Washington State Department of Transportation

City/Town Access Standards Status Form

Instructions: If your jurisdiction has adopted the required access permitting standards described in the enclosed letter, please complete Section A. If not, please complete Section B. Please submit the completed form with original signatures no later than November 30, 2007 to: Karena Houser, WSDOT Policy Development & Regional Coordination, PO Box 47370, Olympia, WA, 98504-7370. Thank you!

SECTION A
CONFIRMING ADOPTION OF REQUIRED ACCESS PERMITTING STANDARDS:

I, CHRISTIAN JOHNSON (Name of City Representative) confirm by my signature below that

CITY OF ORONILLE (City or Town) has adopted standards for access permitting on

streets designated as state highways in Ordinance 519 (Number) adopted SEPT. 21 (Month and Day), 1993 (Year) and

that these standards meet or exceed the access standards adopted by the Washington State Transportation in

Chapters 468-51 and 52 of the Washington Administrative Code (http://apps.leg.wa.gov/wac).

Signature of City Representative — Date: 11/8/2007

BUILDING OFFICIAL & PERMIT ADMINISTRATOR
Title of City Representative

SECTION B
DETAILING PROGRESS TOWARD ADOPTING REQUIRED STANDARDS:

Please briefly describe (1) why your jurisdiction has not yet adopted the required access permitting standards for managed access state highways within city boundaries, (2) where your jurisdiction is in the process of adopting the required standards, and (3) what date you anticipate the required standards will be adopted.

ORDINANCE NO. 519

AN ORDINANCE regulating ingress and egress to the state highway system within the city limits of the City of Oroville.

THE CITY COUNCIL OF THE CITY OF OROVILLE, WASHINGTON, DO ORDAIN as follows:

Sec. 1 **PURPOSE:** This ordinance is adopted to implement Chapter 47.50 RCW for the regulation and control of vehicular access and connection points of ingress to, and egress from, the state highway system within incorporated areas of the City of Oroville. This ordinance describes the connection permit application process and procedures, including a preapplication conceptual review process, and requirements for closure of unpermitted and nonconforming connections to the state highway system within the city limits.

Sec. 2 **DEFINITIONS.** For the purposes of this ordinance, the following definitions of the terms shall apply unless the context clearly indicates otherwise:

(1) "Application" means an application form supplied by the city and completed by the applicant, payment for the required application fee, and related property site, driveway, roadway, and traffic information.

(2) "Average Weekday Vehicle Trip Ends (AWDVTE)" means the estimated total of all trips entering plus all trips leaving the applicant's site based on the final stage of proposed development.

(3) "Conforming connection" means a connection that meets current location, spacing, and design criteria.

(4) "Connection" means approaches, driveways, turnouts, or other means of providing for the right of access to or from controlled access facilities on the state highway system.

(5) "Connection category" means a permit category of all state highway connections, in accordance with the type of property served and the estimated traffic generated by the applicant's site based on rates accepted by the city and department.

(6) "Connection permit" means a written authorization given by the city for a specifically designed connection to the state highway system at a specific location for a specific type and intensity of property use and specific volume of traffic for the proposed connection, based on the final stage of proposed development of the applicant's property. The actual form used for this authorization will be determined by the city.

(7) "Controlled access facility" means a transportation facility (excluding limited access facilities as defined in chapter 47.52 RCW)to which access is regulated by the governmental entity having jurisdiction over the facility. Owners or occupants of abutting lands and other persons have a right of access to and from such facility at such points only and in such manner as may be determined by the governmental entity.

(8) "Department" means the Washington State Department of Transportation.

(9) "Development approval" means an official action by a governmental land use planning authority authorizing the developer or land owner to begin construction of any permanent improvements on the property.

(10) "Governmental entity" means, for the purpose of this ordinance, a unit of local government or officially designated transportation authority that has the responsibility for planning, construction, operation, maintenance, or jurisdiction over transportation facilities.

(11) "Joint use connection" means a single connection point that serves as a connection to more than one property or development, including those in different ownerships or in which access rights are provided in the legal descriptions.

(12) "Limited access facility" means a highway or street especially designed or designated for through traffic, and over, from, or to which owners or occupants of abutting land, or other persons have no right or easement, or only a limited right or easement of access, light, view or air by reason of the fact that their property abuts upon such limited access facility, or for any other reason to accomplish the purpose of a limited access facility.

