification of any such roll to the treasurer for collection, the same length of time for the payment of the assessment appearing therein, without the imposition of any penalties or interest and the notice that such assessments are in the hands of the treasurer therefor for collection, shall be given as in the case of the original assessment; provided, that in all cases where the original assessment, after delinquency, may be divided into such equal installments and made payable at such times as the council in the ordinance ordering such assessment may prescribe. [Ord. 185 § 32, 1914.]

#### **11.15.330 Authorization.**

All the provisions of this chapter relating to the filing of the assessment rolls, time and place of hearing thereon, notice of such hearing, the hearing upon such rolls and the confirmation thereof, the time when such assessments shall become a lien upon the property assessed, the proceedings on appeal from any assessment, the method of collecting such assessment and all the proceedings for enforcing the lien thereof, shall be had and conducted the same as in the case of assessments authorized in LCMC 11.15.310 in the case of an original assessment. [Ord. 185 § 33, 1914.]

**11.15.340 Ordinances.**

The town shall not have to proceed with any reassessment or supplemental assessment unless the ordinance ordering the same shall be passed by the council or other legislative body of such city or town within 10 years from and after the time of the original assessment for any such improvement was finally held to be valid, insufficient or for any cause set aside, in whole or in part, held void or its enforcement denied directly or indirectly, by the courts; or, in the case of supplemental assessments, from and after the time it was finally determined that the total amount of the valid assessment levied and assessed on account of any such improvement was in sufficient to pay the whole or any part of the cost and expense thereof to be paid by special assessment. [Ord. 185 § 34, 1914.]

**11.15.350 Failure to pay.**

When the assessment is payable in installments, upon failure to pay any installment when due, the entire assessment shall become due and payable and the collection thereof enforced in the manner prescribed. [Ord. 185 § 35, 1914.]

**11.15.360 Warrants.**

All warrants issued in payment of the cost and expense of any local improvement shall be made payable out of the special fund created therefor, the warrants to bear interest at the rate of not to exceed eight percent per annum, and shall be redeemed either in cash or local improvement bonds authorized to be issued in the manner prescribed by this chapter. [Ord. 185 § 36, 1914.]

**Chapter 11.20**

**ASSESSMENT FOR CONSTRUCTION OF STREETS AND SIDEWALKS**

Sections:

- 11.20.010 Assessment.
- 11.20.020 Public notice.
- 11.20.030 Public meeting.
- 11.20.040 Delinquency of payment.
- 11.20.050 Foreclosure.

**11.20.010 Assessment.**

When any work is done or improvement is made by order of the town council upon any street, avenue or alley, highway, thoroughfare or public place as provided by law or under any ordinance of the town of La Conner, Washington. When it shall be the intention of the town council to collect the costs and expenses hereby from the property fronting thereon, it shall be the duty of the street committee or the town council of the town, within 15 days after the taking effect of the ordinance authorizing the work or improvement, to prepare or cause to be prepared and filed with the clerk of the town a plat or profile of the street, streets, avenues, alleys, highways or any other public place or places so improved and the real estate subject to assessment therefor showing the lines of each lot, block, tract, piece, parcel or other subdivision thereof. As soon as the probable costs of such improvement are ascertained, the clerk of the town shall prepare and file in his office an assessment roll of such property subject to assessment for such improvement, which assessment roll shall contain a description of each lot, block, tract, piece, parcel or other subdivision of real estate benefited by such improvement and list in the name of the owner if known and if not known to be listed as "Unknown Owner" and assess each lot, tract, block, piece, parcel or other subdivision fronting upon such street, avenue, highway, public place or thoroughfare for the full depth thereof in proportion to the benefits derived by such property from such improvement sufficient to cover the total expense of such work to the center of the street, avenue, highway, or thoroughfare on which it fronts; provided, that the council may expend from the current expense fund for the purpose of making such sum or sums as in its judgment may be necessary or proper on account of the benefits and convenience accruing to the general

public. The assessment roll so made shall at all times be open to the public inspection at the clerk's office during business hours from the time of the filing thereof until the day of the meeting of the council for the equalization thereof as provided in this chapter. [Ord. 163 § 1, 1908.]

