

Chapter 130RIGHT-OF-WAY UTILIZATION**Sections:****130-1 PURPOSE AND INTENT****130-2 UNLAWFUL CONSTRUCT WITHIN PUBLIC RIGHT-OF-WAY****130-3 PENALTY FOR VIOLATION****130-4 STOP WORK FOR UNLAWFUL CONSTRUCTION****130-5 PERMIT APPLICATION****130-6 BOND PREREQUISITE****130-7 PERMIT ISSUANCE**

Adopted by the Town Council of the Town of Front Royal by Ord. No. 12-05 on 6-27-05. Other amendments noted where applicable.

130-1 PURPOSE AND INTENT

The Town Council finds that unauthorized construction within or use of public right-of-way may result in continued unsafe or restricted use of the public right-of-way by the general public. The Town Council further finds the need to administer the use of the public right-of-way to protect the public health, safety, and welfare by ensuring regulated use of the public right-of way. To this end:

130-2 UNLAWFUL CONSTRUCTION WITHIN PUBLIC RIGHT-OF-WAY

A. It shall be unlawful for any person to break, dig up, bore under or open, or cause to be broke, dug up, bored under or opened any street, road, highway, alley, bridge, sidewalk, trail, or any other public right-of-way or disturb any portion thereof, lying within the Town for any reason, including, but not limited to, the laying or repairing of utility lines or conduits, installation of various appurtenances to such facilities, erecting or removing utility poles, or installation of other public improvements, without having first applied for and obtained a permit to do so from the Director of Planning, or if an issued permit has been suspended or revoked.

B. It shall be unlawful for any person to temporarily restrict access to any street, road, highway, alley, bridge, sidewalk, trail, or any other public right-of-way to make improvements to public or private property without having first applied for and obtained a permit to do so from the Director of Planning.

C. In the event of an emergency that demands immediate action to protect the public health, safety, and welfare, and for which a permit may not be reasonably or practicably obtained beforehand, a person may proceed with appropriate emergency actions, provided that notification shall be given to the Department of Public Works or during non-office hours to the Police Department. In such an event, application for a permit shall be made on the next business day, and such permit, when issued, shall be retroactive to the date when the work was

begun. Emergency actions shall be undertaken under the same rules and regulations as required for permits under this section, including, but not limited to, requirements for marking of other utilities and for proper work zone safety.

130-3 PENALTY VIOLATION

Any person convicted of unlawful construction as described in Section 130-2 shall be guilty of a Class I misdemeanor and shall be punished as provided within Section 1-15 of the Front Royal Municipal Code.

130-4 STOP WORK FOR ULAWFUL CONSTRUCTION

The Director of Public Works, or designee, reserves the right to stop work at any time and at his sole discretion, complete any of the work covered under the permit, or any other work required to restore the public right-of-way to its condition prior to the start of work. Permittee, or the person undertaking work on the public right-of-way if no lawful permit exists, shall reimburse the Town for all costs incurred, including attorney's fees and costs of litigation.

130-5 PERMIT APPLICATION

The Right-of-Way Utilization Permit shall be obtained and submitted to the Director of Planning prior to construction within or obstruction of a public right-of-way. All correspondence for this permit shall be directed to the Planning Department.

Before any permit required by this Chapter is granted, the applicant therefor shall pay a permit fee as set forth in the schedule of fees adopted by the Town Council. Copies of such schedule are on file in the Department of Finance and in the Department of Planning. The permit fee may be waived at the sole discretion of the Director of Planning, or designee, for work performed under contract to the Town, including contracts for Town water, sanitary sewer, and storm sewer utilities, and for state Department of Transportation contractors when performing publicly funded project within the Town, and as otherwise provided by this Code.

130-6 BOND PREREQUISITE

No person shall be granted a permit required by this article unless he shall first enter into a bond, with sufficient surety, or in lieu thereof, by a cash bond, payable to the Town and meeting all requirements of this Code. Such bond shall be conditioned upon the restoration of the public right-of-way to its prior condition, and the Director of Public Works shall be the sole judge of the adequacy of such restoration. The penal sum of the bond shall be in an amount to be determined by the Director of Public Works, and shall be such amount as will enable the Town to have such restoration done properly in the event that it is not done by the permit holder. In the event of a cash bond, such bond may be returned to the permit holder by the Director of Planning at such time as the bond conditions have been met. Bonds posted in accordance with franchises, licenses, or other agreements or for site developments shall be acceptable for meeting the intent of this section provided such bonds are first reviewed by the Town Attorney and contain no limitations in applicability to work under these permits.

130-7 PERMIT ISSUANCE

Upon review and approval of the permit application and submittal of bond, the Director of Planning shall issue a Right-of-Way Utilization Permit to the applicant.

Any person doing any work regulated by this permit shall provide adequate construction zone work safety measures as are required and necessary for the protection of the public, including, but not limited to, adequate lighting for nighttime operations.

(Ord. No. 12-05 Added Entire Section 6-27-05 -Effective Upon Passage)