(13) "Median" means the portion of a divided highway or divided connection separating vehicular traffic traveling in opposite directions; not including speed change lanes, storage lanes for left turning or U-turning vehicles, or two way left turn lanes.

(14) "Median opening" means either a full opening in a continuous median for the specific purpose of allowing vehicles to make a left turn maneuver into or out of a property abutting the highway, to facilitate U-turns, or to allow for a vehicle to totally cross the road, or a directional opening allowing for left turn maneuvers into the property and U-turn maneuvers, but not allowing for left turns or cross movements out of the property.

(15) "Nonconforming connection" means a connection not meeting current city location, spacing, or design criteria.

(16) "Permit" means written approval issued by the city subject to conditions stated therein, authorizing construction, reconstruction, maintenance, or reclassification of a state highway connection and associated traffic control devices on or to the department's or city's right of way.

(17) "Permitting authority" means the department or any county, municipality, or transportation authority authorized to regulate access to their respective transportation systems.

(18) "Right of way (R/W)" means a general term denoting land or interest therein, acquired for or designated for transportation purposes. More specifically, land in which the department, a county, or a municipality owns the fee simple title, has an easement devoted to or required for use as a public road and appurtenant facilities, or has established ownership by prescriptive right pursuant to RCW 47.04.040, or lands that have been dedicated for public transportation purposes.

(19) "Shoulder" means the portion of the highway contiguous with the traveled lanes for the accommodation of stopped vehicles for emergency use, and for lateral support of base and surface courses and for other uses as allowed by law.

(20) "State highway system" means all roads, streets, and highways designated as state routes pursuant to chapter 47.17 RCW.

(21) "Temporary connection" means a permitted connection for a specific property use, conditioned to be open for a specific purpose and traffic volume for a specific period of time with the right of way to be restored by the permittee to its original condition upon connection closure.

(22)"City" is interchangeable with the word "town".

Sec. 3 GENERAL PROVISIONS.

(1) **When connection permits required.** Every owner of property which abuts a state highway where limited access rights have not been acquired has a right to reasonable access, but may not have the right to a particular means of access, to the state highway system. The right of access to the state highway may be restricted if, pursuant to local regulation, reasonable access to the state highway can be provided by way of another public road which abuts the property. All new connections including alterations and improvements to existing connections to state highways shall require a connection permit. Such permits, if issued, shall be issued only after issuance of development approval where such approval is required, unless other

interagency coordination procedures are in effect. The alteration or closure of any existing access connection caused by changes to the character, intensity of development, or use of the property served by the connection or the construction of any new access connection shall not be initiated prior to obtaining a connection permit from the city. Use of a new connection at the location specified in the permit is not authorized until the permittee constructs or modifies the connection in accordance with the permit requirements. If a property owner or permittee holding a valid connection permit wishes to change the character, use or intensity of the property or development served by the connection, the city must be contacted to determine whether a new connection permit would be required.

(2) **Responsibility for other approvals.** Connection permits authorize construction improvements to be built by the permittee on city or department right of way. It is the responsibility of the applicant or permittee to obtain any other local permits or other agency approvals that may be required, including satisfaction of all environmental regulations. It is also the responsibility of the applicant to acquire any property rights necessary to provide continuity from the applicant's property to the city or state highway right of way if the applicant's property does not abut the right of way.

(3) **Cost of construction.**

(a) **Permittee.** The cost of construction or modification of a connection shall be the responsibility of the permittee, including the cost of modification of any connection required as a result of changes in property site use.

(b) **City.** Existing permitted connections impacted by the city's work program and which, in the consideration of the city, necessitate modification, relocation, or replacement in order to meet current city connection location, quantity, spacing and design standards, shall be modified, relocated, or replaced in kind by the city at no cost to the permittee. The cost of further enhancements or modification to the altered, relocated or replaced connections desired by the permittee shall be the responsibility of the permittee.

(4) **City responsibility.** The city has the responsibility to issue permits and authority to approve, disapprove, and revoke such permits, and to close connections, with cause.

