

RIGHT-OF-WAY (ROW) USE PERMIT REQUESTS INFORMATIONAL PACKET

Contents:

- 1. Right-of-Way Use Application (Form FE068) 1 page**
- 2. Right-of-Way Use Application Notice to Applicant (Form FE189) 1 page**
- 3. Indemnification and Hold Harmless Agreement (Form FE166) 1 page**
- 4. Performance Bond (Form FE174) 2 pages**
- 5. Right-of-Way (ROW) Use Permit Process (Form FE036) 2 pages**
- 6. General Conditions for Issuance of Right-of-Way (ROW) Use Permits (Form FE035) 4 pages**



Right-of-Way Use Application

City of Auburn Engineering Division

Permit #: _____

Name of Organization: _____

Officer/Agent/Person Requesting Permit & Title: _____

Address: _____ City/State/Zip: _____

Daytime Phone: _____ Email: _____

Desired Use of Right-of-Way (if needed please attach a letter to describe more detail regarding the request):

Location of Right-of-Way: _____

Date(s) Requested: _____

The Department requires the name and daytime telephone number of three (3) responsible persons, any of which can be contacted at any time during the life of the permit in the event the need arises.

Name: _____ Daytime Phone: () _____

Name: _____ Daytime Phone: () _____

Name: _____ Daytime Phone: () _____

Date: _____

Signature of Applicant _____

Documents Required:

- | | | | |
|--------------------------------|--------------------------|-----------------------------------------|--------------------------|
| Permit Application Fee * | <input type="checkbox"/> | Legal Description | <input type="checkbox"/> |
| Initialed Notice to Applicant | <input type="checkbox"/> | Contractor's Additional Insured | <input type="checkbox"/> |
| Signed Hold Harmless Agreement | <input type="checkbox"/> | Bond | <input type="checkbox"/> |
| Certificate of Insurance | <input type="checkbox"/> | Signed Petition (Abutting Prop. Owners) | <input type="checkbox"/> |
| Traffic Control Plan | <input type="checkbox"/> | | |

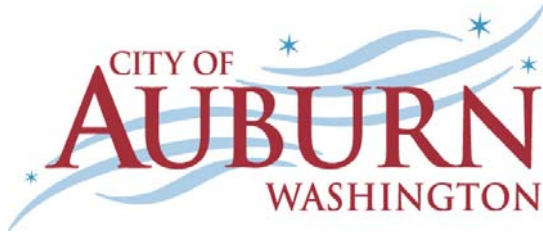
* Fee Schedule:

- Type B \$60.00
- Type C \$100.00 1st year
\$30.00 each add'l year # of years ____ TOTAL _____
- Type D \$100.00 plus add'l estimated staff time @ \$50/hour
- Street Closure add'l to Type B or C \$90.00
- Sidewalk Closure add'l to Type B or C \$60.00
- Parking Closure add'l to Type B or C \$60.00

NOTES AND/OR CONDITIONS

- 1) This permit does not constitute approval or compliance with the rules, regulations, or requirements of any other jurisdiction, which may relate to the above project.
- 2) If this permit is to be recorded with the County Assessor's Office, please attach a legal description.

For all questions, contact Amber Mund at 253.804.3120 or email amund@auburnwa.gov



Right-of-Way Use Application

Notice to applicant

Right-of-Way Use Permit # _____

1. Applicant acknowledges receipt of "General Conditions for issuance of Right-of-Way Use Permits"

Applicant's initials: _____

2. Applicant acknowledges that Right-of-Way Use Permit application fees are non-refundable.

Applicant's initials: _____

3. Applicant is responsible for planning in advance of the requested permit to allow sufficient time for City review and determination that the application is complete and adequate for providing a staff recommendation and forwarding to the Public Works Committee for consideration.

Applicant's initials: _____

4. Applicant understands that submittal of an application and payment of the application fee does not guarantee approval of the permit or limit in any way the conditions the City may place on the permit, if approved.

Applicant's initials: _____

5. Applicant is solely responsible for providing all elements of the application as the City determines is necessary to provide a complete and adequate application.

