



COMMUNITY DEVELOPMENT DEPARTMENT
Code Administration Division
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RIGHT OF WAY USE
REGULATORY LICENSE APPLICATION
 YMC Chapter 8.20

Fee: \$50.00 non-refundable application fee
 (annual renewal fee is \$25.00)

Select Type:

- Signs (including sidewalk signs)
- Business/Commercial Use
- Residential Use (single-family, or located within a residential neighborhood)
- Other _____

Applicant Info (must be owner or occupier of adjacent property):

Name: _____
 Address: _____
 City: _____ State: _____ Zip: _____
 Phone: _____ Alternate Phone: _____
 E-mail: _____

Location:

Describe Location: _____
 Purpose of Right of Way use: _____
 Type of Business Operated on Adjacent Property (if applicable): _____

Please Provide:

- A scaled Site Plan
- Plans and specifications for desired structure

Insurance

- Evidence of commercial liability insurance (prior to issuance of license) with the City of Yakima as an additional insured party; a copy of additional insured endorsement shall be included. See insurance requirements below:

Prior to the issuance of any permit pursuant to this chapter, the applicant shall file with the community and economic development director or his/her designee evidence of comprehensive public liability insurance, with limits of not less than five hundred thousand dollars combined single limit for bodily injury and property damage for residential uses and one million dollars combined single limit for bodily injury and property damage for business uses, with the city of Yakima named as an insured party, insuring against liability from injury or damage resulting from applicant's occupancy of or activities on public right-of-way under the permit to be issued, which insurance shall be maintained in effect during the term of the permit.

The issuance of this license does not entitle you to conduct business in violation of any federal, state or local laws applicable to the business operation.

Applicant Signature: _____ Date: _____

8.20.010 Use of public right-of-way without permit prohibited.

It is unlawful for any person to use, for a private purpose, any public right-of-way utilized for a public purpose without first obtaining a permit therefor pursuant to this chapter and without otherwise complying with provisions of this chapter applicable to such occupancy or use; provided, the provisions of this chapter shall not apply to work in public right-of-way performed by the city, its agents or contractors, or to occupancy and use of public right-of-way under the authority of any franchise granted by the city, or to persons using or occupying public right-of-way pursuant to some other permission or authority granted by the city.

This chapter shall not apply to political signs placed in public rights-of-way. Such areas may include but are not limited to the area between the sidewalk and the curb of a roadway. (Ord. 2009-15 § 1, 2009: Ord. 93-83 § 2, 1993: Ord. 2938 § 1, 1986: Ord. 1672 § 1 (part), 1974).

8.20.020 Definitions.

As used in this chapter, unless a different meaning clearly appears from the context, the following words, phrases, and terms shall have the following meanings ascribed to them:

1. "Person" means a natural person, partnership, corporation or any other legal entity.
2. "Public right-of-way" means streets, alleys, sidewalks, planting strips, and other public squares, places and rights-of-way open to the use of the public including the space above and beneath the surface of such public rights-of-way.
3. "Use" means to construct, erect or maintain in, upon, over or under any public right-of-way any structure for the private use of the adjoining property owner or occupant. (Ord. 2009-15 § 2, 2009: Ord. 1672 § 1 (part), 1974).

8.20.030 Application for permit—Fee.

A. Applications for permits to be issued pursuant to this chapter shall be filed with the community and economic development director upon an approved form, and shall be accompanied by a detailed scale drawing depicting the public right-of-way in the vicinity of the area for which the permit is sought, including existing utilities, street lights and traffic signal poles, street furniture and similar features of the area. Such application shall contain an accurate description of the public right-of-way or portion thereof desired to be used under the authority of the permit sought, the use desired to be made of the public right-of-way by the applicant pursuant to the permit, the plans and specifications for any utility or structure desired in or on a public right-of-way, evidence showing the applicant to be the owner of, or entitled to the possession and use of, the property adjacent to the right-of-way concerning which the permit is sought and such other information deemed necessary or desirable by the chief of code administration to enforce compliance with or to otherwise administer the provisions of this chapter.

B. All applications shall be accompanied by an application fee. The application fee shall be fifty dollars as set forth in Ordinance 2938 § 2, 1986. (Ord. 2009-15 § 3, 2009: Ord. 2938 § 2, 1986; Ord. 1672 § 1 (part), 1974).

8.20.040 Processing of application.

The code administration manager shall examine each application for compliance with requirements of this chapter and for compliance with any applicable provisions of the city's building code and shall endorse his/her findings on the application form and transmit it: (1) For business/commercial uses, to the city clerk for consideration by the city council, except that applications for permits to place signs in city-owned right-of-way, including sidewalk signs as described in YMC 8.20.055, shall be transmitted to and approved or denied by the community and economic development director or his/her designee, or (2) for residential uses (single-family and duplex, and/or located within a residential neighborhood), to the community review board (hereinafter "board"). (Ord. 2010-34 § 1, 2010: Ord. 2009-15 § 4, 2009: Ord. 2002-07 § 1, 2002: Ord. 1672 § 1 (part), 1974).

8.20.050 Grant or denial of permit.

Upon consideration by the city council or the board of the application for a permit, the council or board shall, by motion, approve or deny the application, except that applications for permits to place signs in city-owned right-of-way, including sidewalk signs as described in YMC 8.20.055, shall be considered and approved or denied by the community and economic development director, or his/her designee. Upon approval of an application by the council, board or, in the case of an application for a permit to place a sign in city-owned right-of-way, the community and economic development director, the code administration manager shall issue the permit upon applicant's compliance with requirements of YMC 8.20.055 and 8.20.060.

The applicant or other interested persons may appeal to the city council within thirty days of the issuance of the director's written decision or the board's decision concerning an application for a permit. (Ord. 2010-34 § 2, 2010: Ord. 2009-15 § 5, 2009: Ord. 2002-07 § 2, 2002: Ord. 1672, § 1 (part), 1974).

8.20.052 Criteria for residential right-of-way use permit consideration.

A right-of-way use permit shall be granted by the community review board only when the applicant demonstrates that the permit will not be contrary to the public interest and that practical difficulty and unnecessary hardship will result if it is not granted. The applicant must clearly establish and substantiate that the request for permit conforms to all of the requirements and standards listed below:

A. That granting the right-of-way use permit will be consistent with the general purpose and intent and will not be injurious to the neighborhood or otherwise detrimental to the public welfare;

B. That granting the right-of-way use permit will not authorize the establishment of any use not permitted in a particular zoning district;

C. That a unique circumstance, special circumstance or condition exists, fully described in the board's findings, specifically applicable to the land or structures for which the right-of-way use permit is sought. The special circumstance or condition must be peculiar to such land or structures and not generally applicable to land or structures in the neighborhood. The special circumstance or condition must also be such that the strict application of the right-of-way provisions would deprive the applicant of reasonable use of applicant's land or structure;

D. That an unavoidable hardship exists. It is not sufficient proof of hardship to show that lesser cost would result if the right-of-way use permit were granted. Furthermore, the hardship complained of cannot be self-created; nor can it be established on this basis by one who purchases without knowledge of the restrictions. It must result from the application of the desired use to the land or structure. It must be suffered directly by the applicant for the property in question, and evidence of a permit granted under similar circumstance elsewhere shall not be considered. Neither nonconforming uses nor neighboring lands or structures, nor buildings in other zoning districts shall be considered as factors relevant to the issuance of a right-of-way use permit; and

E. That the requested right-of-way use permit is the minimum remedy that will accomplish this purpose. (Ord. 2009-15 § 6, 2009).

8.20.055 Sidewalk sign right-of-way use permit.

A right-of-way use permit shall be granted by the community and economic development director or his/her designee for a sidewalk sign and shall endorse the application form if it meets the following conditions:

1. The business/commercial use has a current and valid business license from the city of Yakima, and is located in a commercial or industrial zoning district;

2. The sign has no movable parts and no electrification;

3. A site plan has been filed with the application, as required in YMC 8.20.030, which identifies the proposed location of the sidewalk sign and ensures that an area of the sidewalk at least four feet in width is maintained at all times for compliance with the Americans With Disabilities Act of 1990 standards which will not be impeded by the sidewalk sign;

4. The sign is removed daily from the sidewalk or right-of-way no later than ten p.m.;

5. The sidewalk sign will be placed along the sidewalk frontage of the business. One sign per business is allowed per street frontage of the actual location;

6. Sidewalk signs are prohibited from containing any image or picture displayed to the public in any manner that graphically depicts or portrays individuals in a state of dress or undress meeting the definitions of nudity or partial nudity as established in YMC 15.09.200, or which depicts individuals participating in lewd conduct as described in YMC 6.55.030, or which otherwise conveys an overtly sexual message (or obscenity as provided in YMC 5.30.040);

7. Sidewalk signs must comply with all provisions of this chapter including but not limited to application requirements, fees and renewal, liability insurance, appeals and safety compliance. (Ord. 2010-34 § 3, 2010).

8.20.060 Liability insurance required.

Prior to the issuance of any permit pursuant to this chapter, the applicant shall file with the community and economic development director or his/her designee evidence of comprehensive public liability insurance, with limits of not less than five hundred thousand dollars combined single limit for bodily injury and property damage for residential uses and one million dollars combined single limit for bodily injury and property damage for business uses, with the city of Yakima named as an insured party, insuring against liability from injury or damage resulting from applicant's occupancy of or activities on public right-of-way under the permit to be issued, which insurance shall be maintained in effect during the term of the permit. (Ord. 2009-15 § 7, 2009; Ord. 1672, § 1 (part), 1974).

8.20.070 Term of permit—Renewal.

Permits issued pursuant to this chapter shall be valid for a period of one year from the date of issuance and shall be subject to renewal annually on application therefor, and on payment of renewal fee of twenty-five dollars as set forth in Ordinance 2938 § 3, 1986, provided permits granted under authority other than this chapter shall remain in full force and effect according to their terms without the necessity for application therefor or renewal thereof and without the payment of a permit fee, unless any such permit is terminated or revoked as provided by that permit. (Ord. 2009-15 § 8, 2009: Ord. 2938 § 3, 1986: Ord. 1672 § 1 (part), 1974).

8.20.080 Revocation of permits.

No permit granted pursuant to this chapter shall vest any permanent right in the permit holder; and any such permit may be revoked by resolution or motion of the city council, followed by notice to the permit holder given by the code administration manager that such permit is revoked, which notice shall be given not less than thirty days prior to the effective date of revocation specified in such notice. The notice shall be in writing and personally delivered to the permit holder or mailed to the permit holder at its address specified in the application. In the event the community and economic development director, or his/her designee determines that the continued use of public right-of-way pursuant to a permit constitutes an immediate hazard to the public, such permit may be immediately suspended and further use thereof terminated pending city council's determination by resolution or motion to permanently revoke the permit. Permanent revocation shall be immediately effective upon written notice delivered to the permit holder in person or by mail as provided by this section. (Ord. 2009-15 § 9, 2009: Ord. 2002-07 § 3, 2002: Ord. 1672 § 1 (part), 1974).

8.20.090 Discontinuance of use on termination or revocation of permit.

Upon the (1) termination of a permit, unless renewed, (2) suspension of the permit by the community and economic development director, or his/her designee, or (3) revocation of any permit issued pursuant to this chapter, the person to whom that permit was originally issued shall forthwith discontinue the use of public right-of-way authorized by such permit, and shall forthwith remove all structures and right-of-way obstructions authorized by such permit. In the event the community and economic development director or his/her designee suspends the permitted use on the basis of an articulable hazard presented by said use, the permittee shall immediately remove the hazardous condition. If any such structure, obstruction or hazard is not so removed, the community and economic development director or his/her designee may cause the same to be removed and perform any repair work to public right-of-way necessitated by such removal in order to render the public right-of-way safe for public use, and the person to whom the permit was originally issued shall be liable to the city for all expenses of such removal and repair. (Ord. 2009-15 § 10, 2009: Ord. 1672 § 1 (part), 1974).

8.20.100 Permit not transferable.

The privilege to use public right-of-way granted by any permit issued pursuant to this chapter shall be a personal privilege of the person to whom the permit is issued, and no such permit shall be transferable without the consent of the Yakima city council first being obtained. Any attempted transfer of any such permit without city council approval shall automatically render the permit null and void. (Ord. 2009-15 § 11, 2009: Ord. 1672 § 1 (part), 1974).

8.20.110 Safety and building code compliance.

All work performed by the authority of a permit issued pursuant to this chapter shall be accomplished in compliance with all applicable city building codes and other city ordinances, and with the Washington Industrial Safety and Health Act, and shall be diligently pursued so as to cause the least possible inconvenience to the public. (Ord. 2009-15 § 12, 2009: Ord. 1672 § 1 (part), 1974).

8.20.120 Penalty for violation—Each day a separate offense.

Any person convicted of violating any provision or failing to comply with any requirement of this chapter shall be subject to a fine in an amount not to exceed two hundred fifty dollars or by imprisonment in the city jail facility for a period not to exceed ninety days; and any such violation or failure to so comply constitutes a continuing offense with each day constituting a separate offense of this section. (Ord. 2009-15 § 13, 2009: Ord. 1672 § 1 (part), 1974).

8.20.130 Violations as nuisances.

Any private use of public right-of-way contrary to the provisions of this chapter or other lawful authority is a public nuisance, subject to prevention or abatement by injunction or other appropriate remedy in an action brought by the city in the Superior Court of the state of Washington in and for Yakima County. (Ord. 2009-15 § 14, 2009: Ord. 2938 § 4, 1986).