RIGHT OF WAY PERMIT INFORMATIONAL HANDOUT

WHAT IS RIGHT-OF-WAY (ROW)?

"Right-of-way" is defined as all public streets and property granted or reserved for, or dedicated to, public use for street purposes, walkways, paths, trails, sidewalks, bikeways and horse trails, whether improved, unimproved, or unopened, including the air rights, subsurface rights and easements.

WHAT IS A RIGHT-OF-WAY USE PERMIT?

A right-of-way use permit authorizes use of City rights-of-way for public and private activities.

HOW DO I KNOW WHICH TYPE OF RIGHT-OF-WAY PERMIT TO GET?

There are six different types of right-of-way use permits. The type of permit is determined by the type of use, the length of use, and whether the surface or sub-surface of the right-of-way will be impacted. Attached is a detailed description of each right-of-way permit type and the documentation required for a complete application.

HOW LONG DOES IT TYPICALLY TAKE TO RECEIVE APPROVAL OF A RIGHT-OF-WAY PERMIT?

Our goal is to issue the permit within three (3) weeks of receiving a complete application. Application submittal is required no later than 30 days before the proposed use of a street, sidewalk or public right-of-way. Applications for a new private use of the public right-of-way must be submitted at least 90 days before the proposed use.

HOW ARE RIGHT-OF-WAY USE PERMIT APPLICATIONS REVIEWED AND APPROVED?

Processing of a right-of-way use permit application usually includes the following steps:

Step 1: Application Submittal – The Applicant submits a complete permit application on MyBuildingPermit (MBP) with all required items identified on the checklist provided here.

Step 2: Review and Approval Process – The application packet is reviewed by Public Works Department staff. If necessary, staff will coordinate the review of your permit application with other departments, including Police, Fire, Parks and Recreation, Community Development, and/or Legal. The review process may require the applicant to meet with City staff to provide additional information. Identification or verification of other requirements or conditions to assure public safety or public use may result from the review process.

Step 3: Fees, Deposits and Insurance – Once the application has been approved, the applicant will be notified. Applicable permit and inspection fees plus a performance security (when required) must be paid before the permit is issued.

WHAT IS THE PURPOSE OF THE PERFORMANCE AND MAINTENANCE SECURITIES?

The City collects a performance and maintenance security for most projects. The security is held as a guarantee against potential costs to the City of Burien related to defective materials or workmanship and to ensure performance of other maintenance required by the improvements. A performance security is held until the project receives final acceptance by the City of Burien and the maintenance security is provided. The maintenance security is held for 24 months after the date of final acceptance of the improvements by the City of Burien.

HOW DO I NOTIFY THE CITY I AM READY TO START MY PROJECT?

The applicant or contractor must log into their MBP account at least 48 hours prior to the start of the permitted event or project to request an inspection.

Right-of-Way Use Permit Application Information

ARE THERE ANY OTHER REGULATIONS THAT MAY AFFECT MY RIGHT-OF-WAY PERMIT?

If your project is located within 100 feet of a critical area, such as: streams, lakes, shorelines, wetlands, flood hazard areas, aquifer recharge areas, geologically hazardous areas or within 800 feet of fish & wildlife habitat conservation areas, or is subject to the State Environmental Policy Act (SEPA), additional review may be necessary. If you think these rules might apply to your project, please contact the Community Development department at (206) 248-5510 prior to filing your application.

ARE THERE ANY OTHER WORKSHEETS THAT MAY BE REQUIRED?