**11.20.020 Public notice.**

Immediately after filing of such assessment roll, the clerk shall publish a notice in the official paper of the town to the effect that such roll describing it has been filed in his office and that the same is open for the public inspection and that any person feeling himself aggrieved by such assessment may apply to the council to have the same corrected and may appear at a meeting of the council, the time of which meeting shall be stated in such notice, and present such objections to the council as he may have to the assessment or any portion thereof made and charged against his property. [Ord. 163 § 2, 1908.]

**11.20.030 Public meeting.**

At the meeting designated in such notice, the council shall hear all complaints concerning the assessment roll and determine the same and may raise or lower the assessment on any lot or parcel of real estate listed on the assessment roll so as to make the assessment as near just and equitable as practicable on all property upon the roll and shall, if any lot or parcel of real estate benefiting by such improvement and abutting on the street or other public place be found to have been omitted from such assessment roll, list the same and place a just assessment thereon according to law; provided, that no lot or parcel of real estate omitted by the clerk shall be listed nor shall the assessment of one lot or parcel of real estate be raised by the council without the owner's consent until at least 10 days' notice of such proposed change shall have been served on the owner if such owner can be found within the town, and if not so found then 10 days' notice of such proposed change in the assessment roll must be published in the official paper of the town at least one issue before the change is made, and the council may, if necessary, adjourn from time to time until such assessment roll is completed; that the amounts charged against each lot, piece, parcel or tract of land after such equalization by the council from the date of the order of such improvement, and the clerk shall immediately thereafter publish a notice in the official newspaper

of the town to the effect that the assessment roll is in the hands of the town treasurer and that all assessments on the roll must be paid to such treasurer within 30 days from the date of the first publication of such notice, or the same will become delinquent. Such notice shall be published in at least one issue. [Ord. 163 § 3, 1908.]

**11.20.040 Delinquency of payment.**

All assessments made as aforesaid and not paid within the time specified in LCMC 11.20.030 shall become delinquent and shall bear interest at the rate of 15 percent per annum from the date of such delinquency until paid. [Ord. 163 § 4, 1908.]

**11.20.050 Foreclosure.**

Upon the date of the delinquency, the town treasurer shall turn over to the town attorney, or such attorney as the council may direct if there is no regular town attorney, the duplicate assessment roll, shall show upon its face all assessments delinquent and shall take the attorney's receipt therefor, and it shall become the duty of the town attorney to immediately foreclose the lien of such assessment on the lands listed in the assessment roll which are still delinquent and unpaid as provided by law. [Ord. 163 § 5, 1908.]

Chapter 11.25

SIDEWALK CONSTRUCTION

Sections:

Article I. Sidewalks and Crosswalks

- 11.25.010 Petition.
- 11.25.020 Material.
- 11.25.030 Expense of owner.
- 11.25.035 Abutting property owner(s) to maintain sidewalks.
- 11.25.040 Crosswalks.
- 11.25.050 Grammatical construction.

Article II. Construction and Repair of Sidewalks

- 11.25.060 *Repealed.*
- 11.25.065 Standards for sidewalk construction.
- 11.25.070 Consent.
- 11.25.075 Property owners responsible for sidewalk repairs.
- 11.25.080 Violation – Civil penalty.
- 11.25.085 Hazardous conditions on rights-of-way.
- 11.25.090 Property owner liability.
- 11.25.095 Enforcement.

Article I. Sidewalks and Crosswalks

11.25.010 Petition.

Whenever the owners or occupants of lots adjacent to any proposed line of sidewalk shall petition the council for the building and construction of such line of sidewalk, the council, by ordinance, may provide for the building and construction of the same. [Ord. 11 § 1, 1889.]

11.25.020 Material.

Any proposed line of sidewalk shall be built of such material and in such manner as by ordinance may be prescribed. [Ord. 11 § 2, 1889.]

