

**CITY OF LIBERTY LAKE
SPOKANE COUNTY, WASHINGTON
ORDINANCE NO. 141**

**AN ORDINANCE OF THE CITY OF LIBERTY LAKE, SPOKANE COUNTY,
WASHINGTON, ADOPTING STANDARDS AND PROCEDURES FOR
CONSTRUCTION WORK AND ACTIVITY WITHIN CITY RIGHT-OF-WAY**

WHEREAS, it is often necessary to perform work and/or otherwise conduct activities within the public right-of-way;

WHEREAS, to ensure the public safety and protect the public's interest in the right-of-way, the City Council has determined that a permit should be obtained when work or activity obstructs the public right-of-way; and

WHEREAS, the City Council has determined that the regulation and permitting of construction work within the streets and rights-of-way of the City of Liberty Lake are necessary to protect the safety and general welfare of the traveling public.

NOW, THEREFORE, the City Council of the City of Liberty Lake, Spokane County, Washington, do ordain as follows:

Section 1. Definitions. For the purposes of this Ordinance the following terms, phrases and words shall have the following meaning.

- A. "Applicant" is any person, firm or entity making written application to the Director for an obstruction permit.
- B. "City" is the City of Liberty Lake.
- C. "Construction work" is the excavation or above ground construction work permitted under this Ordinance to install, repair, replace or maintain an improvement or public infrastructure.
- D. "Easement" means any City easement for access or public utilities.
- E. "Emergency" means an unforeseen event or combination of events that requires immediate action to be taken to repair improvements in the Right-of-Way in order to protect the public health and safety.
- F. "Improvement" is any public or private improvement, including the property of public utilities.
- G. "Mayor" includes a designee. Where decisions or approvals are to be made by the

City, the Mayor shall make the decisions or recommendations.

- H. "Obstruction permit", also known as a right-of-way permit, is the authorization granted by the City to perform work or conduct activity in a specified right-of-way or easement.
- I. "Permittee" is any person who has been granted and has in full force and effect a permit issued hereunder.
- J. "Person" is any person, firm, corporation or service provider.
- K. "Public Infrastructure" is any necessary construction, performed within the City right-of-way or on private property, to install facilities, including streets, sidewalks, storm drainage, street lights, sanitary sewers and/or water lines and necessary appurtenances, as identified in City standards.
- L. "Right-of-Way" or "Public Way" means all property in which the City has any form of ownership or title and which is held for public street or utility purposes, regardless of whether or not any street or utility exists thereon or whether it is used, improved or maintained for public use.
- M. "Street" is any street, highway, sidewalk, alley, avenue or other public way, easement, or other public place in the City.

Section 2. **Obstruction Permit Required.** An obstruction permit is required of any person who performs construction work or otherwise engages in an activity within existing or proposed City rights-of-way, streets, easements, or on City owned infrastructure. Work done on behalf of the City requires an obstruction permit. In the case of an emergency, a private or public utility may commence work prior to obtaining a permit, provided: 1) the City Police Department is notified and, 2) the person obtains an obstruction permit within forty-eight (48) hours after work is commenced or on the first City business day following the elapsed forty-eight (48) hour period.

No construction work shall be performed by a provider of utility service until a franchise agreement has been executed by the City. City franchise agreements may authorize work without an obstruction permit. The City Council reserves the right through franchise agreement to modify, waive or establish new or different conditions related to construction work.

Section 3. **Obstruction Permit-Application.** No obstruction permit shall be issued unless a written application is submitted and approved by the City. The application shall, at a minimum, contain the following:

- A. Construction plans or drawings approved by the City, if required;
- B. The period of time during which the right of way will be obstructed; and

C. Proof that the contractor and any subcontractor have satisfied all state licensing and insurance requirements.

Depending upon the nature and extent of the construction activity or work, the City may require engineering, restoration and drainage plans prepared by a Washington licensed engineer at applicant's sole cost and expense.

Section 4. Obstruction Permit Fees. Obstruction permit fees shall be established by Resolution of the City Council.

