

**CITY OF SAMMAMISH
WASHINGTON
ORDINANCE NO. O2010-285**

**AN ORDINANCE OF THE CITY OF SAMMAMISH,
WASHINGTON, AMENDING TITLE 14, PUBLIC WORKS
AND TRANSPORTATION, OF THE SAMMAMISH
MUNICIPAL CODE BY ADDING CHAPTER 14.30, RIGHT
OF WAY USE PERMITS**

WHEREAS, the City finds it to be in the best interests of the city to allow certain non-city use of the public rights-of-way; and

WHEREAS, the City's current right-of-way use permit regulations do not allow adequate flexibility in their application; and

WHEREAS, the City's current right-of-way use permit regulations treat all non-city uses of the City's rights-of-way the same; and

WHEREAS, the City Council finds it to be in the best interests of the health, safety and welfare of its citizens to have more flexible right-of-way use permit regulations;

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SAMMAMISH,
WASHINGTON, DOES ORDAIN AS FOLLOWS:**

Section 1. Right of Way Use Permits. Chapter 14.30, Right of Way Use Permits, as contained in Attachment "A", which is hereby incorporated herein by this reference, is hereby added to Title 14, Public Works and Transportation, of the Sammamish Municipal Code.

Section 2. Severability. Should any section, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this Ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances.

Section 3. Effective Date. This Ordinance shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after the date of publication.

**ADOPTED BY THE CITY COUNCIL AT A SPECIAL MEETING THEREOF ON
THE 27TH DAY OF JULY 2010.**

CITY OF SAMMAMISH



Donald J. Gerend, Mayor

ATTEST/AUTHENTICATED:



Melonie Anderson, City Clerk

Approved as to form:



Bruce L. Disend, City Attorney

Filed with the City Clerk:	July 14, 2010
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Attachment A

Chapter 14.30 Right of Way Use Permits

Sections:

- 14.30.010 Purpose – Permit required.
- 14.30.015 Definitions.
- 14.30.020 Right-of-way use permit application process and fee.
- 14.30.025 Right-of-way use permit types.
- 14.30.030 Type A Right-of-way special use permit.
- 14.30.040 Type B Right-of-way construction permit.
- 14.30.050 Type C Right-of-way utility permit.
- 14.30.060 Type D Right-of-way lease permit
- 14.30.070 Revocation or suspension of permit.
- 14.30.080 Enforcement.

14.30.010 Purpose – Permit required.

The purpose of this chapter is to establish minimum rules and regulations for controlling and enforcing right-of-way uses to assure that proposed uses are consistent with the public health, safety, and welfare of the community, and that harm or nuisance which may result from a proposed right-of-way use is prevented.

It shall be unlawful for anyone to make private use of any public right-of-way without a right-of-way use permit issued by the city, or to use any public right-of-way without complying with all provisions of a permit issued by the city.

14.30.015 Definitions.

The following words and phrases, wherever used in this chapter, shall have the meanings ascribed to them in this section except where otherwise defined or unless the context shall clearly indicate to the contrary.

A. “Abutting property” means and includes property bordering upon and contiguous to a public right-of-way as defined herein.

B. “Applicant” means any person, company, corporation, enterprise, or entity applying for the issuance or renewal of a right-of-way use permit or any person, company, corporation, enterprise, or entity that has been issued a right-of-way use permit.

C. “Application” means, for the purposes of this chapter, the collection of papers or electronic data necessary to initiate a right-of-way use permit request, and shall include an application in the form approved by the city, and other submittals consistent with the purposes of this chapter.

D. “Private use” means use of the public right-of-way for the benefit of a person, partnership, group, organization, company, corporation, entity or outside jurisdiction other than as a public thoroughfare for any type of vehicle, pedestrian, bicycle or equestrian travel.

E. “Right-of-way” or “ROW” means and includes streets, avenues, ways, boulevards, drives, places, alleys, sidewalks, landscape (parking) strips, squares, triangles, easements and other rights-of-way open to the use of the public, including the space above or beneath the surface of same. This definition specifically does not include streets, alleys, ways, landscape strips, sidewalks, easements, etc. which have not been deeded, dedicated, or otherwise permanently appropriated to the city for public use.