A performance security value worksheet is required for sub-surface **TYPE C PERMITS** only.
Information that will be requested is found below:

A.	*Private On-site Work*	Value
1.	Public Improvements & Drainage Facility (proposed public facility & road)	$_____
2.	Stabilization/ Erosion Sediment Control (Site Restoration)	$_____
		$_____
3.	Private Improvements and other	
4.	Total Private On-Site Work (lines 1+2+3)	$_____
B.	*Public Improvements*	Value
5.	Existing Right-of-Way Improvements	$_____
6.	Other: _____	$_____
7.	Total Public Improvements (lines 5 + 6)	$_____
C.	*Total Value*	
8.	Total Performance Value (lines 4 + 7)	$_____
9.	Contingency Factor	X 1.3
10.	Total Security Value (line 8 x line 9)	$_____

Applicant will need to include a detailed written cost estimate from a qualified party. Any assets that will be installed within the public Right of Way will need to be itemized on the estimate. This form is found on MyBuildingPermit.com. Effective May 1, 2023, paper submissions will no longer be accepted. If you required additional assistance, please contact a permit tech at permittech@burienwa.gov.

Right-of-Way: General Terms and Conditions

1. Before any construction work begins, a permit must be approved and issued. Approved plans must be on-site during construction.
2. Work must begin within 90 days and be completed within 180 days of the date of issuance of the permit or the permit will be null and void, unless extended, in writing, by the Public Works Director or designee.
3. Applicant must comply with all applicable city, state, and federal laws, ordinances, codes, and regulations in performing the work authorized by the permit.
4. The Applicant is solely responsible for obtaining any permits or licenses required by other utilities. Copies of approved utility plans and permits are to be available for review by the Right-of-Way Inspector.
5. Any changes from the approved plan must be documented and approved by the City.
6. In the event the Applicant, in the course of performing work authorized by this permit, causes any damage of any kind to public or private property, the Applicant will repair the damage at its sole expense. Repair work shall begin without delay and continue uninterrupted until completed. If damage is extensive, the time allowed for repair will be prescribed by the City.
7. Any conditions determined by the City to be dangerous or non-compliant with permit conditions, may be corrected by the City at the Applicant's expense. Any work done by the City shall be deducted from any security deposit and any balances billed.
8. The Applicant warrants for a period of 24 months after final completion, the work performed under this permit.
9. The Permittee shall defend, indemnify and hold the City, its agents, counsel, directors, employees, officers, officials (appointed or elected), representatives, and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees, court costs, and expenses, arising out of or in connection with activities or operations performed by the Permittee or on the Permittee's behalf out of issuance of this Permit, except for injuries and damages caused by the sole negligence of the Public Entity. However, should a court of competent jurisdiction determine that RCW 4.24.115 applies to this Permit, then the Permittee agrees to defend, indemnify and hold the City, its agents, employees, directors, officers, officials (appointed and elected), and volunteers harmless to the maximum extent permitted thereunder. It is further specifically and expressly understood that the indemnification provided herein constitutes the Permittee's waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the parties. The provisions of this section shall survive the expiration or termination of this Agreement.
10. The City may unilaterally revoke, annul, terminate, revise, or amend this permit, including but not limited to:
    - Applicant's failure to conform to any applicable law or regulation.
    - Applicant's failure to comply with any condition, provision, requirement, or regulation stated in this permit;
    - Applicant's willful neglect of or failure to heed or comply with notices given to the Applicant;
    - Applicant's facilities not being installed, operated, or maintained in conformance with approved plans.
    - The City's need to utilize the space for public purposes.
11. Permit exceptions identified in Burien Municipal Code 12.18.080.

Notifications

1. Two days before starting work, the applicant must have all utilities located. Call One is a public utility locating service (1-800-424-5555). Privately installed facilities must also be located using a private utility locating service.

2. The Applicant is required to notify the City of Burien Public Works Department at least 48 hours before starting work and 24 hours before each required inspection. Failure to give notice will result in the assessment of a 1-hour inspection time charged against the Applicant.
3. Private property owners who may be affected by the proposed work must be notified in advance of potential disruptions in access or utility services.

Inspections

1. A pre-construction meeting is required for projects which involve excavation in the right-of-way.
2. Call the City Right-of-Way Inspector at (206) 439-3154 to schedule a pre-construction meeting.
3. The applicant or contractor must log into their MBP account at least 24 hours prior to the start of the permitted event or project to request an inspection.

Fees

1. The City of Burien Right-of-Way Inspector will inspect the project for compliance with permit conditions. The Applicant will reimburse the City for costs of project inspection.
2. Before the work is accepted by the City, all of the direct costs and expenses involved in administering this permit must be paid by the Applicant. These costs will include labor charges for inspection and supervision of work in progress, by City personnel.

Methods of Work (Per City of Burien Road Design and Construction Standards

1. Work in hard-surfaced roads will be jacked or bored. Exceptions will be on a case-by-case basis, with permission of the City.
2. Asphalt is to be cut in a neat line one (1) foot back from the trench. Minimum pavement restoration shall consist of 6.5 inches of crushed surfacing top course and 2-inches of Asphalt Concrete Class “B” or the original depth, whichever is greater.
3. Trees located in the right-of-way are to be protected. Cutting of trees with trunk diameters greater than four (4) inches is not allowed unless the City specifically approves their removal.
4. Traffic control in the work zone shall conform to the provisions of the current edition of the Manual of Uniform Traffic Control Devices (MUTCD). At a minimum, one-way traffic will be maintained through a work area at all times. Full street closures are only allowed with written approval by the City and require five days advance notice to affected parties.

Project Close Out

1. The right-of-way must be restored to original or better conditions.
2. Final Corrected Plans or “As Built Drawings” must incorporate all changes and revisions. Actual survey elevations of drainage conveyance and systems must be shown. Plans must be submitted in an electronic format to the Public Works Inspector.
3. Once a project has been completed, log in to MBP and request a final inspection. The inspector will provide you with a punch list of any outstanding items or Final and close your permit.

Insurance

1. The Permittee 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 Permittee’s behalf with the issuance of this Permit.

2. The Permittee's maintenance of insurance as required by the Permit shall not be construed to limit the liability of the Permittee to the coverage provided by such insurance, or otherwise limit the Public Entity's recourse to any remedy available at law or in equity.
3. The Permittee's Commercial General Liability insurance policy or policies are to contain or be endorsed to contain that they shall be primary insurance as respect the Public Entity. Any insurance, self-insurance, or self-insured pool coverage maintained by the Public Entity shall be excess of the Permittee's insurance and shall not contribute with it.
4. Insurance is to be placed with insurers with a current A.M. Best rating of not less than A: VII.
5. The Permittee shall furnish the Public Entity with original certificates and a copy of the amendatory endorsements, including the additional insured endorsement, evidencing the insurance requirements of the Permittee before issuance of the Permit.
6. The Permittee shall provide the Public Entity with written notice of any policy cancellation, within two business days of their receipt of such notice.
7. Failure on the part of the Permittee to maintain the insurance as required shall constitute a material breach of the Permit, upon which the Public Entity may, after giving five business days' notice to the Permittee to correct the breach, immediately terminate the Permit or, at its discretion, procure or renew such insurance and pay any and all premiums in connection therewith, with any sums so expended to be repaid to the Public Entity on demand.
8. If the Permittee maintains higher insurance limits than the minimums shown above, the Public Entity shall be insured for the full available limits of Commercial General and Excess or Umbrella liability maintained by the Permittee, irrespective of whether such limits maintained by the Permittee are greater than those required by this Permit or whether any certificate of insurance furnished to the Public Entity evidences limits of liability lower than those maintained by the Permittee.

TYPES OF RIGHT-OF-WAY PERMITS AND PERMIT CHECKLIST INFORMATION

Below is a description of the various types of right-of-way permits and a checklist of the information that must be submitted with the permit application. Please do not turn in your application until all the required items which apply to your project, marked with an "X" in the "Required" column below, have been obtained. If you have any questions, please contact the Public Works department at (206) 439-3154.