11.25.030 Expense of owner.

The sidewalk adjacent to any lot shall be built by the owner or occupant of the lot at his own expense within 30 days from the publication of the ordinance providing for the building of the same, and if not so built, the council shall cause the same to be built at the expense of the owner or occupant thereof. [Ord. 11 § 3, 1889.]

11.25.035 Abutting property owner(s) to maintain sidewalks.

It shall be the responsibility of the owner of property abutting upon a public sidewalk to maintain the sidewalk at all times in a safe condition, free of any and all obstructions or defects, including but not limited to ice, snow, and mud. [Ord. 775 § 1, 2000.]

11.25.040 Crosswalks.

All crosswalks or street crossings shall be built as the council may direct at the expense of the town. [Ord. 11 § 4, 1889.]

11.25.050 Grammatical construction.

Words used in this article importing the singular number only may also be applied to the plural of persons and things, and words importing the masculine gender only may be applied to the female also. [Ord. 11 § 5, 1889.]

Article II. Construction and Repair of Sidewalks

11.25.060 Specifications.

*Repealed by Ord. 775.* [Ord. 192 § 1, 1915.]

11.25.065 Standards for sidewalk construction.

All sidewalks constructed, maintained, repaired, or improved under this chapter shall conform to established grade, materials, and standards established by the town, shall conform to ADA criteria for new or reconstructed sections, and shall be subject to approval by the public works director. Information concerning grade, materials, and standards shall be available to property owners upon request. [Ord. 775 § 2, 2000.]

11.25.070 Consent.

It shall be unlawful for any person to repair or renew any sidewalk now on said street between the points set forth in LCMC 11.25.060, without first obtaining the consent of the town council of the town of La Conner to do so. [Ord. 192 § 2, 1915.]

11.25.075 Property owners responsible for sidewalk repairs.

Whenever a sidewalk or portion of a sidewalk has become unfit or unsafe for travel due to the direct or indirect action of the adjoining property owner and the town council by resolution finds that the improvement of the sidewalk is necessary for

public safety and convenience, the town may require the owner of the property directly abutting upon such portion to perform the necessary improvements. [Ord. 775 § 3, 2000.]

**11.25.080 Violation – Civil penalty.**

Any sidewalks hereafter erected and constructed other than as provided in this chapter shall be a public nuisance, and any person erecting and constructing any sidewalk in violation of the provisions of this article or repairing or renewing any old sidewalks in violation hereof shall be deemed guilty of a civil infraction and be subject to a civil penalty as set forth and established in Chapter 1.15 LCMC; and upon failure of such person to remove any sidewalk constructed in violation of this article upon five days' notice to do so, the town authorities may remove the same or cause same to be removed and recoup costs thereof from the person or persons by a civil action. [Ord. 839 § 25, 2001; Ord. 192 § 3, 1915.]

**11.25.085 Hazardous conditions on rights-of-way.**

It shall be unlawful for the owner and/or any person occupying or having charge or control of any premises abutting upon any public right-of-way or alley in the town to construct, place, cause, create, maintain, or permit to remain upon any part of said right-of-way any condition, structure, or object dangerous or hazardous to the use of said right-of-way, including but not limited to the following conditions:

(1) Defective sidewalk surfaces, including but not limited to broken or cracked cement and depressions within or between sidewalk joints.

(2) Defective cement surfaces placed adjacent to the public sidewalk or defects at the juncture between said cement surfaces and said public sidewalks.

(3) Defects in public sidewalks caused or contributed by the roots of trees or similar growth or vegetation located either on private adjoining property or on any portion of street or alley rights-of-way.

(4) Defective conditions caused by tree limbs, foliage, brush, or grass on or extending over such public sidewalks or rights-of-way.

(5) Defects resulting from the accumulation of ice and/or snow on public sidewalks.

(6) Defects consisting of foreign matter on public sidewalks, including but not limited to gravel, oil, grease, or any other foreign matter that may cause pedestrians using said sidewalk to fall, stumble, slip, or otherwise become injured. [Ord. 775 § 4, 2000.]