F. "Special event" means an event which will generate or invite public participation, and/or spectators, for a particular and limited purpose and time including, but not limited to, fun runs/walks, roadway foot races, fundraising walks, bike-a-thons, parades, block parties, carnivals, shows, exhibitions and fairs.

14.30.020 Right-of-way use permit application process and fee.

A. The city engineer or designee, herein referred to as "the city," shall establish policies and procedures to administer the permit program.

B. Applicants may be required to submit, in addition to the application form, any documents the city deems necessary for the city to perform an accurate evaluation of the right-of-way use permit application.

C. Decisions regarding issuance, renewal, denial, or termination of any such permits shall be subject to insurance requirements, bond requirements, indemnification and hold harmless agreements, the capacity of the rights-of-way to accommodate the applicant's proposed facilities or use, evaluation of competing public interests, and any other administrative requirements applicable to the permit.

D. As part of a complete right-of-way use permit application, the applicant shall submit to the city, at the time of application, right-of-way use permit fees, including a non-refundable application fee, as set forth in the most current City of Sammamish fee schedule.

E. If insurance is required, the insurance guidelines in city policy shall apply unless otherwise established by the city.

F. Conditions of approval will be identified during the city's review of the application and may include a certificate of insurance, indemnification and hold harmless agreement, traffic control plan, performance bond, time and use restrictions, video data, status reports, restoration of disturbed right-of-way features, or any other requirements the city deems necessary to protect the right-of-way and public health, safety, and welfare.

14.30.025 Right-of-way use permit types.

A. Type A: ROW Special Use Permit: is a short-term permit and allows the use of the right of way for non construction activities as described in SMC 14.30.030.

B. Type B: ROW Construction Permit: is a permit that allows the use of the right of way for construction activities as described in SMC 14.30.040.

C. Type C: ROW Utility Permit: is a permit that allows for the use of the right of way to construct or maintain utilities as described in SMC 14.30.050.

D. Type D: ROW Lease Permit: is a permit that allows long-term usage of public right of way for non construction activities as described in SMC 14.30.060.

14.30.030 Type A Right-of-way special use permit.

A. Type A ROW special use permit is required for any special event that is held within the public right of way or creates significant traffic impacts within the public right of way.

B. Type A ROW special use permit may be required for uses that are non-construction uses but not defined as a special event by this chapter.

C. Proof of insurance may be required with the city listed as an additional insured to protect the public and the city against liability for injury to persons or property.

14.30.040 Type B Right-of-way construction permit.

A. Type B ROW construction permits are required before any person, firm, corporation, company, enterprise or entity shall commence or permit any other person, firm, corporation, company, enterprise or entity to commence any work within the public right of way. Types of activities that would fall under a Type B ROW construction permit include but are not limited to

driveways, curbs, stormwater infrastructure, sidewalks, retaining walls, cutting or maintaining trees and haul routes. Construction work associated with a franchised utility provider or a telecommunication provider shall obtain a Type C ROW utility permit as described in SMC 14.30.050.

B. Proof of insurance shall be required, with the city listed as an additional insured, on all work within the right-of-way to address liability for injury to persons or property. Insurance amounts shall be those identified in Section 1-07.18 (Public Liability and Property Damage Insurance) of the Standard Specifications for Road, Bridge and Municipal Construction (current version) published by the Washington State Department of Transportation, and city amendments thereto. These insurance requirements may be modified at the discretion of the city.

C. A current city business license is required for any person performing work in the city right of way.

D. It is unlawful for any person to perform any work in city right-of-way unless operating under a valid state of Washington general contractor's license, or a valid state of Washington specialty contractor's license applicable to the type of work being performed.

E. Contractors are responsible for traffic control, work area protection/security and street maintenance to protect the life, health and safety of the public during any permitted work within the right-of-way, and all methods and equipment used will be subject to the approval of the city.

F. All streets, sidewalks, alleys, parkways, and other public right-of-way disturbed in the course of work performed under any permit shall be restored in accordance with the city of Sammamish public works standards or as required and approved by the city engineer.

