TOWN OF LA CONNER
RIGHT-OF-WAY PERMIT
CLASS I

Date of Application:_____ File #_____

Site Address_____ Tax Parcel Number_____

APPLICANT:

NAME_____

MAILING ADDRESS_____

CITY_____ STATE_____ ZIP CODE_____ PHONE_____

EMAIL_____

PROJECT DESCRIPTION:

_____

_____

_____

_____

DURING PROJECT ACTIVITIES, PERMITTEES WILL MAINTAIN PROPER GUARDS AND WARNING LIGHTS IN COMPLIANCE WITH THE UNIFORM TRAFFIC CONTROL MANUAL. A TRAFFIC CONTROL PLAN AND DETOUR ROUTES MUST BE SUBMITTED, IF APPLICABLE.

THIS PERMIT IS GRANTED WITH THE FOLLOWING CONDITIONS:

_____

_____

_____

_____

_____

As the applicant for this permit, I do hereby declare that I am the legal owner of the property adjoining the public right-of-way for which I am requesting use.

Applicant Signature_____ Date_____

OFFICE USE ONLY

Fee Paid _____ Date_____

- ❑ *Hold Harmless Agreement*
- ❑ *Inspection Required*
  *Comments:*_____

  _____
- ❑ *Inspection Approved By:*_____ *Date:*_____

Approved_____

Planning Director

TOWN OF LA CONNER
HOLD HARMLESS AGREEMENT

THE UNDERSIGNED, _____, of _____,

Washington, hereby agrees to indemnify and hold the Town of La Conner, it's employees, elected officials, insurers and volunteers harmless from and against any and all claims, suits, actions, or liabilities for injury or death of any person, or for loss or damage to property, which arises from any activity, work or thing done, permitted, or suffered by User in or about the Rights of Way, except only such injury or damage as shall have been occasioned by the sole negligence of the Town, whatsoever, arising from_____

_____

_____on the Rights of Way of the Town of La Conner, and to defend the Town against any claim and/or pay any judgment related in any manner to the approval and/or conduct of such event.

The undersigned further agrees to conduct said event in a safe manner, so that it is not a hazard to pedestrian or vehicular traffic, and to conform to all zoning, traffic and safety ordinances of the Town of La Conner.

The undersigned further agrees to remove debris and/or barricades on or before _____, or immediately in the event it should be deemed by the Town Public Works Director to be hazardous to the health, safety and welfare of the Town.

204 Douglas Street – P.O. Box 400, La Conner, WA 98257
Tel. (360) 466-3125 Fax: (360) 466-3901

Insurance Requirements:

The User shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damage to property, which may arise from or in connection with use of the Premises.

User shall provide a certificate of insurance evidencing *General Liability* insurance covering the event, products-completed, operations and contractual liability.

The Town shall be named as an insured on User's General Liability insurance policy. The General Liability insurance shall be written with limits no less than $1,000,000 each occurrence, $1,000,000 general aggregate.

The insurance policy shall contain or be endorsed to contain that the User's insurance coverage shall be primary insurance as respect the Town. Any insurance, self-insurance, or insurance pool coverage maintained by the Town shall be excess of the Lessee's insurance and shall not contribute with it.

The User shall provide a certificate of insurance evidencing the required insurance before using the premises.

Insurance is to be placed with insurers with a current A.M. Best rating of not less than A;VIL

Dated this _____ day of _____, 200__

_____
Signature

_____
Print Name

For: _____

Chapter 11.30
STREET RIGHTS-OF-WAY

Sections:

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11.30.010 Definitions.

For the purpose of this chapter, the following words have the meaning designated in this section unless the context indicates otherwise:

(1) "Planning director" means the director of the planning department of the town of La Conner.

(2) "Permit" means a right-of-way use permit issued by the planning director or designee.

(3) "Planting strip" means that portion of the right-of-way, if any, between a street and the adjacent sidewalk.

(4) "Right-of-way" means the entire width between the boundary lines of every piece of property designated as a public right-of-way, whether any portion of the right-of-way is used by the public for either pedestrian or vehicular travel.