Sec. 4 **CONNECTION CATEGORIES.** All connections, public or private shall be determined by the city to be in one of the following categories:

(1) **"Category I - minimum connection"** provides connection to the state highway system for up to ten single family residences, a duplex, or a small multi-family complex of up to ten dwelling units, which use a common connection. The category shall also apply to permanent connections to agricultural and forest lands, including field entrances; connections for the operation, maintenance, and repair of utilities; and connections serving other low volume traffic generators expected to have an average weekday vehicle trip ends (AWDVTE) of one hundred or less.

(2) **"Category II - minor connection"** provides connection to the state highway system for medium volume traffic generators expected to have an AWDVTE of one thousand five hundred or less, but not included in Category I.

(3) **"Category III - major connection"** provides connection to the state highway system for high volume traffic generators expected to have an AWDVTE exceeding one thousand five hundred.

(4) **"Category IV - temporary connection"** provides a temporary, time limited, connection to the state highway system for a specific property for a specific use with a specific traffic volume. Such uses include, but are not limited to, logging, forest land clearing, temporary agricultural uses, temporary construction, and

temporary emergency access. The city reserves the right to remove any temporary connection at its sole discretion and at the expense of the property owner after the expiration of the permit. Further, a temporary connection permit does not bind the city in any way, to the future issuance of a permanent connection permit at the temporary connection location.

(5) **"Nonconforming connection"** designation may be issued for Category I through IV permits after an analysis and determination by the city that a conforming connection cannot be made and a finding that the denial of a connection would leave the property without a reasonable means of access to the public road system. In such instances, the permit shall be noted as nonconforming and contain specific restrictions and provisions, including limits on the maximum vehicular use of the connection, the future availability of alternate means of access for which a conforming connection permit could be obtained, the removal of the nonconforming connection at the time the conforming access is available, and other conditions as necessary to carry out the provisions of chapter 47.50 RCW.

(6) **"Median opening"** includes openings requested for both new connections and for existing connections. New median openings proposed as part of a new driveway connection shall be reviewed as part of the permit application review process.

Requests for the construction of new median openings to serve existing permitted connections shall require a reevaluation of the location, quantity, design of existing connection, and traffic at the existing connections. The property owner must file a new connection permit application, for the proper connection category, showing the new proposed median opening location and design and its relationship to the existing or modified driveway connections. Nothing contained herein shall be construed to prohibit the city from closing an existing median opening where operational or safety reasons require the action.

Sec. 5 **CONCEPTUAL REVIEW.** Prior to filing a connection permit application and prior to receipt of development approval, all permit applicants, but in particular those applying for Category II and Category III connections, are strongly encouraged to request, in writing, a conceptual review of the site plan and proposed connection locations with the city. The purpose of the conceptual review is to expedite the overall review process by establishing the permit category, number, type, and general location of connections to the property early in the planning stages of a proposed development or a proposed significant change in property site use, or to determine that the connection as requested cannot be permitted. The conceptual review does not constitute final city approval of the location and design of the connection. If deemed appropriate, especially on the more complex proposals, the city shall establish the date for a conceptual review meeting to be held within two weeks of the receipt of the written request, unless a later date is requested by the applicant. If a meeting is scheduled, representatives of the local governmental land use planning authority will be invited to attend. Within four weeks following the conceptual review meeting, or receipt of the request if no meeting is scheduled, the city will provide the applicant written notice of the city's conceptual review findings, provided all needed information to complete the review has been received from the applicant. These findings are nonbinding on the city and the developer. Additional detailed information received during the application process, changes in the proposed development, or changes in the existing or planned operational characteristics of the state highway system may necessitate modifications of the connections agreed to in the conceptual approval. The conceptual review findings can be used by the developer in the site plan review/approval process with the local government having jurisdiction over the development as indicating coordination of connection location, quantity, and design with the city and of preliminary city findings on the proposed connections.

Sec. 6 CONNECTION SPACING AND STANDARDS,. All connections shall conform to the classification of that section of highway, as determined by the department, and as a minimum shall meet spacing and standards requirements as discribed in WAC 468-52.

Sec. 7 APPLICATION REQUIREMENTS AND PROCEDURES.

(1) **Connection permit application and information.** The appropriate application form and the application information are available from the designated city offices. An application shall consist of the above form; application fee, plans; traffic data; and connection information specified in this rule section.
All connection and roadway design documents for Category II and III permits shall bear the seal and signature of a professional engineer, registered in accordance with chapter 18.43 RCW.

(2) **Information required - all permits.** The following information is required of all applicants for all permit categories, unless the city determines that specific information will not be required on individual applications. Additional information required of Category II, III, and IV permit applications is specified in this ordinance. In all cases it would be prudent, prior to submittal of the application, for the applicant to inquire of the city whether the application needs additional information. The city reserves the right to request clarification or additional information during the application review process. Failure to provide the requested information within the time limits specified in the request shall result in withdrawal of the permit application.

(a) **Identification and signature of property owner and applicant.** The current complete names, mailing addresses, and telephone numbers of the property owner(s), the developer(s), the applicant, the transportation and legal consultants representing the applicant (if any), and the local government representative(s) responsible for processing the development's approval shall be provided as part of the application. If the property owner desires to have a representative sign the application, a notarized letter of authorization from the applicant is to be provided with the application. When the owner or applicant is a company, corporation, or other public agency, the name, address and telephone number of the responsible officer shall be furnished. The names of all individuals signing the application and their titles shall be typed or printed directly below the signature.

(b) **Property uses and traffic information.** The ultimate planned property uses shall be indicated in sufficient detail to determine the appropriate permit classification. Estimated average weekday vehicle trip ends to be generated by the development, based on the planned property use, consistent with the latest trip generation information published by the Institute of Transportation Engineers, Washington, D.C., shall be included as appropriate. If local or special trip generation rates are used, the latest and best information shall be used and all documentation for the rate development shall be submitted with the application. For residential developments with ten or fewer units, ten trips per day per unit may be assumed. The requirement for an average weekday vehicle trip ends estimate may be waived for agricultural uses where no retail marketing is proposed.

(c) **Site plan.** The application shall include a plan to scale, or a schematic drawing showing critical dimensions (allowable on Category I permits only), the location of the property, and existing conditions and the character and extent of work proposed. The location of existing and proposed on-site development with respect to the existing and proposed driveway location(s) and the highway shall be shown. Minimum information on the plan shall include:

(i) **Road information.**

- State route number.
- County or local road name.
- Highway pavement type.
- Cross section.
- Posted speed limit.
- The existence and location of any existing and/or future proposed public or private road abutting or entering the property; the horizontal and vertical curvature of the road(s) noting the location of existing and proposed connections and any other pertinent information.

(ii) **Property information.**

- Location of all existing and proposed buildings, and other structures, such as gasoline pumps, lights, trees, etc. with respect to the existing and proposed property and right of way lines.
- Any adjacent properties that are owned or controlled by the applicant, or in which the applicant has a financial interest, and indicate whether these properties will be accessed by means of the proposed connection(s).
- The application shall include a boundary survey. The requirement for a boundary survey may be waived for Category I connections, at the discretion of the city.
- Any existing or proposed parcels segregated from the applicant's property for separate development also shall be clearly designated on the plan.

(iii) **Connection location information.**

- The proposed connection milepost and highway engineer's station, if available.
- Location of the highway centerline with respect to existing and proposed property lines.
- Distance of proposed public or private access connection to intersecting roads, streets, railroads.
- Existing or proposed median openings (crossovers) and connections on all sides of the state highway and other roads within six hundred sixty feet of the proposed connection location in urban areas and one thousand three hundred twenty feet in non-urban (rural) areas.
- Location of existing or proposed public or private retaining walls, fences, poles, sidewalks, bike paths, drainage structures and easements, traffic control devices, fire hydrants, utilities, or other physical features, such as trees, landscaping, green belts, and wetlands, that could affect driveway location.
- It shall be the responsibility of the applicant to physically identify the location of the proposed connection at the proposed site.

(iv) **Connection design information.**

- Proposed connection and approach improvements including its profile approaching the state highway, width, radii, angle to the highway, auxiliary pavement.
- Existing and proposed grading (or contouring that affects the natural drainage pattern or runoff impacting the state highway and the proposed connection).
- Drainage calculations and other pertinent data.
- Driveway, auxiliary lanes and crossover pavement design, including subgrade, base, surface materials, and thicknesses.
- Specific requirements for design information on individual Category I permit applications may be relaxed, or waived, at the discretion of the city.

(v) **Joint driveway use.**

- If the driveway is to serve more than one property, the plan shall detail information for all properties using the connection and the application shall include copies of legally enforceable agreements of concurrence for all property owners on joint driveway usage.
- Joint driveway use serving adjoining properties is encouraged on all highways and may be required on some highways, pursuant to rules adopted by the department.