**11.25.090 Property owner liability.**

In the event of an injury, claim, or damage to any person and/or property proximately caused by the defective condition of any sidewalk hereinabove specified, or by the lack of proper guards or railings on or along the property abutting on any public way, then the abutting property owner shall be liable therefor including liability to the town for all damage, injury, costs, and expenditures including court costs and attorney's fees, which the town may be required to pay to incur to any person injured or property damaged as aforesaid. [Ord. 775 § 5, 2000.]

**11.25.095 Enforcement.**

Members of the police, public works, and/or planning departments shall enforce this chapter. If any property owners fail or refuse to follow and adhere to the regulations herein contained and/or abate such nuisance as defined herein, the town council may, after a report is filed therewith by an enforcing officer, abate the same as provided in Chapter 7.10 LCMC. [Ord. 775 § 6, 2000.]

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## Chapter 11.30

## STREET RIGHTS-OF-WAY

## Sections:

- 11.30.010 Definitions.
- 11.30.020 Obstruction of streets – Prohibited.
- 11.30.030 Permit required.
- 11.30.040 Exemptions.
- 11.30.050 Permit processing.
- 11.30.060 Permit review.
- 11.30.070 Obstructions – Standards.
- 11.30.080 Permit conditions.
- 11.30.090 Revocation of permit.
- 11.30.100 Enforcement.
- 11.30.110 Appeal.
- 11.30.120 Penalties due.
- 11.30.130 Penalty recovered.

**11.30.010 Definitions.**

For the purpose of this chapter, the following words have the meaning designated in this section unless the context indicates otherwise:

- (1) “Planning director” means the director of the planning department of the town of La Conner.
- (2) “Permit” means a right-of-way use permit issued by the planning director or designee.
- (3) “Planting strip” means that portion of the right-of-way, if any, between a street and the adjacent sidewalk.
- (4) “Right-of-way” means the entire width between the boundary lines of every piece of property designated as a public right-of-way, whether any portion of the right-of-way is used by the public for either pedestrian or vehicular travel.
- (5) “Sidewalk” means that portion of the right-of-way, if any, which is designed for pedestrian use, adjacent and parallel to a street. “Sidewalk” includes the area which would otherwise be a planting strip, if the area is either covered with cement or is otherwise used for pedestrian travel.
- (6) “Street” means that portion of the right-of-way, if any, which is used for vehicular travel, including alleys.
- (7) “Town” means the town of La Conner.
- (8) “Town council” or “council” means the town council of the town of La Conner. [Ord. 667 § 1, 1995.]

**11.30.020 Obstruction of streets – Prohibited.**

Except as may be specifically provided by this chapter, it is unlawful to erect, maintain or allow to remain on any street in the town a permanent or temporary structure or object which in any way obstructs, hinders, jeopardizes, injures, or delays the use of the street for either vehicular or pedestrian travel; provided, that the town may close any street at any time, when the director of public works, chief of police, or fire chief determines such closure to be necessary to protect the public health, safety, or welfare. [Ord. 667 § 2, 1995.]

**11.30.030 Permit required.**

(1) No person shall use any public place without a permit from the planning director. To use means to construct, erect or maintain in, on, over or under any public place, including but not limited to any building extension, staging, swinging scaffold, clock or any other object or structure; to use or occupy any parking strip, roadway, and/or sidewalk, including the air space above them.

(2) Notwithstanding the provisions of subsection (1) of this section, the following obstructions of right-of-way may be permitted if a permit therefor is obtained from the town under this chapter; provided, that the director of public works and the chief of police shall determine what traffic barricades, if any, are necessary, and the town will provide such barricades and shall be reimbursed therefor by the applicant:

- (a) Obstructions related to community or special events;
- (b) Temporary devices such as scaffolding, barricades and/or pedestrian walkways, which may be permitted under certain circumstances as specified by the planning director, where the right-of-way use is necessary to improve the safety of construction work on private property and where an excavation permit is not required;
- (c) Telephone booths;
- (d) Any obstruction placed upon a sidewalk by the town for a public purpose. [Ord. 667 § 3, 1995.]