(5) "Sidewalk" means that portion of the right-of-way, if any, which is designed for pedestrian use, adjacent and parallel to a street. "Sidewalk" includes the area which would otherwise be a planting strip, if the area is either covered with cement or is otherwise used for pedestrian travel.

(6) "Street" means that portion of the right-of-way, if any, which is used for vehicular travel, including alleys.

(7) "Town" means the town of La Conner.

(8) "Town council" or "council" means the town council of the town of La Conner. [Ord. 667 § 1, 1995.]

11.30.020 Obstruction of streets – Prohibited.

Except as may be specifically provided by this chapter, it is unlawful to erect, maintain or allow to remain on any street in the town a permanent or temporary structure or object which in any way obstructs, hinders, jeopardizes, injures, or delays the use of the street for either vehicular or pedestrian travel; provided, that the town may close any street at any time, when the director of public works, chief of police, or fire chief determines such closure to be necessary to protect the public health, safety, or welfare. [Ord. 667 § 2, 1995.]

11.30.030 Permit required.

(1) No person shall use any public place without a permit from the planning director. To use means to construct, erect or maintain in, on, over or under any public place, including but not limited to any building extension, staging, swinging scaffold, clock or any other object or structure; to use or occupy any parking strip, roadway, and/or sidewalk, including the air space above them.

(2) Notwithstanding the provisions of subsection (1) of this section, the following obstructions of right-of-way may be permitted if a permit therefor is obtained from the town under this chapter; provided, that the director of public works and the chief of police shall determine what traffic barricades, if any, are necessary, and the town will provide such barricades and shall be reimbursed therefor by the applicant:

(a) Obstructions related to community or special events;

(b) Temporary devices such as scaffolding, barricades and/or pedestrian walkways, which may be permitted under certain circumstances as specified by the planning director, where the right-of-way use is necessary to improve the safety of construction work on private property and where an excavation permit is not required;
(c) Telephone booths;
(d) Any obstruction placed upon a sidewalk by the town for a public purpose. [Ord. 667 § 3, 1995.]

11.30.040 Exemptions.
(1) This chapter does not apply to noncommercial uses in residential zones. However, these uses shall not be construed to grant or permit vested rights of use, and any such use is hereby deemed and declared to be permissive and shall be removed upon order of the town of La Conner. This chapter also does not apply to street maintenance work performed by the town, street, water or sewer installation and improvement work authorized by permit or ordinance, or authorized street improvement projects.
(2) The following obstructions shall be allowed on sidewalks or planting strips without a permit:
(a) Merchandise being moved into or out of an adjacent business; provided, that such merchandise does not remain on the sidewalk or planting strip more than 30 minutes;
(b) Fire hydrants;
(c) Planters and other landscaping placed by the town;
(d) Benches and bicycle racks placed by the town;
(e) Telephone, telegraph and light poles placed either by the town or pursuant to franchise granted by the town;
(f) Flagpoles or standards therefor placed by the town;
(g) Traffic control devices placed by the town;
(h) Refuse containers, either placed directly by the town, or where the location of the container is on a sidewalk or planting strip as required by the town;
(i) Landscaping that is semipermanent in nature that can be removed from the sidewalk area or planting strip at the expense of the owner upon notice by the town. Such landscaping shall be less than 30 inches above the established grade at the curbline or roadway shoulder area. No fences permitted. [Ord. 667 § 4, 1995.]

11.30.050 Permit processing.
(1) Application for a permit and accompanying fees for a street, sidewalk or planting strip obstruction under this chapter shall be submitted to Town Hall for processing by the planning department. The application shall be upon a form provided by the planning director.
(2) Fees. A fee, established by the town council by resolution, shall be paid to the town prior to issuance of any street permit. Fees may be paid in kind based on fair market value. Renewals of street use permits for the maintenance of any continuing use or structure in the public right-of-way shall be reviewed by the planning director and payable on January 1st of each year following the initial permit issuance.
(3) The application for a permit shall contain such information as is required by the planning department and any other applicable town code requirements, including, but not limited to:
(a) Name, address, and telephone number of the applicant;
(b) Description of the use or obstruction;
(c) Drawings and specifications for the obstruction sufficient for review for compliance with this chapter;
(d) Description of the method of compliance with the standards for installations for sidewalk obstructions established by the provisions of this chapter;
(e) Evidence showing the applicant to be the owner of record of the property adjoining the public right-of-way.
(4) Upon receipt of the application, the planning department shall forward the application to such town departments as deemed appropriate for comment. Comments shall be returned to the planning director or designee within five working days. [Ord. 667 § 5, 1995.]

11.30.060 Permit review.
(1) Any application for a permit to construct, erect or maintain an obstruction in a public right-of-way shall be submitted to the planning director. The planning director may submit applications to the town council for review, approval or denial on a case-by-case basis.

(2) The planning director or designee may approve a street use permit if:
(a) The proposed use will not protrude into or over any portion of a public place open to vehicle or pedestrian travel;
(b) The proposal will not interfere with the rights of the public; and
(c) The proposal is in the public interest, safety and convenience.
(3) Any permit issued pursuant to this chapter is subject to termination upon written notification by the planning director at any time, without cause, and the permit shall so state on its face. [Ord. 667 § 6, 1995.]

11.30.070 Obstructions – Standards.
Each obstruction proposed to be placed upon a sidewalk, street, or planting strip of the town shall comply, at a minimum, with the following standards:
(1) The location of the obstruction shall be consistent with the paramount right of the public to use the street, sidewalk, or planting strip for transportation purposes;
(2) The location of the obstruction, and/or the obstruction itself, shall be adequately lighted for night visibility, if the obstruction area is not lighted and pedestrians are present at night;
(3) The location of the obstruction shall not constitute a traffic hazard either by itself, or by its effect upon the visibility of persons using the street or sidewalk;
(4) If a location for the particular type of obstruction is required by the existence of other structures, obstructions, ordinances, or other regulations, the obstruction shall be located where so required;
(5) The obstruction shall not be permitted for longer than the period necessary for accomplishing the proposed purpose for such obstruction;
(6) The applicant shall comply with all other applicable local, state and federal requirements;
(7) The applicant must demonstrate that it is necessary to use the public street, sidewalk or planting strip, and that there is no other means available to accomplish the desired purpose, except by the use of the public right-of-way, street or planting strip;
(8) No one shall plant in any public right-of-way any cottonwood, London plain, weeping willow, gum or any other tree the roots of which cause injury to the sewers, water mains, sidewalks or pavements or which breed disease dangerous to other trees or to the public health or allow to remain in any public right-of-way any planted tree which has died or is in such condition as to be hazardous to the public use of the street and/or sidewalk, and any such trees now existing in any such planting strip or abutting street area shall be removed at the expense of the abutting property owner as may be directed by the town. No tree shall be planted within two feet of any sidewalk or pavement, except as otherwise approved;
(9) No flowers, shrubs or trees shall be allowed to overhang or prevent the free use of the sidewalk or roadway, or street maintenance activity or utility use of the street except that trees may extend over the sidewalk when kept trimmed to a height of seven feet above same, and 15 feet above arterials and 14 feet above all other roadways. Trees so placed shall also be trimmed so as to remain below power lines if present. [Ord. 667 § 7, 1995.]