(3) **Additional information required, Category II and Category III permits.** The following is a list of additional information that may be required for each phase of the development from the applicant. Prior to the submittal of the application, the applicant shall coordinate with the appropriate designated department of the city on the level of detail and the analysis techniques to be used.

(a) **Circulation plans.** All parking, interior drives, and internal traffic circulation plans.

(b) **Connection users.** All internal and external adjacent parcels which will use the requested connection. All existing and proposed connecting roadways and potential means of alternate access through the final buildout stage of development shall be shown on the plans submitted with the application.

(c) **Traffic control devices and illumination.** Proposed traffic control devices and lighting locations.

(d) **Sight distance.** Analysis of horizontal and vertical sight distance on the state highway with respect to the proposed connection.

(e) **Traffic data and analysis.** Traffic data submitted by the applicant shall be signed and sealed by a qualified professional engineer, registered in accordance with chapter 18.43 RCW. The following traffic study information may be required:

(i) **Turning movements.** Vehicle turning movements for present and future traffic conditions.

(ii) **Volume and type.** Amount and type of traffic that will be generated by the proposed development including a breakdown of anticipated peak hour traffic and an analysis of the impact on the level of service on the state highway.

(iii) **Parking and circulation.** Analysis of off-street parking and traffic circulation, including distances to secondary access points on the connection roadway and their impact on the operation of the state highway.

(iv) **Traffic signal data.** If a traffic signal is requested, the following studies may be required: Traffic signal warrants; phasing and timing analysis; signal progression analysis; signalization, signing, and lighting plans in conformance with city and department standards. A separate department traffic signal permit is required.

(v) **Off site improvements.** A traffic analysis to determine the need for off site related roadway and geometric improvements and mitigation requirements.

(vi) **Traffic control plan.** A traffic control plan conforming to current city standards set forth in the "Manual on Uniform Traffic Control Devices," documenting how the permittee will provide for safe and efficient movement on the state highway system during the construction of the connection.

(4) **Additional information required, Category IV permits.** Permit applications must contain the specific dates that the connection is to be open and must contain assurances acceptable to the city and department that the shoulder, curbing, sidewalks, bikeways, ditch, right of way, and any other amenities will be restored to their original condition at the permittee's expense upon closure of the temporary connection.

Sec. 8 FEES AND SURETY BOND

(1) **Fee Structure.** The following nonrefundable fee structure is established for city application processing, review and inspection. Full payment of base fees must accompany the permit application. Due to the potential complexity of Category II and Category III connection proposals, and required mitigation measures that may involve construction on the state highway, the city or department may require a developer agreement in addition to the connection permit. The developer agreement may include, but is not limited to: Plans; specifications; maintenance requirements; bonding requirements; inspection requirements; division of costs by the parties, where applicable; and provisions for payment by the applicant of actual costs incurred by the city in the review and administration of the applicant's proposal that exceed the required base fees in the following schedule:

(a) **Category I base fees for one connection.**

(i)	Field (agricultural), forest lands, utility operation and maintenance.	$ 30.00 per hr
(ii)	Residential dwelling units (up to 10) utilizing a single connection point.	$30.00 per hr. $ per dwelling unit
(iii)	Other, with 100 AWDVTE or less.	$30.00 per hr.
(iv)	Fee per additional connection point	$30.00 per hr.

(b) **Category II base fees for one connection.**

(i)	Less than 1,000 AWDVTE	$30.00 per hr.
(ii)	1,000 to 1,500 AWDVTE	$30.00 per hr.
(iii)	Fee per additional connection point	$30.00 per hr.

(c) **Category III base fees for one connection.**

(i)	1,500 to 2,500 AWDVTE	$30.00 per hr.
(ii)	Over 2,500 AWDVTE	$30.00 per hr.

(iii) Fee per additional connection point $30.00 per hr.

(d) **Category IV base fee per connection.** $30.00 per hr.

(2) **Surety bond.** Prior to the beginning of construction of any Category II or Category III connection, the city may require the permittee to provide a surety bond.

Sec. 9 APPLICATION SUBMITTAL, REVIEW, CONDITIONS.

(1) **Application submittal.** The application shall be submitted to the designated city office. The application shall be properly prepared, clearly completed and signed. Information on the specific number of copies to be provided and other submittal information is available from the designated local city office.