G. All work within city right-of-way must be pursued to completion with due diligence, and if work is not completed within a reasonable length of time, as determined by the city engineer, the city shall cause the work to be completed at the applicants expense.

H. Any costs incurred by the city for right-of-way restoration will be charged to the property owner and/or developer employing the contractor.

14.30.050 Type C Right-of-way utility permit.

A. Type C ROW utility permits are required before any person, firm, corporation, company, enterprise or entity shall commence or permit any other person, firm, or corporation to commence any work within the public right of way associated with providing or maintaining franchised utilities or telecommunication facilities within the city right of way.

B. Proof of insurance shall be required, with the city listed as an additional insured, on all work within the right-of-way to address liability for injury to persons or property. Insurance amounts shall be those identified in Section 1-07.18 (Public Liability and Property Damage Insurance) of the Standard Specifications for Road, Bridge and Municipal Construction (current version) published by the Washington State Department of Transportation, and city amendments thereto. These insurance requirements may be modified at the discretion of the city.

C. A current city business license is required for any person performing work in the city right of way.

D. It is unlawful for any person to perform any work in city right-of-way unless operating under a valid state of Washington general contractor's license, or a valid state of Washington specialty contractor's license applicable to the type of work being performed.

E. Contractors are responsible for traffic control, work area protection/security and street maintenance to protect the life, health and safety of the public during any permitted work within the right-of-way, and all methods and equipment used will be subject to the approval of the city.

F. All streets, sidewalks, alleys, parkways, and other public right-of-way disturbed in the course of work performed under any permit shall be restored in accordance with the city of Sammamish public works standards or as required and approved by the city engineer.

G. All work within city right-of-way must be pursued to completion with due diligence, and if work is not completed within a reasonable length of time, as determined by the city engineer, the city shall cause the work to be completed at the applicants expense.

H. Any costs incurred by the city for right-of-way restoration will be charged to the property owner and/or developer employing the contractor.

14.30.060 Type D Right-of-way lease permit.

A. Type D ROW lease permits are required before any person, firm, corporation, company, enterprise or entity shall commence or permit any other person, firm, or corporation to commence any work within the ROW or utilize the unopened or unused public ROW for long term private benefit or use. Types of activities that fall under a Type D ROW lease permit include, but are not limited to, construction of fences, landscaping, private irrigation, sheds, private non-franchised utilities, and garages. Infrastructure associated with a franchised utility provider or a telecommunication provider shall obtain a Type C ROW utility permit as described in SMC 14.30.050.

B. Proof of insurance may be required with the city listed as an additional insured to protect the public and the city against liability for injury to persons or property.

C. At any time the city deems the area being leased is necessary for public benefit, the ROW Lease Permit may be terminated and the applicant will be required, at their expense, to move their facilities from the public ROW.

14.30.070 Revocation or suspension of permit.

All permits issued pursuant to this chapter shall be temporary, shall vest no permanent rights in the applicant, and may be revoked by the city as follows:

A. The permit may be immediately revoked by the city in the event of a violation of any of the terms or conditions of the permit; or

B. The permit may be immediately revoked by the city in the event the permitted special event or street use shall become dangerous to persons or property, or if any structure, site condition or obstruction permitted becomes insecure or unsafe; or

C. The permit may be revoked by the city upon 30 days' notice if the permit was not for a specified period of time and is not covered by either of the preceding subsections.

D. If any event, use or occupancy for which the permit has been revoked is not immediately discontinued, the city may remove any structure, site condition or obstruction, or cause to be made such repairs upon the structure, site condition or obstruction as may be necessary to render the same secure and safe, or to adjourn any special event. The cost and expense of such removal, repair or adjournment shall be assessed against the permittee, including all fees and costs associated with enforcement of the collection of same, including attorney's fees.

14.30.080 Enforcement

The City Engineer is authorized to enforce or seek enforcement of the provisions of this chapter, and ordinances and resolutions codified in it, and any rules and regulations promulgated thereunder pursuant to the enforcement and penalty provisions of SMC Title 23.