**11.30.040 Exemptions.**

(1) This chapter does not apply to noncommercial uses in residential zones. However, these uses shall not be construed to grant or permit vested rights of use, and any such use is hereby deemed and declared to be permissive and shall be removed

## 11.30.050

upon order of the town of La Conner. This chapter also does not apply to street maintenance work performed by the town, street, water or sewer installation and improvement work authorized by permit or ordinance, or authorized street improvement projects.

(2) The following obstructions shall be allowed on sidewalks or planting strips without a permit:

(a) Merchandise being moved into or out of an adjacent business; provided, that such merchandise does not remain on the sidewalk or planting strip more than 30 minutes;

(b) Fire hydrants;

(c) Planters and other landscaping placed by the town;

(d) Benches and bicycle racks placed by the town;

(e) Telephone, telegraph and light poles placed either by the town or pursuant to franchise granted by the town;

(f) Flagpoles or standards therefor placed by the town;

(g) Traffic control devices placed by the town;

(h) Refuse containers, either placed directly by the town, or where the location of the container is on a sidewalk or planting strip as required by the town;

(i) Landscaping that is semipermanent in nature that can be removed from the sidewalk area or planting strip at the expense of the owner upon notice by the town. Such landscaping shall be less than 30 inches above the established grade at the curbline or roadway shoulder area. No fences permitted. [Ord. 667 § 4, 1995.]

### 11.30.050 Permit processing.

(1) Application for a permit and accompanying fees for a street, sidewalk or planting strip obstruction under this chapter shall be submitted to Town Hall for processing by the planning department. The application shall be upon a form provided by the planning director.

(2) Fees. A fee, established by the town council by resolution, shall be paid to the town prior to issuance of any street permit. Fees may be paid in kind based on fair market value. Renewals of street use permits for the maintenance of any continuing use or structure in the public right-of-way shall be

reviewed by the planning director and payable on January 1st of each year following the initial permit issuance.

(3) The application for a permit shall contain such information as is required by the planning department and any other applicable town code requirements, including, but not limited to:

(a) Name, address, and telephone number of the applicant;

(b) Description of the use or obstruction;

(c) Drawings and specifications for the obstruction sufficient for review for compliance with this chapter;

(d) Description of the method of compliance with the standards for installations for sidewalk obstructions established by the provisions of this chapter;

(e) Evidence showing the applicant to be the owner of record of the property adjoining the public right-of-way.

(4) Upon receipt of the application, the planning department shall forward the application to such town departments as deemed appropriate for comment. Comments shall be returned to the planning director or designee within five working days. [Ord. 667 § 5, 1995.]

### 11.30.060 Permit review.

(1) Any application for a permit to construct, erect or maintain an obstruction in a public right-of-way shall be submitted to the planning director. The planning director may submit applications to the town council for review, approval or denial on a case-by-case basis.

(2) The planning director or designee may approve a street use permit if:

(a) The proposed use will not protrude into or over any portion of a public place open to vehicle or pedestrian travel;

(b) The proposal will not interfere with the rights of the public; and

(c) The proposal is in the public interest, safety and convenience.

(3) Any permit issued pursuant to this chapter is subject to termination upon written notification by the planning director at any time, without cause, and the permit shall so state on its face. [Ord. 667 § 6, 1995.]

**11.30.070 Obstructions – Standards.**

Each obstruction proposed to be placed upon a sidewalk, street, or planting strip of the town shall comply, at a minimum, with the following standards:

(1) The location of the obstruction shall be consistent with the paramount right of the public to use the street, sidewalk, or planting strip for transportation purposes;

(2) The location of the obstruction, and/or the obstruction itself, shall be adequately lighted for night visibility, if the obstruction area is not lighted and pedestrians are present at night;

(3) The location of the obstruction shall not constitute a traffic hazard either by itself, or by its effect upon the visibility of persons using the street or sidewalk;

(4) If a location for the particular type of obstruction is required by the existence of other structures, obstructions, ordinances, or other regulations, the obstruction shall be located where so required;

(5) The obstruction shall not be permitted for longer than the period necessary for accomplishing the proposed purpose for such obstruction;