(2) **Application review, processing, and approval.** Upon receipt of the application, the application shall be reviewed consistent with the provisions of this ordinance. If the city identifies errors in the application or if additional information is required, the city will notify the applicant. Applicants must provide such information or correct errors within thirty days of the notification. If the applicant determines that the time to provide additional or corrected information is insufficient, the applicant shall contact the city in writing to request additional time be approved. If the additional or corrected information has not been received by the city within thirty days or the approved time period agreed to, the application will be withdrawn.

(a) **Review.** Upon timely receipt of all required information, or upon expiration of the time period for receipt of additional or corrected information, the location and design of the connection shall be examined for consistency with current city location, quantity, spacing, classifications, and design standards. The review shall also include an analysis of the impact of the site's existing and projected traffic on the operation and safety of the state highway.

(b) **Concurrence or denial, notice.** If the city concurs in the location and design of the proposed connection, written notification of that concurrence will be sent to the applicant and to the local governmental land use planning authority having jurisdiction over the development. If the applicant has gone through the voluntary conceptual review process, the written notice of concurrence will indicate whether or not there have been any changes in the number, location, or design of the connection required by the city. No construction may commence on the city's or the department's right of way until all necessary city and governmental permits are issued. If the city does not concur in the connection location, quantity, or design, both the applicant and the local governmental land use planning authority having jurisdiction over the development approval shall be notified, in writing, indicating the city's intent to deny the connection as proposed in the application. The written notification shall state the specific reasons for the intent to deny the connection, the process for submitting an amended application, and the appeal rights of the applicant. The applicant may submit a revised application within thirty days based on city comments and concerns as stated in the notification. The submittal of a revised application within thirty days shall not require the payment of any additional application fees. Submittal of a revised permit is not a prerequisite for a request for an adjudicative proceeding pursuant.

(c) **Permit issuance.** The city shall issue the connection permit after review and concurrence that the application and the location and design of the connection comply with the requirements of this ordinance, and after either:

(i) The applicant has received development approval from the appropriate local governmental land use planning authority;or

(ii) Other interagency coordination procedures in effect are satisfied for development approval by the local governmental land use planning authority.

(d) **Request for adjudicative proceedings.** In the event of a denial of a connection as proposed in the application, the applicant may apply for an adjudicative proceeding.

(3) **Permit conditions.** Any special requirements or provisions for the connection including off site mitigation shall be clearly and specifically identified as part of the permit. Failure by the applicant or permittee to abide by the permit provisions shall be sufficient cause for the city to initiate action to alter the connection or to revoke the permit and close the connection at the expense of the permittee. The permit requirements shall be binding on the permittee, the permittee's successors, heirs and assigns, the permit application signators, and all future owners and occupants of the property. The applicant may challenge the permit conditions by applying for an adjudicative proceeding.

Sec. 10 CONSTRUCTION REQUIREMENTS.

(1) **Preconstruction conference.** The city may require a preconstruction conference prior to any work being performed on the city's or the department's right of way. When required by provisions in the permit, the city will schedule a preconstruction conference. The preconstruction conference should be attended by the necessary personnel to assure compliance with the terms and provisions of the permit.

(2) **Time limit.** Substantial construction of the connection shall begin within ninety days of the effective date of the permit, unless a longer time is approved by the city or a time extension is requested by the applicant and approved by the city. Construction shall be completed within one hundred twenty days of the date of issuance of the permit, unless a time extension is approved by the city. As a condition of the permit, the city may further limit construction time, if the city determines that such limitation is warranted. Failure to comply with the time limits specified in the permit shall result in an automatic expiration of the permit following written notification to the permittee. For any permit which expires for failure to begin construction or to complete construction within the specified time limits, the city may require a new application, including the payment of the required application fee prior to the initiation of any construction.

(3) **Posting of permit.** The approved connection permit shall be displayed in a prominent location, protected from the weather, within the vicinity of the connection construction.