Section 5. Notice Required. The applicant shall give the City Clerk notice not less than forty-eight (48) hours before any work or activity is commenced and shall notify the City Clerk upon completion of the same. In the event of an unexpected repair or emergency, work may be commenced as required under the circumstances. Unexpected repairs and emergency work shall comply with all other requirements of this Ordinance.

Section 6. Construction Standards. All work within the City right-of-way shall be in accordance with adopted City Standards in effect at the time of the application for the permit. These include but are not limited to current versions of the Spokane County Standards for Road and Sewer Construction as adopted by the City; the Manual on Uniform Traffic Control Devices (MUTCD); Washington State Department of Transportation (WSDOT) Standard Specifications for Road, Bridge and Municipal Construction; and applicable standards of the American Public Works Association (APWA), ("City Standards").

Section 7. Maintaining Access. In the event it is necessary for the permittee to excavate the entire width of the street, no more than half of the street shall be opened for construction and closed to traffic at one time. Such portion of the work shall be backfilled and completed before the remaining portion of the street may be excavated. If it is impossible, infeasible or unsafe to permit the work while maintaining an open lane for traffic, the City may, with the concurrence of the Chief of Police, permit the street to be blocked for a short period of time where suitable detours can be provided and the public will not be unnecessarily inconvenienced. The permittee shall furnish facilities, such as bridges or other suitable means, or clearly identify appropriate detours, to allow the flow of traffic without unnecessary congestion. Appropriate signage and traffic control shall be furnished in accordance with the MUTCD.

Section 8. Traffic Control. Permittee is responsible for all traffic control and assumes the responsibility to maintain appropriate signage, signals and barricades that protects the public safety, in accordance with the MUTCD. Permittee shall provide for the safe operation of all equipment, vehicles and persons within the right of way.

Section 9. Damage to Existing Improvements. All damage to existing public or private improvements during the progress of the construction work or activity shall be repaired by the permittee. Methods and materials for such repair shall conform to adopted City Standards. If the permittee fails to furnish the necessary labor and materials for such repairs, the Mayor shall have the authority to cause said necessary labor and materials to be furnished by the City and the cost shall be charged against the permittee. Such charge shall be immediately paid by permittee and shall, if not paid on demand, be deemed a valid claim on the bond filed with the City.

Section 10. City's Right to Restore Right-of-Way and Easements. If the permittee fails to restore any City right-of-way or easement to its original and proper condition upon the expiration of the time fixed by such permit or shall otherwise fail to complete the right-of-way construction work covered by such permit or if the work of the permittee is defective and the defect is discovered within one (1) year from the completion of the right-of-way construction work, the City or designee shall have the right to do all work and things necessary to restore the right-of-way and/or easement and to complete the right-of-way construction work.

The permittee shall be liable for all costs and expenses of restoration or completion. The City shall have a cause of action for all fees, expenses and amounts paid for such work. Following demand, the City may enforce its rights pursuant to Washington law. No additional permits shall be granted until the invoice for City-performed work has been paid.

Section 11. Bond. For the purpose of providing for the completion of the work or otherwise restoring the right of way to City standards, applicant shall post a performance bond with the City Clerk. The bond shall be: (1) issued by a surety licensed to do business in the State of Washington and (2) in an amount equal to one hundred percent (100%) of the estimated cost of the work (or other reasonable measure of value) solely determined by the City. If the improvements have not been timely or satisfactorily completed, the City shall give notice of the same to permittee. The Notice shall state: (1) the work to be done; (2) the time to complete the work which shall not exceed thirty (30) days; and (3) that if the work is not commenced and completed within the time allotted, the City will cause the work to be completed and use the bond proceeds to pay for the same. All costs in excess of the bond proceeds may be recovered through appropriate legal action by the City Attorney.

A bond may be waived where proof of self-insurance is provided. The City is authorized to reduce the amount of the Bond where good cause exists.

Section 12. Insurance-Evidence. Permittee, prior to the commencement of construction hereunder, shall furnish the City satisfactory evidence in writing that the permittee has in force during the performance of the construction work or activity, commercial general liability insurance of not less than one million dollars (\$1,000,000.00) per occurrence and one million dollars (\$1,000,000.00) general aggregate duly issued by an insurance company authorized to do business in the State of Washington. The policy shall name the City as an additional named insured. The City may reduce the insurance limits if good cause exists.