Find the application on MyBuildingPermit, where you will submit electronically. **Paper applications are no longer accepted**.

Type A: Short-term for Nonprofit **Fee: $50.00 + Inspection Fee @ $90/ hr.**

Permit is issued for 72 or less continuous hours for events which do not involve any physical disturbance of the right-of-way. Examples include but are not limited to non-profit assemblies, bike races, block parties, parades, parking, processions, non-motorized vehicle races, and street dances.

	Required	Included
Right-of-Way Use Permit Application Form – Completed and signed.	X	
Description of Event - Include date, time (including event set-up and take-down time) and specific location of event. Be sure to include every street to be closed or used.	X	
Site Plan - A map or sketch showing the location and layout of the event.	X	
Traffic Control Plan – A map showing how traffic will be controlled or directed during the event. If applicable, the plan must include a Detour Route Map and an itemized list of traffic control device types and sites. A sample of any road closure notifications (required to be distributed 72 hours in advance of an event) must also be provided.	X	
Certificate of Liability Insurance (COI) – COI with limits no less than $2,000,000 each occurrence, $2,000,000 general aggregate and $2,000,000 products- completed operations aggregate and automobile liability insurance with a minimum combined single limit for bodily injury and property damage of $1,000,000 per accident. The certificate binder must name the City of Burien as an additional insured and include endorsement pages.	X	
Appropriate fees and deposits – Due upon permit issuance.	X	

Type B: Short-term for Profit **Fee: $100.00 + Inspection Fee @ $90/ hr.**

Permit issued for 72 or less continuous hours for events which do not involve any physical disturbance of the right-of-way. Examples include but are not limited to fairs, house moves, temporary sales, and street closures.

	Required	Included
Right-of-Way Use Permit Application Form – Completed and signed.	X	
Description of Event - Include date, time (including event set-up and take-down time) and specific location of event. Be sure to include every street to be closed or used.	X	
Site Plan - A map or sketch showing the location and layout of the event.	X	
Traffic Control Plan – A map showing how traffic will be controlled or directed during the event. If applicable, the plan must include a Detour Route Map and an itemized	X	

list of traffic control device types and sites. A sample of any road closure notifications (required to be distributed 72 hours in advance of an event) must also be provided.		
Certificate of Liability Insurance (COI) – COI with limits no less than $2,000,000 each occurrence, $2,000,000 general aggregate and $2,000,000 products- completed operations aggregate and automobile liability insurance with a minimum combined single limit for bodily injury and property damage of $1,000,000 per accident. The certificate binder must name the City of Burien as an additional insured and include endorsement pages.	X	
Appropriate fees and deposits – Due upon permit issuance.	X	

Type C: Disturbance of Right-of-Way

Surface Improvements – Fee: $366.00 + Inspection Fee @ $90/ hr.

Subsurface activity or trenching – Fee: $366.00 + Inspection Fee @ $90/ hr.

Permit issued for 180 days for activities that may alter the appearance of or disturb the surface or subsurface of the right-of-way. Examples include but are not limited to borings, culverts, curb cuts, paving, installation of drainage facilities, fences, landscaping, painting/striping, sidewalks, trenching, and utility installation/repair.

	Required	Included
Right-of-Way Use Permit Application Form – Completed and signed.	X	
Road Improvement Plans – Show the extent, type, and location of existing and proposed road improvements. For simple projects which can be constructed with standard engineering details, this may be the only construction plan needed. **NOTE:** All projects which propose construction or installation of permanent facilities in the right of way require additional construction plans. See "*Type C - Additional Requirements Dependent Upon Work*" section below for details.	X	
Traffic Control Plan – Show how traffic will be controlled in the right-of-way during construction in order to prevent injury or damage to persons or property and to minimize disruptions to efficient pedestrian and vehicle travel. This plan shall be consistent with the Uniform Manual of Traffic Control Devices (MUTCD). If applicable, the plan must include a Detour Route Map and an itemized list of traffic control device types and sites. A sample of any road closure notifications (required to be distributed 72 hours in advance of work) must also be provided.	X	
Certificate of Liability Insurance (COI) – COI with limits no less than $2,000,000 each occurrence, $2,000,000 general aggregate and $2,000,000 products- completed operations aggregate and automobile liability insurance with a minimum combined single limit for bodily injury and property damage of $1,000,000 per accident. The certificate binder must name the City of Burien as an additional insured and include endorsement pages.	X	
Appropriate fees – Due upon permit issuance.	X	