(4) **Disruption of traffic.** All construction and/or maintenance within the city's or the department's right of way shall conform to the provisions of the connection permit, the "Manual on Uniform Traffic Control Devices" (MUTCD); the department's current "Design Manual," the current "Standard Specifications for Road, Bridge, and Municipal Construction" and city construction standards. The city or department may require or restrict hours of construction to minimize disruption of traffic on the state highway system. If construction activity within the city's or the department's right of way causes undue disruption of traffic or creates safety hazards on a state highway, or if the construction activity is not in compliance with the traffic control specifications in the permit, the city shall advise the permittee or the permittee's contractor of the need for immediate corrective action, and may order immediate suspension of all or part of the work if deemed necessary. Failure to comply with this provision may result in permit modification or revocation.

(5) **Traffic signals and other traffic control devices.** Traffic signals and other traffic control devices installed by permittee shall conform to MUTCD and city and/or department design and construction standards. The permittee is responsible for securing any state and local permits needed for traffic signalization and regulatory signing and marking.

(6) **Connection construction inspection.** For Category II and Category III connections, the city may require the permittee, the developer, or landowner to provide inspection of construction and certification that connection construction is in accordance with permit provisions and appropriate department standards by a professional engineer, registered in accordance with Chapter 18.43 RCW, or the city may do the inspection at the applicant's expense, as provided in the developer agreement.

Sec. 11 **NONCONFORMING CONNECTION PERMITS.** The city may issue a permit for a connection not meeting city location and spacing criteria standards if it finds that a conforming connection is not attainable at the time of the permit application submittal and that denial would leave the property without a reasonable means of connection to the public road system. The city may issue a connection permit requiring a legally enforceable joint-use connection when determined to be in the best interest of the city or state for restoring or maintaining the operational efficiency and safety of the state highway. Nonconforming connection permits shall specify conditions or limits including:

(1) **Traffic volume.** The maximum vehicular usage of the connection shall be specified in the permit.

(2) **Future alternate access.** The permit shall specify that a conforming connection be constructed when future alternate means of access become available, and that the nonconforming connection be removed.

(3) **Users.** The permit shall specify the properties to be served by the connection; and any other conditions as necessary to carry out the provisions of Chapter 47.50 RCW.

Sec. 12 **CHANGES IN PROPERTY SITE USE.** The connection permit is issued to the permittee for a particular type of land use generating specific projected traffic volumes at the final stage of proposed development. Any changes made in the use, intensity of development, type of traffic, or traffic flow of the property requires the permittee, their assignee, or property owner to contact the city to determine if further analysis is needed to determine if the change is significant and would require a new permit and modifications to the connection. An engineering study, signed and sealed by a professional engineer registered in accordance with Chapter 18.43 RCW, may be required to document the extent of the change. If modification of the existing connection is required, based on a significant change as determined by the city, the permittee shall acquire a new permit prior to the initiation of any on-site construction to the connection or to the property.

(1) **Significant change.** A significant change is one that would cause a change in the category of the connection permit or one that causes an operational, safety, or maintenance problem on the state highway system.

(2) **Notification.** Failure to contact the city to determine the need for connection modifications or to apply for a new permit for such modifications prior to initiation of property improvements, land use changes or traffic flow alteration actions shall result in notification to the property owner of intent to revoke the existing permit and closure of the connection to the property.

(3) **Costs.** The permittee is responsible for all costs associated with connection removal, relocation or modification caused by increased or altered traffic flows necessitated by changes to facilities, use, or to the nature of the business on the property.

Sec. 13 PERMIT MODIFICATION, REVOCATION, CLOSURE OF PERMITTED CONNECTIONS.

(1) **Revocation criteria.** All connection permits issued by the city prior to the effective date of this ordinance remain valid until revoked. The city may initiate action to revoke any permit if significant changes have occurred in the use, design, or traffic flow of the property requiring the relocation, alteration or closure of the connection; if the connection was not constructed at the location or to the design specified in the permit; or if the permit provisions were not met; or if the connection causes a safety or operational problem on the state highway system. The process to be followed by the city in the revocation of permits shall be consistent with the requirements of Chapter 34.05 RCW and this ordinace. The notification propcess is as follows:

(a) **Notification, correction of deficiencies.** The city shall serve notice, to the permittee, permittee's successors or assigns, or property owner with a copy to the occupant, for any connection found to be in noncompliance with the conditions of the permit or this ordinance. The notice will identify and request that the deficiencies be corrected within thirty days of service of the notice. The notice shall further advise that the city's determination of noncompliance or deficiencies shall become final and conclusive thirty calendar days following service of the notice unless the violations are corrected or an adjudicative proceeding pursuant to Chapter 34.05 RCW is requested by the permittee, permittee's successor or assigns, or the property owner.

