

**ORDINANCE NO. 241A
CITY OF LIBERTY LAKE
SPOKANE COUNTY, WASHINGTON**

**AN ORDINANCE OF THE CITY OF LIBERTY LAKE, WASHINGTON ADOPTING
REQUIREMENTS FOR CONTROL OF PUBLIC RIGHTS OF WAY ACTIVITY
WITHIN THE CITY OF LIBERTY LAKE**

WHEREAS, RCW 47.24.020 authorizes the City of Liberty Lake (“City”) to grant, permit and regulate activity within the public rights of way for the purpose of maintaining the surface of the roadway in a safe, consistent manner throughout the City, and

WHEREAS, the City desires to provide consistency for those utilities and entities that may not be required to obtain a franchise agreement to use the public rights of way within the City; and

WHEREAS, the City will not unreasonably withhold permits from qualified applicants for work within the public rights of way; and

WHEREAS, the City Council finds that the granting of permits for work within the public rights of way is in the best interest of the public, and

WHEREAS, the City adopted engineering design standards on June 20, 2017 as part of Ordinance No. 241; and

WHEREAS, the City wishes to add additional requirements to the adopted engineering design standards.

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

Section 1. A new Section 6 within the City’s Engineering Design Standards is hereby adopted as follows:

6.0 Right-of-Way Permit and Use Requirements

1. **Right-of-Way Permit Applicability.** Unless exempt from permit requirements, a right-of-way permit is required of any person, company, entity, or utility who performs construction work or otherwise engages in activity within existing City rights-of-way, or on City-owned infrastructure. A right-of-way permit authorizes a permittee to perform work or conduct activity in a right-of-way or easement.

Permits shall be required, at a minimum, for the following:

- A. Work involving excavation within the right-of-way, or
- B. Work involving the temporary storage of materials for use on private property; or
- C. Work involving any alteration of the public rights of way. Alteration of the public rights of way may include the following:
 - i. Cutting or placement of pavement, sidewalks, curbs or gutters,
 - ii. Excavation beyond the curbs on or in the roadside(s),
 - iii. Installation of new cables, wires, or conduits.

Permits shall not be required for repair of existing sprinkler/irrigation systems, provided, expansion of or installation of new irrigation systems within the public right of way shall require a permit.

Any exemption from the right of way permit requirements shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of the Liberty Lake Municipal Code or any other laws, ordinances or standards of this jurisdiction, or the state of Washington.

2. **Expiration.** Right-of-way permits issued between April 1st and September 30th are valid for thirty (30) days from the date of issuance with an available extension up to thirty (30) days in the sole discretion of the City Engineer, or his/her designee. Any such extension request, shall be made in writing to the City Engineer. Right-of-way permits issued between October 1st and March 31st shall be valid until the following April 30th.
3. **Emergency Repairs.** In the case of an emergency repair, a private or public utility may commence work prior to obtaining a permit, provided the person responsible for the work obtains a construction permit within forty-eight (48) hours after work is commenced or on the first City business day following said elapsed forty-eight (48) hour period.
4. **Right-of-Way Permit – Application.** No right-of-way 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, including identification of all contractors and subcontractors that may provide services in the right-of-way;
 - B. A traffic control plan, if the work impacts the traveling public in any way;
 - C. The period of time during which the right-of-way will be obstructed;
 - D. Written proof of all contractor and subcontractor state licensing and insurance requirements, including submission of the necessary documents satisfying such requirements prior to commencement of work in the right-of-way; and
 - E. Any other requirements as deemed necessary by the City to ensure that the applicant has adequately addressed issues of constructability and public safety.

Depending upon the nature and extent of the construction activity or work, the City may require:

- F. Engineering, restoration and drainage plans prepared by a state of Washington licensed engineer at the applicant's sole cost and expense; and
- G. Payment and performance bonds meeting the City's standards for public works construction at the applicant's sole cost and expense.

At the discretion of the City, a multiple-use permit may be available for licensed and bonded businesses and public utilities. The multiple-use permit shall expire at the end of each City fiscal year.

5. **Right-of-Way Permit Fees.** Permit fees shall be assessed in accordance with the currently adopted City of Liberty Lake Fee Schedule.
6. **Notice Required.** The applicant shall give to the City notice not less than two (2) working days before any work or activity is commenced and shall notify the City upon completion of the same. If a traffic control plan is required to be submitted with the application, the applicant shall give the City not less than three (3) working days' notice. 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 Section.
7. **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 City of Liberty Lake Engineering Design; the Spokane Regional Stormwater Manual; 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).
8. **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 and fire chief, 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 and at permittee's sole cost and expense.
9. **Traffic Control.** Any person or company that performs construction work or otherwise engages in activity within the existing City rights-of-way, or on City-owned infrastructure, is responsible for all traffic control and assumes the responsibility to maintain appropriate signage, signals and barricades that protect the public safety, in accordance with the most current version of the MUTCD adopted by the State of Washington. The person or company shall provide for the safe operation of all equipment, vehicles and persons within the right-of-way and any costs associated therewith.
10. **Damage to Existing Infrastructure.** All damage to existing public or private infrastructure and/or property 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 City 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 the permittee and shall, if not paid on demand, be deemed a valid claim on the bond filed with the City.

11. **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 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.
12. **Restoration and Completion.** 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 this section. No additional permits shall be granted until the invoice for City- performed work has been paid.
13. **Insurance – Evidence.** The 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 \$1,000,000 per occurrence and \$2,000,000 general aggregate duly issued by an insurance company authorized to do business in Washington. In addition, the policy shall name the City as an additional named insured. The City may reduce the insurance limits if good cause exists.
14. **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 section except as may be caused by the negligence or willful conduct on the part of the City.
15. **Rules and Policy.** To implement the right-of-way permit and provide for the public health and safety, the City, under the supervision of the City Administrator, or his/her designee, may develop and adopt rules, policies and forms consistent with this section. All adopted rules, policies and forms shall be filed with the City Clerk.
16. **Violations – Penalties.** Any person violating the provisions of this Section shall be subject to all enforcement actions and penalties, including those set forth in Title 1, Chapter 4, of the Liberty Lake Municipal Code.
17. **Liability.** The express intent of the City of Liberty Lake is that the responsibility for compliance with the provisions of this chapter shall rest with the permit applicant and their agents. This chapter and its provisions are adopted with the express intent to

protect the health, safety, and welfare of the general public and are not intended to protect any particular class of individuals or organizations.

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 after publication of this Ordinance or a summary thereof in the official newspaper of the City as provided by law.

PASSED by the City Council this _____ day of October, 2017.

MAYOR STEVE PETERSON

ATTEST:

ANN SWENSON, City Clerk

APPROVED AS TO FORM:

SEAN P. BOUTZ, City Attorney