(6) The applicant shall comply with all other applicable local, state and federal requirements;

(7) The applicant must demonstrate that it is necessary to use the public street, sidewalk or planting strip, and that there is no other means available to accomplish the desired purpose, except by the use of the public right-of-way, street or planting strip;

(8) No one shall plant in any public right-of-way any cottonwood, London plain, weeping willow, gum or any other tree the roots of which cause injury to the sewers, water mains, sidewalks or pavements or which breed disease dangerous to other trees or to the public health or allow to remain in any public right-of-way any planted tree which has died or is in such condition as to be hazardous to the public use of the street and/or sidewalk, and any such trees now existing in any such planting strip or abutting street area shall be removed at the expense of the abutting property owner as may be directed by the town. No tree shall be planted within two feet of any sidewalk or pavement, except as otherwise approved;

(9) No flowers, shrubs or trees shall be allowed to overhang or prevent the free use of the sidewalk or roadway, or street maintenance activity or utility

use of the street except that trees may extend over the sidewalk when kept trimmed to a height of seven feet above same, and 15 feet above arterials and 14 feet above all other roadways. Trees so placed shall also be trimmed so as to remain below power lines if present. [Ord. 667 § 7, 1995.]

**11.30.080 Permit conditions.**

The following shall constitute minimum conditions to be applied to the permit:

(1) The applicant for a permit shall execute a hold-harmless guaranty to the town, agreeing to hold the town harmless from and defend the town against any causes of action for personal injury or property damage arising out of, or in any way connected with, the placement of the obstruction on the town street, sidewalk or planting strip.

(2) The applicant shall provide, and maintain in force, a certificate of insurance, or a bond of like amount, with the town named as an additional insured, insuring against property damage or personal injury, with limits of not less than \$300,000 per incident, \$300,000 per person, and \$100,000 property damage, except for benches, refuse containers, bicycle racks, landscaping, fire hydrants, traffic control devices, flagpoles or standards, telephone, telegraph and light poles placed by the town or other uses or obstructions so exempted by the planning director.

(3) The property owner or applicant shall maintain the obstruction in compliance with the standards and conditions imposed upon the placement of the obstruction by the town. Maintenance of the obstruction shall include the removal of litter and/or debris which may accumulate on or around the obstruction.

(4) For permanent structures placed in the right-of-way, including but not limited to fences higher than 30 inches, rockeries, walls, stairs and ramps, the applicant (property owner) for a permit shall execute an "Agreement to Remove Encroachment Within Public Right-of-Way". Such agreement shall guarantee removal of the encroaching improvements upon public rights-of-way within 60 days' written notice from the planning director and shall be recorded by the town with the county auditor as an encumbrance on the property adjoining the public right-of-way. Such work shall be done in accordance with the requirements deemed necessary by the planning director and at the cost of the

### **11.30.090**

property owner. If the obstruction is not removed, then the obstruction shall be declared a nuisance. [Ord. 667 § 8, 1995.]

#### **11.30.090 Revocation of permit.**

(1) All permits approved under this chapter shall be temporary, shall vest no permanent right and shall be issued and may in any case be revoked upon 30 days' notice, or without notice, in case any such use or occupation shall become dangerous or any structure or obstruction permitted, shall become insecure or unsafe, or shall not be constructed, maintained or used in accordance with the provisions of this chapter.

(2) If any such structure, obstruction, use or occupancy is not discontinued on notice to do so by the planning director, he/she may have the structure or obstruction removed, or such repairs upon the structure or obstruction made as may be necessary to render the same secure and safe, at the expense of the permittee, or his successor, and such expense may be recorded as a lien and otherwise collected in the manner provided by law. [Ord. 667 § 9, 1995.]

#### **11.30.100 Enforcement.**

(1) Enforcement Authority. The planning director, as the town council designee, shall enforce this chapter.

(2) General. All violations of this chapter are determined to be detrimental to the public health, safety, and welfare and are hereby declared to be public nuisances. All conditions which are determined by the planning director or the town council to be in violation of this chapter shall be subject to the provisions of the town of La Conner zoning ordinance enforcement procedures, and any amendments thereto, or any other enforcement method authorized by law, and shall be corrected by any reasonable and lawful means as provided therein, except that:

(a) The choice of the enforcement action and the severity of any penalty shall be based on the nature of the violation, the damage or risk to the public or to public resources, and/or the degree of documented bad faith of the person subject to the enforcement action.

(b) A civil penalty shall be imposed for violations of any of the requirements outlined in this chapter in the amount of \$250.00 per day for each day of violation to be directly assessed by the town

council until such violation is corrected. Each and every day of such violation shall be deemed to be a separate and distinct violation. Every act of commission or omission which procures, aids or abets in the violation shall be considered a violation under the provisions of this section and subject to the penalty provided for herein. [Ord. 667 § 10, 1995.]

#### **11.30.110 Appeal.**

The decision of the planning director, either for a permit issued, issued with conditions, or denied or for termination of a permit may be appealed to the town council by submitting written notice of such appeal within 10 days of the decision. The town council shall consider the appeal at the next public meeting after the filing of the notice of appeal. The decision of the town council is final. [Ord. 667 § 11, 1995.]

#### **11.30.120 Penalties due.**

Penalties imposed under this section shall become due and payable upon receipt unless an application for reconsideration is made or an appeal is filed. Whenever an application for reconsideration or appeal is made, penalties shall become due and payable 30 days after receipt of the decision regarding the reconsideration or appeal. Whenever an appeal of a penalty is filed, the penalty shall become due and payable after all review proceedings and a final decision has been issued confirming all or part of the penalty. The town may take actions necessary to recover such penalty under any provision of law. Any judicial award pursuant hereto shall include an award of the town's reasonable attorney fees and costs. [Ord. 667 § 12, 1995.]

#### **11.30.130 Penalty recovered.**

Penalties recovered shall be credited to the town street fund. [Ord. 667 § 13, 1995.]

**Chapter 11.40****ARTERIAL STREET ACCESS STANDARDS**

## Sections:

- 11.40.010 Definitions.
- 11.40.020 Improvement permit.
- 11.40.030 Limitations.
- 11.40.040 Specifications.
- 11.40.050 Discontinued use.
- 11.40.060 Variances.

**11.40.010 Definitions.**

For the purpose of this chapter, the following words have the meaning designated in this section unless the context indicates otherwise:

(1) The “apron” is that portion of the driveway approach extending from the gutter flow line to the sidewalk section.

(2) The “curb return” is the curved portion of a street curb at street intersections, or the curved portion of a curb in the end slopes of a driveway approach.

(3) A “driveway” is an area on private property where automobiles and other vehicles are operated or allowed to park and access a property.

(4) “Driveway approach” is an area of construction or improvement between the roadway of a public street and private property intended to provide access for vehicles from the roadway of a public street to a defined area of the private property, such as a parking area, a driveway or a door, intended and used for the ingress and egress of vehicles. The component parts of the driveway approach are termed the apron, the end slopes or the curb return, and sidewalk section.

(5) The “end slopes” are those portions of the driveway approach which provide a transition from the normal curb and sidewalk elevation to the grade of the apron, either by means of a sloping surface or by means of a curb return, together with the area between the projected tangents of the curb return.

(6) The “sidewalk section” is that portion of the driveway approach lying between the back edge of the sidewalk and the apron, plus the end slopes measured at the front edge of the sidewalk.

(7) “Right-of-way” means the entire width designated as a public right-of-way, whether any portion of the right-of-way is used by the public for either pedestrian or vehicular travel.

(8) “Public works director” means the director of the public works department for the town of La Conner.

(9) “Town engineer” means the engineering firm or their designee, under contract with the town to provide general civil engineering services.

(10) “Planning director” means the director of the planning department of the town of La Conner.

(11) “ADA” means the Americans with Disabilities Act, now or as hereafter amended. [Ord. 830 § 1, 2001.]

**11.40.020 Improvement permit.**

No person, firm or corporation shall remove, alter or construct any curb, sidewalk, driveway approach, gutter, pavement or other improvement in any public right-of-way, or other property owned by or dedicated to or used by the town and over which it has jurisdiction to regulate the matters covered hereby, without first obtaining a permit from the planning director, and no permit shall be granted until the applicant shall file with the town engineer or public works director for approval a copy of a drawing showing the location and size of all such proposed improvements to serve the property affected. All proposals shall be in accordance with the adopted current standard specifications of the town and in compliance with all applicable state and federal laws, including but not necessarily limited to ADA compliance. [Ord. 830 § 1, 2001.]

**11.40.030 Limitations.**

The following limitations shall apply.

(1) No driveway approach shall be permitted to encompass any municipal facility under the permit provided for. Applicant may be authorized to relocate any municipal facility including any within the limits of a curb return which may be encroached upon.

(2) Multiple driveway approaches shall not be authorized onto arterial streets where the property is bounded by and can be reasonably accessed by minor streets or alleys unless such access creates unnecessary hardship on the property owner or business or constitutes an unreasonable pedestrian hazard.

(3) No driveway approach for commercial purposes shall be allowed unless sufficient space is provided for vehicles 20 feet in length to turn

## 11.40.040

around before returning to the street or unless an exit to an alley or secondary street is provided.

(4) No driveway may be located so as to conflict with power poles, streetlights, fire hydrants, or other above ground public facilities.

(5) No driveway shall be located within 20 feet, including transitions, of a regular crosswalk area at an intersection of any other designated crosswalk area.

(6) No driveway shall be located within 20 feet, including transitions, of an intersection.

(7) No driveway apron shall extend further into the street than the curb face.

(8) City street right-of-way may not be used for private commercial purposes. A permit for the construction of driveway approaches shall not be issued unless the vehicles to be served can be parked entirely within the private property lines. [Ord. 830 § 1, 2001.]

### 11.40.040 Specifications.

The currently adopted standard specifications shall apply. Property frontage, referred to herein, includes approach areas directly in front of property owned or under the control of the applicant and such area as may be opposite adjoining property which is used for approach purposes by right of easement or agreement with the adjoining property owner.

(1) The maximum single residential driveway width for lot frontage of 75 feet or less shall not exceed 20 feet at the curb, excluding transitions and not be less than 10 feet.

(2) For commercial driveways, when one or more driveway approaches serve a given property frontage, no single apron shall exceed 30 feet in length. A safety island of not less than 20 feet of full curb height shall be provided between driveway approaches serving any one property frontage.

(3) A safety island of not less than six feet of full curb height shall be provided in all cases between adjacent driveway approaches.

(4) All driveway approaches shall be constructed of Portland cement not less than six inches thick and in accordance with specifications provided by the engineer or public works director.

(5) All driveways shall slope upward from the gutter at not less than one-quarter-inch per foot. [Ord. 830 § 1, 2001.]

### 11.40.050 Discontinued use.

When, in the judgment of the mayor or his or her designee, the continued use of a driveway approach is hazardous to pedestrians or traffic or whenever the use of the driveway shall be discontinued, the owner of the abutting property shall, upon notice from the mayor or his or her designee, remove the driveway approach and replace the sidewalk and public property in accordance with town specifications and under the supervision of the town engineer or public works director. [Ord. 830 § 1, 2001.]

### 11.40.060 Variances.

(1) The hearing examiner (or public works director) may grant, in writing, variances from the regulations and requirements of this chapter providing that the following conditions are present:

(a) The variance requested arises from peculiar physical conditions not ordinarily existing elsewhere in the town or is due to the nature of the business or operation being presently conducted upon the applicant's property;

(b) The variance requested is not against the public interest, particularly safety, convenience and general welfare;

(c) The granting of the variance will not adversely affect the rights of adjacent property owners or tenants;

(d) The terms of this chapter will cause unnecessary hardship on the applicant, property owner or tenant.

(2) The decision to deny a variance may be appealed to the hearing examiner pursuant to Chapters 15.15 and 15.135 LCMC as now exist or are hereafter amended. [Ord. 830 § 1, 2001.]