11.30.080 Permit conditions.
The following shall constitute minimum conditions to be applied to the permit:
(1) The applicant for a permit shall execute a hold-harmless guaranty to the town, agreeing to hold the town harmless from and defend the town against any causes of action for personal injury or property damage arising out of, or in any way connected with, the placement of the obstruction on the town street, sidewalk or planting strip.
(2) The applicant shall provide, and maintain in force, a certificate of insurance, or a bond of like amount, with the town named as an additional insured, insuring against property damage or personal injury, with limits of not less than $300,000 per incident, $300,000 per person, and $100,000 property damage, except for benches, refuse containers, bicycle racks, landscaping, fire hydrants, traffic control devices, flagpoles or standards, telephone, telegraph and light poles placed by the town or other uses or obstructions so exempted by the planning director.
(3) The property owner or applicant shall maintain the obstruction in compliance with the standards and conditions imposed upon the placement of the obstruction by the town. Maintenance of the obstruction shall include the removal of litter and/or debris which may accumulate on or around the obstruction.
(4) For permanent structures placed in the right-of-way, including but not limited to fences higher than 30 inches, rockeries, walls, stairs and ramps, the applicant (property owner) for a permit shall execute an "Agreement to Remove Encroachment Within Public Right-of-Way". Such agreement shall guarantee removal of the encroaching

improvements upon public rights-of-way within 60 days' written notice from the planning director and shall be recorded by the town with the county auditor as an encumbrance on the property adjoining the public right-of-way. Such work shall be done in accordance with the requirements deemed necessary by the planning director and at the cost of the property owner. If the obstruction is not removed, then the obstruction shall be declared a nuisance. [Ord. 667 § 8, 1995.]

11.30.090 Revocation of permit.
(1) All permits approved under this chapter shall be temporary, shall vest no permanent right and shall be issued and may in any case be revoked upon 30 days' notice, or without notice, in case any such use or occupation shall become dangerous or any structure or obstruction permitted, shall become insecure or unsafe, or shall not be constructed, maintained or used in accordance with the provisions of this chapter.
(2) If any such structure, obstruction, use or occupancy is not discontinued on notice to do so by the planning director, he/she may have the structure or obstruction removed, or such repairs upon the structure or obstruction made as may be necessary to render the same secure and safe, at the expense of the permittee, or his successor, and such expense may be recorded as a lien and otherwise collected in the manner provided by law. [Ord. 667 § 9, 1995.]

11.30.100 Enforcement.
(1) Enforcement Authority. The planning director, as the town council designee, shall enforce this chapter.
(2) General. All violations of this chapter are determined to be detrimental to the public health, safety, and welfare and are hereby declared to be public nuisances. All conditions which are determined by the planning director or the town council to be in violation of this chapter shall be subject to the provisions of the town of La Conner zoning ordinance enforcement procedures, and any amendments thereto, or any other enforcement method authorized by law, and shall be corrected by any reasonable and lawful means as provided therein, except that:
(a) The choice of the enforcement action and the severity of any penalty shall be based on the nature of the violation, the damage or risk to the public or to public resources, and/or the degree of documented bad faith of the person subject to the enforcement action.
(b) A civil penalty shall be imposed for violations of any of the requirements outlined in this chapter in the amount of $250.00 per day for each day of violation to be directly assessed by the town council until such violation is corrected. Each and every day of such violation shall be deemed to be a separate and distinct violation. Every act of commission or omission which procures, aids or abets in the violation shall be considered a violation under the provisions of this section and subject to the penalty provided for herein. [Ord. 667 § 10, 1995.]

11.30.110 Appeal.
The decision of the planning director, either for a permit issued, issued with conditions, or denied or for termination of a permit may be appealed to the town council by submitting written notice of such appeal within 10 days of the decision. The town council shall consider the appeal at the next public meeting after the filing of the notice of appeal. The decision of the town council is final. [Ord. 667 § 11, 1995.]

11.30.120 Penalties due.
Penalties imposed under this section shall become due and payable upon receipt unless an application for reconsideration is made or an appeal is filed. Whenever an application for reconsideration or appeal is made, penalties shall become due and payable 30 days after receipt of the decision regarding the reconsideration or appeal. Whenever an appeal of a penalty is filed, the penalty shall become due and payable after all review proceedings and a final decision has been issued confirming all or part of the penalty. The town may take actions necessary to recover such penalty under any provision of law. Any judicial award pursuant hereto shall include an award of the town's reasonable attorney fees and costs. [Ord. 667 § 12, 1995.]

11.30.130 Penalty recovered.
Penalties recovered shall be credited to the town street fund. [Ord. 667 § 13, 1995.]