Type C Permits - Additional Requirements Dependent upon Project Scope

All projects which propose construction or installation of permanent facilities in the right-of-way require additional construction plans. All plans are to be drawn to an appropriate engineering scale of 1":20', 1":40', or 1":50'. Plans can be combined and must be labeled appropriately.

Right-of-Way Use Permit Application Information

If your project includes any of the following actions, submit the required plan with your permit application.	Included	N/A
Demolition – Provide plan showing all significant trees, traffic controls, and structures to be removed or temporarily relocated during construction.		
Grading - Provide plan showing existing site conditions and proposed grading. For projects filling or cutting more than four feet, a minimum of three cross sections is required. Include grading calculations showing amount of cuts, fills, and earth work. Include any geotechnical reports documenting existing soil conditions and stability.		
Temporary Erosion Control (TESC) – Provide a plan prepared in compliance with the King County Surface Water Design (KCSWD) Manual and show locations of all temporary erosion control devices and proposed methods of Best Management Practices (BMP).		
Storm Water Drainage – Provide a plan in compliance with the KCSWD Manual, and stamped by a State of Washington licensed professional engineer. Show all existing and proposed drainage systems. Profiles are required for all new drainage facilities. Include a Technical Information Report (TIR) as outlined in the KCSWD manual.		
Landscaping – Provide a plan showing all existing and proposed landscaping. Specifications to include type, size, and planting schedule of plants. Show accurate drip line and trunk locations of all existing evergreen trees over 8" in diameter and deciduous trees over 12" in diameter. For any trimming or removal of trees, provide a certified arborist evaluation of the tree and recommendation. Landscaping requiring irrigation must include irrigation plans.		
Structural Engineering – Provide plan prepared by a Washington State Professional Engineer and showing proposed retaining walls, rockeries, towers, or other structures.		
Utility Impacts – Provide plan showing all existing and proposed underground facilities such as water, sewer, cable, electrical, and telecommunications. Include locations of inter-tie connection point service connections. Applicant must submit proposals to the appropriate power, phone, and cable companies and provide proof of utility approval for the proposed utility work. All facilities are to be installed underground, unless otherwise authorized through an approved franchise agreement or by the Public Works Director through the Type I permit review process (BMC 19.65.065).		
Survey (also known as a Base Map) – Survey prepared by a licensed professional showing all features including, but not limited to, drainage, traffic control, structures, driveways and significant trees (evergreen trees over 8” in diameter and deciduous trees over 12” in diameter). The survey shall include full width of right-of-way where work is to be done, as well as 50 feet on either side of the work. Survey must be tied to NAVD 88 Vertical datum and to NAD 1983/1991 Horizontal datum. Surveys to be used in short plats or road dedications must be tied to two separate monuments.		
Performance Security – Collected at 100% of cost, including materials and labor. A 30% contingency factor covering inflation, contingency, and City construction services will be applied to the labor and materials costs to determine the overall estimated project. Submit the Performance Security Value Worksheet and a detailed written cost estimate from a qualified contractor. Any assets that will be installed within the public right-of-way will need to be itemized on the estimate. City staff will review the estimate to determine the correct security value.		

