

**CITY OF MONROE
ORDINANCE NO. 013/2022**

AN ORDINANCE OF THE CITY OF MONROE,
WASHINGTON, AMENDING CHAPTER 12.36 MMC PUBLIC
RIGHT-OF-WAY DISTURBANCE AND RESTORATION;
AUTHORIZING THE HEARING EXAMINER TO CONSIDER
AND ISSUE FINAL DECISIONS ON REQUESTS FOR
VARIANCES FROM THE CITY'S PUBLIC RIGHT-OF-WAY
REGULATIONS; PROVIDING FOR SEVERABILITY; AND
ESTABLISHING AN EFFECTIVE DATE

WHEREAS, pursuant Chapter 12.36 MMC, the City has established regulations governing disturbances and restoration of the public right-of-way area, including standards and procedures for applicants to seek a variance with respect to such regulations; and

WHEREAS, the City Council desires to amend Chapter 12.36 MMC to provide for the Hearing Examiner to act as the independent decision-making body for such variance requests; and

WHEREAS, designating the Hearing Examiner for this function will provide for an independent, efficient, and effective variance process and will relieve the City Council from the time and effort necessary to adjudicate such matters;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MONROE, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Amendment of MMC 12.36.180. Section 12.36.180 of the Monroe Municipal Code is hereby amended to provide in its entirety as follows:

12.36.180 Variances.

A. The ~~city council~~ hearing examiner shall have authority to grant variances from any and all provisions of this chapter and any standards adopted hereunder. All applications for a variance shall be in writing to the city clerk and shall be accompanied by a fee as established by the city council by periodic resolution. The applicant shall be given no less than ten days' notice of the date on which the ~~city council~~ hearing examiner will consider the requested variance. The hearing examiner shall hold a hearing on the application, and may grant a variance only upon a finding that all of the following facts and conditions exist:

1. A literal enforcement of this chapter would cause practical difficulties or a unique hardship which was not self-generated; and
2. No material detriment will result to public health, safety or welfare; and

3. No material increase in the likelihood of exposure of the city to liability for claims or damages; and
4. No violation of any other laws, rules, regulations or policies applicable to the applicant's intended use.

The applicant shall bear the burden of demonstrating that the criteria set forth in this section are met.

B. In approving a variance request, the ~~city council~~ hearing examiner may impose such conditions as it deems necessary and appropriate to carry out the spirit and purposes of this chapter and to protect the long-range plans of the city rights-of-way system and the public interest. Each variance shall be considered on a case-by-case basis and shall not be construed as setting precedent for any subsequent application. The decision of the ~~city council~~ hearing examiner shall be final. Any party with standing aggrieved by the decision of the ~~city council~~ hearing examiner on a variance shall have a right to file an application for writ of certiorari in the Snohomish County superior court; provided, that the application must be filed and served within a twenty-day period after the effective date of the decision.

Section 2. Severability. If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

Section 3. Effective Date. This ordinance shall be in full force and effect five (5) days from and after its passage and approval and publication as required by law.

PASSED by the City Council and APPROVED by the Mayor of the City of Monroe, at a regular meeting held this 14th day of June, 2022.

First Reading: 05/24/2022
Adoption: 06/14/2022
Published: 06/17/2022
Effective: 06/22/2022

CITY OF MONROE, WASHINGTON:


Geoffrey Thomas (Jun 15, 2022 14:06 PDT)
Geoffrey Thomas, Mayor

ATTEST:

APPROVED AS TO FORM:


Jodi Wycoff (Jun 15, 2022 15:25 PDT)
Jodi Wycoff, City Clerk


Zach Lell (Jun 15, 2022 14:00 PDT)
J. Zachary Lell, City Attorney

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Final Audit Report

2022-06-15

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