Section 13. Indemnification and Hold Harmless. The permittee shall defend, indemnify and hold harmless the City, its officers, officials, employees and volunteers from any and all claims, injuries, damages, losses or suits, including attorney fees, arising out of the permit issued under this ordinance except as may be caused by the negligence or willful conduct on the part of the City.

Section 14. Rules and Policy. To implement the obstruction permit and provide for the public health and safety, the City may develop and adopt rules, policies and forms consistent with the ordinance. All adopted rules, policies and forms shall be filed with the City Clerk.

Section 15. Penalties. Any person violating the provisions of this Ordinance shall be deemed to have committed a Class I Civil Infraction. For any violation of a continuing nature, each day's violation shall be considered a separate offense.

Section 16. Severability. The invalidity of any section, subsection, provision, clause, or portion thereof, or the invalidity of the application thereof to any person or circumstance, shall not affect the validity of the remainder of this Ordinance or the validity of its application to other persons or circumstances.

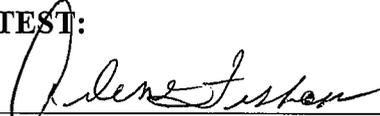
Section 17. Effective Date. This Ordinance shall be in full force and effect five (5) days after the date of publication of this Ordinance or a summary thereof in the official newspaper of the City.

Passed by the City Council of the City of Liberty Lake on this 4th day of October, 2005.



Mayor, Steve Peterson

ATTEST:



Arlene Fisher, City Clerk

Approved As To Form:



Stanley M. Schwartz, City Attorney

Date of Publication: 10/13/05
Effective Date: 10/17/05

City of Liberty Lake
Liberty Square Building
22710 E Country Vista Drive
Liberty Lake, WA 99019
(509) 755-6700

**NOTICE OF ORDINANCE PASSED
BY LIBERTY LAKE CITY COUNCIL**

The following is the title and summary of Ordinance No. 141 passed by the City of Liberty Lake City Council on the 4th day of October, 2005.

**AN ORDINANCE OF THE CITY OF LIBERTY LAKE, SPOKANE COUNTY,
WASHINGTON, ADOPTING STANDARDS AND PROCEDURES FOR
CONSTRUCTION WORK AND ACTIVITY WITHIN CITY RIGHT-OF-WAY.**

The introductory paragraphs state that the City has determined that the regulation and permitting of construction work or activity within the streets and rights-of-way of the City are necessary when such work or activity obstructs the public right-of-way, in order to protect the safety and general welfare of the traveling public.

Section 1 defines terms used in the ordinance.

Section 2 requires an obstruction permit prior to performing construction work within existing or proposed City property

Section 3 establishes the application requirements.

Section 4 states obstruction permit fees will be established by Resolution of the City Council.

Section 5 requires notice prior to commencing and upon completion of work.

Section 6 states all work must be in accordance with adopted City Standards.

Section 7 requires access be maintained during the work.

Section 8 establishes signage and traffic control responsibilities.

Section 9 prohibits and provides remedies for damage to public property.

Section 10 allows the City to restore public property at the permittee's expense.

Section 11 requires a performance bond prior to performing work.

Section 12 establishes insurance requirements.

Section 13 sets forth indemnification and hold harmless requirements.

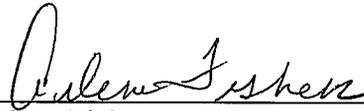
Section 14 allows City administration to adopt rules consistent with this Ordinance.

Section 15 provides that violations of this Ordinance shall be a Class I Civil Infraction.

Section 16 contains a severability clause.

Section 17 states the effective date of the Ordinance.

The full text of the Ordinance is available at the City of Liberty Lake City offices as identified above. A copy will be mailed out upon request.

A handwritten signature in cursive script, appearing to read "Arlene Fisher", written over a horizontal line.

Arlene Fisher
City Clerk-Treasurer

Published: