

ORDINANCE NO _____

An ordinance relating to Obstructions and Encroachments in the Public Right-of-Way; amending SMC sections 12.02.060, 12.02.0706, 12.02.0707, 12.02.0708, 12.02.0710, 12.02.0712, 12.02.0714, 12.02.0716, 12.02.0718, 12.02.0720, 12.02.0722, 12.02.0723, 12.02.0724, 12.02.0726, 12.02.0726, 12.02.0730, 12.02.0735, 12.02.0737, 12.02.0740, 12.02.0745, 12.02.0750, 12.02.0755, 12.02.0704

The City of Spokane does ordain:

Section 1. That SMC section 12.02.060 is amended to read as follows:

Section 12.02.060 Fences and Hedges – Incidental Encroachments

Incidental encroachments upon the public right-of-way from private property not obstructing the use of the right-of-way may be permitted by ~~((the director of building services))~~ development services center manager as provided in SMC 17G.010.160. Such encroachments are revocable without compensation and create no vested rights.

Section 2. That SMC section 12.02.0706 is amended to read as follows:

Section 12.02.0706 Permits Required

- A. Obstruction of the public way is forbidden except by permit as provided in SMC 17G.010.210(D) and this article. Special uses for sidewalks are specifically treated in SMC 12.02.0730, et seq.
- B. In case of an emergency situation endangering the public health or safety requiring immediate obstruction and/or work in a public way, such obstruction and/or work may be accomplished without a permit, providing the director is notified as soon as practicable of the emergency situation and the activity necessary to correct the adverse condition. In such cases, permits will be required and issued for such activity, as may have been necessary, after the fact.
- C. City employees obstructing public ways in the performance of their official duties must first coordinate with the ~~((division of public works and utilities))~~ development services center in a manner prescribed by the director.

Section 3. That SMC section 12.02.0707 is amended to read as follows:

Section 12.02.0707 Master Annual Permit for High Volume Users

- A. In lieu of an individual permit for users whose estimated annual permit need is in excess of seven hundred permits per year under SMC 12.02.0706, an annual master permit may be issued as provided in this section and SMC 17G.010.210(D). Except as otherwise provided, all conditions of an individual permit apply to a master permit. A master annual permit is individually approved by the ~~((director of engineering services))~~ development services center manager.
- B. If the ~~((director of engineering services))~~ development services center manager deems in his sole discretion that the public convenience is not served by a master permit, an application may be denied or a master permit revoked. Denial or revocation of a master permit does not affect eligibility for an individual permit under SMC 12.02.0706.

Section 4. That SMC section 12.02.0708 is amended to read as follows:

Section 12.02.0708 Conditions of Permission

Permits to obstruct public ways are issued on the condition that:

- A. Permittees must repair, replace, and fully restore all portions of the public way affected by their activities.
- B. Activity permitted hereunder may be suspended, terminated, or conditioned upon such terms as the director may require in the exercise of his responsibilities for the protection of the public safety and convenience of other public uses.
- C. The original permit granted to a permittee functioning as a prime contractor shall cover the permittee's work and work to be done by all the permittee's subcontractors. If the work is not completed within the time constraints of the original permit, the permittee must obtain ~~((a new permit specifically))~~ an extension of the original permit for the work yet to be accomplished.
- D. All repairs, replacement, and restoration of a disturbed public way must be completed within the time specified on the permit. ~~((One extension of the permit up to a maximum of three working days, without charge, may be authorized, for reasonable cause, at the discretion of the director. Thereafter, a new permit will be required.))~~

Section 5. That SMC section 12.02.0716 is amended to read as follows:

Section 12.02.0716 Long Term Permits – Temporary Passageway

- A. Where a permit allows the obstruction, disturbance, or other such use of a public street, highway, or alley (including the sidewalk, if any) for an

extended period of time and affecting a substantial portion of the public ways, as determined by the ~~((director of engineering services))~~ development service center manager, said permit privileges will be established by the director in coordination with the street director. Each such request for an obstruction permit will be considered on its own merit and the limits established with due consideration for the needs of the permittee and for the interests of the public.

- B. Permits issued under this section are conditioned upon the permittee's continued safe maintenance of a temporary passageway for pedestrian use along the public way.
- C. Said temporary passageway shall be a minimum of four feet wide and shall extend from available permanent sidewalks, walkways, or specified pedestrian routes in the areas immediately adjacent to the permit area.
- D. Said temporary passageway shall be constructed of two-inch plank or other approved material laid lengthwise upon good and sufficient supports laid not more than three feet apart.
- E. The location of joining the temporary passageway to the regular sidewalk or pedestrian route must be even. The entire passageway must have a sturdy barrier or railing at least four feet high or other safe design approved by the ~~((director of building services))~~ building official.
- F. Where the temporary passageway abuts property with construction of structures higher than twenty feet, the passageway must be completely covered at a height of a least ten feet with two-inch plank or other approved material resting upon strong supporting joists well fastened and braced to strong posts on both sides.
- G. Chapter ~~((44 of the Uniform Building Code))~~ 33 of the International Building Code as adopted by the City controls over this section.

Section 6. That SMC section 12.02.0718 is amended to read as follows:

Section 12.02.0718 Insurance

- A. Permit applicants must furnish ~~((public))~~ general liability insurance ~~((with combined bodily injury and property damage limits in the amount of five hundred thousand dollars))~~ which meets the insurance requirements in a particular year to insure the applicant's operations to the extent they impinge upon or affect the public right of way and to protect the interests of the City. This shall not apply to public or private utilities certifying in writing that they are self-insured and pledging to fully defend and protect the City against any and all claims arising from or by reason of any negligent act or

omission by the utility, in a like manner as an insurer.

- B. At the time of application, the applicant must furnish proof of such insurance, naming the City as an Additional Insured, and listed as such on the Certificate of Insurance (COI). The director shall require that such insurance be continuously maintained for a period of two (2) years from the date of project completion, and shall include ~~((with))~~ thirty (30) days' notice of insurance cancellation or any material change in insurance ~~((given))~~ timely provided to the director.
- C. The director may allow insurance coverage to be provided on an annual basis for master permit holders. The director may reduce or increase the amount of insurance coverage for smaller or larger jobs as the public interest and City Risk Department requires.

Section 7. That SMC section 12.02.0720 is amended to read as follows:

Section 12.02.0720 Performance Bond Requirements

Street obstruction bonds are specified in SMC 7.02.070 except:

- A. ~~((Where permitted activities involve cutting into or under any public way or removal of any portion of the same, a performance bond in the sum of ten thousand dollars is required prior to issuance of the permit. Said))~~ The performance bond shall provide surety for the performance of any and all necessary maintenance and repairs as may be required by the director at least two years after authorized activities are complete, or for such longer time as the director may determine to be reasonably necessary considering the degree and extent of permitted activities. In addition, the director may adjust the bond for larger or smaller jobs as the director may deem necessary and sufficient to protect the public interest in recurring repair and maintenance costs.
- B. ~~((The bond sum is five thousand dollars for permitted activities not involving cutting into or under any public way or removal of any portion of the same.))~~
[Deleted]
- C. The director may allow the posting of an annual bond in the amount of ten thousand dollars in lieu of other bonds required in this section. In addition, the director may adjust the bond for larger or smaller jobs as the director may deem necessary and sufficient to protect the public interest in recurring repair and maintenance costs or for other appropriate reasons.
- D. This shall not apply to private or public utilities certifying in writing that they are self-insured and pledging to be liable in similar manner and like amount for their acts and the acts of their agents.

- E. This section shall not apply to owners and/or occupants of residential premises performing yard maintenance and minor tree trimming work in the public way abutting their real property, so long as the public way is not an arterial or in the central business district.

Section 8. That SMC section 12.02.0724 is amended to read as follows:

Section 12.02.0724 Barriers and Traffic Control

- A. In case any public way is dug up, excavated, undermined, disturbed, or obstructed, or any obstruction placed thereon, the permittee and/or person causing the same shall erect and maintain around the site a good and sufficient barrier, and shall also maintain lighted amber lights during every night from sunset to daylight, at each end and safely around such obstruction.
- B. In cases where a permit allows for the encroachment upon or the closure of a traffic lane, the permittee will provide traffic-control measures as may be established by the ~~((engineering services director))~~ the development services center manager and/or the director of the street department.

Section 9. That SMC section 12.02.0730 is amended to read as follows:

Section 12.02.0730 Permits – Sidewalk Special Use

- A. Upon approved plans and specifications ~~((approved by the city council,))~~ the director may issue a permit for the placing in or upon the sidewalks of the City, plantings, ornamentals, or other beautification as the council may approve, or racks, stalls, or brackets for the parking, storage, or securing of bicycles or similar vehicles. Sidewalk cafes are permitted as provided in chapter 10.28 SMC. Signs are permitted as provided in chapter 17C.240 SMC.
- B. Before a sidewalk special use permit shall be issued, the person proposing to make such installation shall furnish proof of liability insurance coverage for such sidewalk use and the proposed installation, wherein the City is a named insured, for liability limits of not less than one hundred thousand dollars for any one personal injury, three hundred thousand dollars for all personal injury claims in any one accident and twenty-five thousand dollars for property damage.
- C. The director may reduce or increase the amounts of required insurance coverage as the public interest requires, depending on the size and nature of the permitted activity.

Section 10. That SMC section 12.02.0740 is amended to read as follows:

Section 12.02.0740 Fees – Notice of Commencing Work

- A. Fees are specified in SMC 8.02.065.
- B. The permittee shall give the (~~engineering services department~~) development services center twenty-four hours' notice of the permittee's intention to begin such work. Penalty for not notifying, in advance, to begin work will be considered the same as working without a permit.

Section 11. That SMC section 12.02.0755 is amended to read as follows:

Section 12.02.0755 Bus Benches/Transit Shelter Located in the Public Right-of-way

- A. Bus benches, transit shelters and other similar facilities utilized for the benefit of patrons of public transportation may be placed in the public right-of-way pursuant to the approval of the City and under the direction of the (~~director of engineering services~~) development services center manager.
- B. Bus bench signs at designated public transportation stops located in the public right-of-way shall be permitted, provided, however, that such signs shall have any necessary permits and comply with all applicable regulations set forth in the Spokane Municipal Code, interlocal agreements with a public transportation authority, and/or other rules or requirements.

Section 12. That SMC section 12.02.704 is amended to read as follows:

Section 12.02.704 Definitions

- A. "Public way" means any publicly dedicated or used highway, street, alley, or sidewalk.
- B. "Permittee" means any person to whom an obstruction permit is issued. Permits are not transferable and have no property value.
- C. "Office of primary responsibility" means the (~~director of engineering services~~) development services center manager, hereafter referred to as the director, who is the City official designated to administer this article. The director functions directly or through authorized agents, in coordination with other appropriate City agencies. The director is authorized to grant exceptions to, or impose conditions on, requirements herein, in the exercise of sound discretion, considering the requirements of permittees and the purpose of this article.

D. "Obstruction of a public way" includes, but is not limited to, obstructions that may hinder the normal flow of pedestrian or street traffic or render the public way unsafe for current and necessary use such as:

1. trees, bushes, weeds or grass; and
2. accumulations of trash and debris including but not limited to litter, glass, and scrap materials.

The City of Spokane does ordain:

ADOPTED BY THE CITY COUNCIL ON _____

Council President

Attest:

Approved as to form:

City Clerk

Assistant City Attorney

Mayor

Date

Effective Date