Applicant's initials: _____

6. Applicant acknowledges full responsibility for any liabilities arising from their use of the right-of-way.

Applicant's initials: _____

INDEMNIFICATION AND HOLD HARMLESS AGREEMENT

Permit Holder releases and shall defend, indemnify and hold harmless Auburn, its heirs, successors, and assigns, and the respective directors, officers, employees, contractors, and agents of Auburn and its heirs, successors, and assigns (collectively referred to as the "Indemnitees") from any and all claims, losses, costs, liabilities, damages and expenses (including, but not limited to, reasonable attorneys' fees) arising (whether before or after termination of the Term) out of or in connection with performance of this right-of-way permit, the enforcement of this permit by Auburn, any default under or breach of this permit by the Permit Holder or the acts or omissions of the Permit Holder or any of its suppliers, contractors or subcontractors of any tier, the respective successors and assigns of the Permit Holder or any such suppliers, contractors or subcontractors, the directors, officers, employees and agents of each of the foregoing, or anyone acting on the Permit Holder's behalf in connection with this permit. To the fullest extent permitted by applicable law, the foregoing release, indemnity and hold harmless shall apply regardless of any act, omission, fault, negligence or strict liability of the Indemnities; provided, however, that the Permit Holder shall not be required to so indemnify any Indemnitee(s) against any claim, loss, cost, liability, damage or expense to the extent the same is caused by or results from the negligence of any Indemnitee(s). In connection with any action to enforce this indemnification, the Permit Holder waives any immunity, defense, or protection under any workers' compensation, industrial insurance or similar laws (including, but not limited to, the Washington Industrial Insurance Act, Title 51, of the Revised Code of Washington). Auburn is willing to grant this permit only in consideration of and in reliance upon such release, indemnity and hold harmless. Consequently, such release, indemnity and hold harmless shall be construed broadly in favor of the Indemnitees.

DATED THIS _____ DAY OF _____, 20__.

SIGNATURE OF PERMIT HOLDER

COMPANY OR ORGANIZATION

STATE OF WASHINGTON)
) ss.
County of _____)

On this day personally appeared before me _____, to me known to be the individual described in and who executed the within and foregoing instrument, and acknowledged that _____ signed the same as a free and voluntary act and deed, for the uses and purposes therein mentioned.

GIVEN under my hand and official seal this _____ day of _____, 20__.

NOTARY PUBLIC IN AND FOR THE STATE OF WASHINGTON, RESIDING AT _____

MY COMMISSION EXPIRES _____

****Your Bonding Company should fill in all the appropriate language for this form.**
NOTE: Dollar amount of Bond established by City.

PERFORMANCE BOND

BOND TO CITY OF AUBURN, WASHINGTON

KNOW ALL MEN BY THESE PRESENTS:

That we, the undersigned, (Name of Contractor seeking a Right of Way permit for work proposed within city right of way, who purchases the Bond), as principal, and (name of Bonding Company), a corporation, organized and existing under the laws of the State of State Bonding Company resides in as a surety corporation, and qualified under the laws of the State of Washington to become surety upon bonds of contractors with municipal corporations, as surety, are jointly and severally held and firmly bound to the City of Auburn, Washington, in the penal sum of XX,XXX Thousand and no/100 (\$XX,XXX) dollars, for the payment

of which sum on demand we bind ourselves and our successors, heirs, administrators or personal representatives as the case may be.

This obligation is entered into in pursuance of the statutes of the State of Washington and the Ordinances of the City of Auburn, Washington.

Dated at Auburn, Washington, this ____ day of _____, 20____, executed a right of way permit with the Owner/Contractor mentioned above as bounden principal. The said permit being identified as Right of Way Permit # _____, and providing for restoration of damages to city right of way and pavement in conjunction with permitted use which Right of Way Permit is referred to herein and is made a part hereof as though attached hereto, and

WHEREAS, the said principal has accepted, or is about to accept, the said agreement and undertake to perform the work therein provided for in the manner and within the time set forth:

NOW, THEREFORE, if the above bounden principal shall faithfully perform all of the provisions of said Right of Way Permit to include restoration of city street damages in the manner set forth under the permit special conditions, and shall pay all laborers, mechanics, sub-contractors and material men, and all persons who shall supply principal or sub-contractors with provisions and supplies for the carrying on of said work and shall hold said City of Auburn, Washington, harmless from any loss or damage occasioned to any person or property by reason of any carelessness or negligence on the part of said principal or any sub-contractor in the performance of said work, and shall indemnify and hold the City of Auburn, Washington, harmless from any damage or expense by reason of failure of performance, as specified in said agreement, and

The Surety, for value received, herein stipulates and agrees that no change, extension of time, alteration or addition to the terms of the permit or the work to be performed thereunder, or the specifications accompanying the same, shall in any way affect its obligations of this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the agreement or to the work or to the specification.

It is hereby expressly agreed that if any legal action is necessary to be brought under the conditions of this bond, that the decisions of the Courts of the State of Washington shall be binding.

IN WITNESS WHEREOF, the above-bounden parties have executed this instrument this _____ day of _____, 20__.

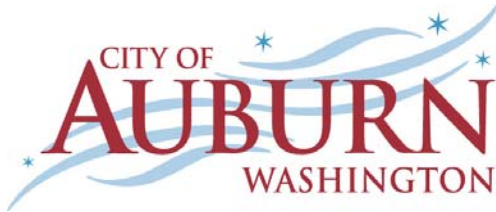
Principal

Surety

By _____
Attorney in Fact

Resident Agent's Firm Name

Resident Agent Address/Phone Number



RIGHT-OF-WAY (ROW) USE PERMIT PROCESS

1. Submit a Right-of-Way (ROW) Use Application to:
Amber Mund, Engineering Aide
Public Works Department
City of Auburn
25 West Main
Auburn WA 98001
2. Once the City receives your ROW Use Application, the Public Works Department staff will review the ROW Use Application and determine if additional information is needed. You will receive a phone call requesting any additional information.
3. Once the City receives all the additional information, staff will review the request once again. If the request is something that impacts the general public (i.e.: parade, road closure, use over 30 days) then the application will need to go before the Public Works Committee (PWC). The PWC meets twice a month and is made up of three Councilmembers. You will be notified of this meeting and may be requested to attend to answer questions regarding your application. At the PWC meeting, your application materials will be reviewed. If the request does not need to go to the PWC then it will take at least 5 working days for staff to review the request.
4. Periodically a ROW Use Application is approved contingent upon certain conditions being met. These conditions will be set forth in the ROW Use Permit. The ROW Use Permit will not be approved by the City Engineer until all conditions have been met.
5. If you have questions as to the status of your particular ROW Use application, please feel free to contact Amber Mund, Engineering Aide, at 253.804.3120.

The ROW Use Permit process takes approximately three weeks, if no problems arise and if requests for additional information are received in a timely manner.

GENERAL CONDITIONS FOR ISSUANCE OF RIGHT-OF-WAY (ROW) USE PERMITS

CONTRACTORS

1. Must be licensed with the State of Washington.
2. Provide Bond of 150% of job cost.
3. Must provide Hold Harmless Agreement for the City.
4. Must abide by insurance requirements below.
5. Must have additional insurance for "collapse", "underground" and "explosion" and "products and/or completed operations".
6. All subcontractors working for the contractor shall be covered by items 1-5 above.
7. Must submit a traffic control plan, consisting of a map of the area and indicating placement of cones and/or barricades. Cones and barricades must be supplied by the applicant.
8. Must comply with any special conditions/provisions.
9. If work is an emergency repair, Contractor agrees to comply with requirements under this section, on the next working day.

ALL OTHER APPLICANTS

1. Must abide by insurance requirements below.
2. Must provide Hold Harmless Agreement for the City.
3. May need to submit a traffic control plan, consisting of a map of the area and indicating placement of cones and/or barricades. Cones and barricades must be supplied by the applicant.
4. Must comply with any special conditions/provisions.
5. If the use involves blocking a street or portion of a street for a block party, carnival, sale, etc., the applicant must provide a petition signed by all persons whose access is affected by the use of the right-of-way.

BANNERS

- A. Other than where the city itself places a banner across a right-of-way, only organizations co-sponsoring community events or special events with the city may be entitled to apply for a right-of-way use permit for a banner, provided that the co-sponsor shall meet all of the following criteria:
 1. An Auburn-based organization;
 2. Nonpolitical in nature;
 3. A nonprofit organization (having obtained IRS certification as tax exempt under 26 U.S.C. 501(CC)(3)) or government entities;
 4. An organization that does not discriminate in regard to race, religion, color, gender, national origin, creed, age, marital status, veteran status, disability status, or any other basis prohibited by federal, state, or local law.
- B. Qualified applicants may display temporary banner signs. These signs shall not advertise or promote the sale of any product, commodity, or service for which a person pays a fee except a non-profit community event.
- C. In the event that there is a competing interest of qualified applicants for such a right-of-way use permit for a banner, the city shall give priority to community events. For organizations not advertising a community event, each qualified applicant may display banners for a maximum of two 7-day periods within any calendar year. In the event of a schedule conflict between a community event and another application, the community event shall take precedence.
- D. Banners shall conform to the city's standard detail for banners and shall be erected by the city on city-approved support standards at a city-designated location.

Requests to install banners shall be made by submitting a Right-of-Way Use application to the City Engineer who shall have the authority to administer the issuance of any such permits. The application shall be made on forms provided by the City Engineer and issuance of any such permit shall be subject to insurance requirements, bond requirements, hold harmless agreements and other administrative details as administered by the City Engineer.

Banners must be delivered to the Engineering Division in City Hall, 25 West Main Street, at least three (3) working days prior to the scheduled installation for inspection by Engineering Division personnel for conformity to Standard Banner Detail. City staff **will not** notify applicants if they have forgotten to bring their banner in on time. Banners must be picked up within 3 business days of being taken down.