(2) **Costs.** The permittee, assignee, or property owner shall be responsible for the costs of closure due to revocation of a connection permit pursuant to this ordinance.

(3) **Emergency action.** This ordinance shall not restrict the city's right to take immediate remedial action, including the closure of a connection if there is an immediate and serious danger to the public health, safety, and welfare, pursuant to Chapter 47.32 RCW. In such event, the city shall conform to the provisions for emergency adjudicative proceedings in RCW 34.05.479 and rules adopted thereunder.

Sec. 14 CLOSURE OF UNPERMITTED CONNECTIONS. Closure criteria, permit requirements. Any unpermitted connections to the state highway system which were in existence on July 1, 1990, shall not require the issuance of a permit and may continue to provide connection to the state highway system, unless the property owner had received written notification initiating connection closure from the city prior to July 1, 1990, or unless the city determines that the unpermitted connection does not meet minimum acceptable standards of highway safety. The city may require that a permit be obtained if a significant change occurs in the use, design, or traffic flow of the connection or of the state highway to which it provides access. If a permit is not obtained, the city may initiate action to close the unpermitted connection point pursuant to RCW 47.50.040. Any unpermitted connection opened subsequent to July 1, 1990, is subject to closure by the city. The process to be followed by the city in the closure of an unpermitted connection shall be consistent with Chapter 34.05 RCW and rules adopted thereunder. The notification process is as follows:

(1) **Notification.** The city shall serve notice, in accordance with rules adopted pursuant to Chapter 34.05 RCW, upon the property owner of a connection to a state highway which is found by the city to be unpermitted. This notice shall clearly describe the highway connection violation and shall establish a thirty day time limit for either applying for a connection permit or requesting an adjudicative proceeding pursuant to Chapter 34.05 RCW. The sole issue to be determined at the adjudicative proceeding is whether a permit should be required. The notice will further advise the property owner that failure to act in either of the prescribed ways within the time period will result in city closure of the unpermitted connection.

(2) **Permit Application.** If a permit application is filed within the thirty days, and the application is denied, the city shall notify the property owner of the denial. The property owner may then proceed with the permit application revision process set forth in his ordinance or request an adjudicative proceeding pursuant to this ordinance within thirty days. Failure to act in either of those prescribed ways within the time period set forth in the rules will result in city closure of the unpermitted connection. If the location and design of the connection in the permit application are acceptable to the city, the existing connection may continue to be used for a specified period of time or until the connection specified in the permit application is constructed.

(3) **Approval Conditions.** Modifications, relocation, or closure of unpermitted connections may be required by the city as a requirement of permit approval, subject to the adjudicative proceedings provisions of this ordinance.

ADJUDICATIVE PROCEEDINGS

(1) **Application.** Any person who is the recipient or otherwise has standing to challenge the denial of a permit application pursuant to this ordinance; a permit with conditions pursuant to this ordinance; a notice of permit modification, revocation, or closure of permitted connection pursuant to this ordinance; or notice of closure of an unpermitted connection pursuant to this ordinance may apply for an adjudicative proceeding on the matter within 30 days of the date the initial determination of the city is mailed to the recipient.

(2) **Conduct.** Thereafter, the city shall convene a brief adjudicative proceeding.

(3) **Brief adjudicative hearings.** The city hereby adopts RCW 34.05.482 through 34.05.494 pertaining to brief adjudicative proceedings for purposes of hearing challenges under the provisions listed in subsection (1) of this section.

(4) **Failure to apply.** Failure to apply for an adjudicative proceeding within the times set forth in subsection (1) of this section shall result in the adoption of the city's initial determination as its final determination.

(5) **Failure to participate.** Failure to attend or otherwise participate in the brief adjudicative proceeding may result in a finding of default.

EFFECTIVE DATE This ordinance shall become effective from and after its passage by the council, approval by the Mayor, and five days after publication as required by law.

PASSED BY THE CITY COUNCIL this 21st day of September, 1993.

APPROVED:

John G. Shaw

John G. Shaw, Mayor

ATTEST:

Kathy Jones, City Clerk/Treasurer

APPROVED AS TO FORM:

Michael D. Howe, City Attorney