Type D: Annual Permit **Fees: Annual - $75.00 for one year permit**
Long Term - $100 per year for multiple year permit
Assurance Deposit: To be determined by the Public Works Department

Issued for long-term use of the right-of-way, in excess of 72 hours, for uses that will not physically disturb the right-of-way. Examples of Annual Permits issued for not more than 1-year include but are not limited to recycling facilities, sales structures, sidewalk cafes, and mobile peddling. Examples of long-term annual permits include but are not limited to bus shelters and stops, loading zones, and special and unique structures (e.g. awnings, benches, and/or mailboxes).

	Required	Included
Right-of-Way Use Permit Application Form – Completed and signed.	X	
Description of Structures and Facilities to be located in right-of-way. Include name and contact information of person responsible for paying the annual renewal fee.	X	
Site Plan – A map or sketch showing proposed location of structure or item.	X	
Certificate of Liability Insurance (COI) – COI with limits no less than $2,000,000 each occurrence, $2,000,000 general aggregate and $2,000,000 products- completed operations aggregate and automobile liability insurance with a minimum combined single limit for bodily injury and property damage of $1,000,000 per accident. The certificate binder must name the City of Burien as an additional insured and include endorsement pages.	X	
Assurance Deposit – Deposit is required to cover the costs of facility removal after the permit has expired. The amount of the deposit will be determined by the Public Works Department based upon BMC 12.17.080.	X	
Appropriate Fees and Deposits – Payable upon issuance. For uses exceeding one year, the fee will billed to the identified responsible person on an annual basis.	X	

Type E: Hauling Loaded Vehicles **Fee: $100.00 + Inspection Fee @ $90/ hr.**

Issued for 180 days for activities having a potential to alter the appearance of or disturb the surface or subsurface of the right-of-way due to hauling large quantities, such as hauling six loaded vehicles/hour/eight- hour day for two or more consecutive days or hauling hazardous waste.

	Required	Included	N/A
Right-of-Way Use Permit Application Form – Completed and signed.	X		
Description and Quantities of material to be hauled over the right-of-way. Include number and frequency of trucks.	X		
Name and phone number of person responsible for the operation of the trucks.	X		
Map of Haul Route. Primary truck routes shall be used for as much of the route through the City of Burien as possible.	X		

Hazardous Materials Manufacture Data Sheets (MMDS) and a **Hazardous Materials Spill Response Plan** for each type of hazardous material being transported within the City of Burien.	X		
Certificate of Liability Insurance (COI) – COI with limits no less than $2,000,000 each occurrence, $2,000,000 general aggregate and a $2,000,000 products- completed operations aggregate and automobile liability insurance with a minimum combined single limit for bodily injury and property damage of $1,000,000 per accident . The certificate binder must name the City of Burien as an additional insured and include endorsement pages.	X		
Appropriate Fees and Deposits - Due upon permit issuance.	X		

Type F: Facilities Lease or Franchise **Fee: To Be Determined**

Issued for period in excess of 180 days for activities having the potential to alter the appearance of, disturb the surface or subsurface of the right-of-way, or for the location of permanent structures on the right-of way.

	Required	Included
Right-of-Way Use Permit Application Form – Completed and signed.	X	
Description of Structures and Facilities to be located in right-of-way.	X	
Name and Contact Information for person responsible for paying the monthly bill for right-of-way activities.	X	
Site Plan - A map or sketch showing the location of the proposed facility or structure.	X	
Certificate of Liability Insurance (COI) – COI with limits no less than $2,000,000 each occurrence, $2,000,000 general aggregate and $2,000,000 products- completed operations aggregate and automobile liability insurance with a minimum combined single limit for bodily injury and property damage of $1,000,000 per accident. The certificate binder must name the City of Burien as an additional insured and include endorsement pages.	X	
Assurance Deposit – Required to cover the costs of facility/structure removal after the permit has expired. Amount to be determined by the Public Works Department based upon BMC 12.17.080.	X	
Fee – Will be negotiated based upon the franchise agreement and the lease of facilities.	X	