In the event a banner requires emergency attention by the City of Auburn, the City will remove the banner, notify a person listed on the permit, and hold item or items at the Maintenance and Operation Yard (1305 "C" Street SW) for pickup. If a minor problem comes to the attention of the City, the problem (at the discretion of the City) may be corrected and permittee notified of further corrections, if necessary. Failure to make necessary corrections may result in removal of the banner.

FEE SCHEDULE

Right-of Way Use Permit Fees: *(Per Ordinance No. 6125)*

Type A – Banner: \$30.00

Type B – Short term: \$60.00

Type C – Long term: \$100.00 for the 1st year / \$30.00 for each additional year

Type D – Hauling: \$100.00 + estimated staff time @ \$50.00 per hour

The following additional fees may apply to Type B and Type C permits:

Street Closure – Type B or C: \$90.00

Sidewalk Closure – Type B or C: \$60.00

Parking Closure – Type B or C: \$60.00

Permits for 30 days or longer shall expire at the end of five years from date of issuance unless sooner terminated by the City. The applicant must ensure that the City has a current insurance certificate to be kept in the permit file at all times.

The application fee for a right-of-way use permit shall be paid at the time the application is filed, provided however, bona fide governmental agencies of the federal government or the State of Washington or subdivisions thereof shall be exempt from payment of said fee.

REFUNDS

Right-of-Way Use Permit application fees are non-refundable.

APPROVALS

1. All ROW Use Permit Applications (except for applications requesting a banner on East Main Street, haul route, or dumpster) shall be reviewed by City staff and approved by the Public Works Committee and City Engineer.
2. For certain uses the Public Works Committee may direct staff to draft a formal agreement that would require approval by the City Council where the Public Works Committee determines there may be future public concerns with the use that are not known at the time of the application.
3. For structures the City may require a financial security that guarantees the safe removal and restoration of ROW once the permit expires or terminates. A bank assignment of funds or bank letter of credit in the amount established by the City Engineer may be required at the discretion of the City Engineer. A staff review of the proposal will determine the need for such securities.

INSURANCE REQUIREMENTS FOR ROW USE PERMITS (unless otherwise noted in the special conditions for your permit)

The Applicant shall procure and maintain for the duration of the Permit, insurance against claims for injuries to persons or damage to property which may arise from or in connection with operations or activities performed by or on the Applicant's behalf with the issuance of this Permit.

No Limitation. Applicant's maintenance of insurance as required by the agreement shall not be construed to limit the liability of the Applicant to the coverage provided by such insurance, or otherwise limit the City's recourse to any remedy available at law or in equity.

Minimum Scope of Insurance

Applicant shall obtain insurance of the type described below:

1. Commercial General Liability insurance shall be written on Insurance Services Office (ISO) occurrence form CG 00 01 and shall cover products liability. The City shall be named as an insured under the Applicant's Commercial General Liability insurance policy using ISO Additional Insured-State or Political Subdivisions-Permits CG 20 12 or a substitute endorsement providing equivalent coverage.
2. Automobile Liability insurance covering all owned, non-owned, hired and leased vehicles. Coverage shall be written on Insurance Services Office (ISO) form CA 00 01 or a substitute form providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage.

Minimum Amounts of Insurance

Applicant shall maintain the following insurance limits:

1. Commercial General Liability insurance shall be written with limits no less than \$1,000,000 each occurrence, \$2,000,000 general aggregate and a \$2,000,000 products- completed operations aggregate limit.
2. Automobile Liability insurance with a minimum combined single limit for bodily injury and property damage of \$1,000,000 per accident.

Other Insurance Provisions

The insurance policies are to contain, or be endorsed to contain, the following provisions for Commercial General Liability insurance:

1. The Applicant's insurance coverage shall be primary insurance as respect the City. Any Insurance, self-insurance, or insurance pool coverage maintained by the City shall be excess of the Applicant's insurance and shall not contribute with it.

2. The Applicant's insurance shall be endorsed to state that coverage shall not be cancelled by either party, except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the City.

Acceptability of Insurers

Insurance is to be placed with insurers with a current A.M. Best rating of not less than A:VII.

Verification of Coverage

Applicant shall furnish the City with original certificates and a copy of the amendatory endorsements, including the additional insured endorsement, evidencing the insurance requirements of the Applicant before issuance of the Permit.

CONTACT INFORMATION

For questions regarding the ROW Use Permit Applications please contact Amber Mund, Engineering Aide, Auburn Public Works Department, at 253.804.3120 or send an email to: amund@auburnwa.gov .

Auburn Public Works Department (253) 931-3010

Office hours are Monday through Friday, except holidays, 8:00am-5:00 pm.

If you have an emergency while using the right-of-way, outside of the Public Works Department's normal business hours, please call 911.

SPECIAL NOTES

If this permit is to be recorded with the County Assessor's Office, please attach a legal description.