
CITY OF BUCKLEY, WASHINGTON

ORDINANCE NO. 07-16

**AN ORDINANCE OF THE BUCKLEY MUNICIPAL CODE
AMENDING CHAPTER 13.35.110 REGARDING RIGHT-OF-WAY
USE PERMIT EXCEPTIONS.**

WHEREAS, the City Council of the City of Buckley has the responsibility under the Constitution of the State of Washington for the improvement, maintenance, and protection of public ways within the corporate limits of the City pursuant to RCW 35A.11.020 and Chapter 35A.47 RCW; and

WHEREAS, in order to protect and preserve the public health, safety, and welfare through adoption of Ordinance No. 13-13 the City Council established policies and regulations to provide for the issuance of right-of-way use permits in order to regulate activities within rights-of-way in the City and to provide for the fees, charges, security devices, and procedures required to administer the permit process;

WHEREAS, BMC 13.35.110 provides right-of-way permit exceptions for certain activities under specific circumstances; and

WHEREAS, BMC 13.35.110 (C) states that permits shall not be required for a public utility, under franchise agreement with the city, performing normal maintenance as defined in the franchise agreement in order to protect the existing utility system.; and

WHEREAS, the City currently has two active franchisees operating in the City and another under consideration, and none of these agreements defines “normal maintenance”; and

WHEREAS, as a result of the language in these agreements none of the franchisees activities fall under the exception so there is no apparent need for this provision. In addition the provision leads to some confusion when City staff attempt to determine whether or not an activity is exempt from the permit requirements; and

WHEREAS, in order to eliminate confusion and clarify the exception provisions the City Council desires to amend BMC 13.35.110 to eliminate this provision from the code;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BUCKLEY, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Chapter 13.35.110 of the Buckley Municipal Code entitled “Permit Exception” is hereby amended to read as follows:

13.35.110 PERMIT EXCEPTION.

- A. A right-of-way use permit is not required for franchised utilities when responding to emergencies that require disturbance of the right-of-way typical of a Type B Permit; provided, that the Department shall be notified by the responding utility or contractor verbally or in writing, as soon as practicable following onset of an emergency. Nothing herein shall relieve a responding utility or contractor from the requirement to apply for a right-of-way use permit as provided in this chapter within forty-eight (48) hours after beginning emergency work in the right-of-way.
- B. Permits shall not be required for routine maintenance and construction work performed by the City.
- C. Permits are not required for City Public Works Department construction projects, even though SEPA may be required.
- D. Permits are not required for the ordinary construction and maintenance of landscaping or irrigation systems in the planter strip of the right-of-way. Blockage of the right-of-way associated with ordinary maintenance of landscaping requires the appropriate permit.
- E. Permits are not required for community, nonprofit, or other activities for which a special event permit has been issued.
- F. The director shall have authority to reduce or waive permit requirements when it is determined that the work being done is “minor repair or construction” as defined herein.
- G. The director shall also have the authority to reduce or waive permit requirements when it is determined that the work being done is for site “investigative” work as defined herein, where surface intrusions are minimal such as for potholing to locate underground utilities and plans for repair and restoration have been agreed to prior to the work being performed

Section 2. Severability. If any portion of this ordinance is found or rendered invalid or ineffective, all remaining provisions shall remain in full force and effect.

Section 3. This Ordinance shall be in full force and effect five days from and after its passage, approval and publication as provided by law.

Passed by the City Council on the 8th day of March, 2016.



Mayor Pat Johnson

Attest:



Joanne Starr, City Clerk

APPROVED AS TO FORM:



Phil Olbrechts, City Attorney

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