

Sec. 54-3. - Permit required for work that obstructs or closes a street, or sidewalk or impedes traffic; fees; waiver of fees.

- (a) *Scope.* No person shall perform or conduct work in the public right-of-way, such as digging, drilling, repaving, etc., which obstructs, closes, or causes to be obstructed or closed, any street, sidewalk, or any other part of the public right-of-way in this city, or which impedes the general movement of vehicular or pedestrian traffic, without first having obtained a permit approved by the police department, the public works department, the off-street parking department, the risk management department, the neighborhood enhancement team department, and the transportation office. After approval by the departments of police, public works, off-street parking, risk management, neighborhood enhancement team and the transportation office, the city manager, or designee, shall issue a permit. No person shall apply for a permit to perform or conduct work in the public right-of-way without disclosing in writing on the permit application form the person(s) on whose behalf such work in the public right-of-way is being performed or conducted. If such work is being performed by one or more person(s) on behalf of any other person(s) for using, constructing in, excavation of, maintenance of, owning and/or operating any type or manner of system, equipment, or device within the public rights-of-way, then all persons must comply with all application and permitting requirements of the city. Failure of any person(s) to fully disclose his/her/their interest/participation/representation in the permit application and/or to fulfill all city requirements for issuance of the permit shall result in (1) immediate revocation by the city, without the necessity of any further action, hearing, or proceeding, of any permit previously granted resulting in such permit becoming null and void, or (2) issuance by the city of a written notice that such permit will not be granted, as the case may be, due to violation of this provision by the person(s) who applied for such permit. The city shall have the right to take all legal measures and seek all available remedies to enforce this disclosure provision.
- (b) *Conditions.* Such permit shall set forth minimal reasonable conditions, as permitted by Law, necessary for the protection of property and personal safety, the restoration of the public right-of-way to a condition satisfactory to the city, and any on-going maintenance or reparations for un-repaired conditions or damages that may be required of the person(s) under the circumstances and extent of the work to be performed or conducted by such person(s) under such permit. Any violation of the conditions set forth and/or any violations under applicable law shall render such permit null and void, without the necessity of any further action, hearing, or proceeding. Such permit shall cover the length of time necessary and reasonable according to the type of activity involved.

(c) *Indemnity, hold harmless and insurance.* It shall be a condition precedent to the issuance of any such permit that the applicant shall assume all civil liability for applicant's acts of omission or commission from all claims, suits or actions of any kind whatsoever arising out of or resulting from the obstruction or closure, the issuance of the permit, or the operations or activities of the permittee and shall, further, hold the city, its officials, and employees harmless for any injuries, losses, or damages arising or resulting from the permitted work including any injuries, losses, or damages resulting from alleged negligent acts or omissions on the part of the city. The permittee shall be solely responsible for all activities and the installation and maintenance of traffic-control devices. The applicant shall ensure that adequate safety precautions are in effect at all times during the term of the permit. It shall be a further condition precedent to the issuance of any such permit for work to be performed in the public right-of-way that the permit holder(s) is/are jointly and severally responsible, at each permit holder's expense, for any damages regarding restoring the public right-of-way to its original condition before installation of facilities.

(1) *Non-governmental applicant(s).* Prior to the issuance of any such permit, the non-governmental applicant(s) shall submit to the city a certificate of insurance for each non-governmental applicant in an amount not less than \$1,000,000.00 per occurrence, \$2,000,000.00 aggregate, and any endorsements thereto, including, but not limited to, premises and operations liability, contingent and contractual exposures, personal and advertising injury, products and completed operations, and host liquor liability, if applicable. In addition, the applicant hereby agrees to provide additional insurance requirements, including but not limited to umbrella liability, or any additional requirements or endorsements as may be applicable, in connection with the scope of services contemplated by the permit. The certificate must reflect primary and noncontributory language and list the city as an additional insured. The certificate must also include coverage for all owned, hired, and non-owned vehicles with a combined single limit of \$1,000,000.00, also listing the city as an additional insured, and must further afford coverage for worker's compensation as required by Florida statute. The insurance herein required shall remain in full force and effect during the entire term of the permit. Additionally, all such insurance for non-governmental applicant(s) shall be subject to annual review by the city's risk management department and the applicant shall be required to update as necessary to protect the city as set forth in this section.

(2)

Government applicant(s). Prior to the issuance of any such permit, the governmental applicant(s) shall submit to the city a certificate of insurance or letter of self-insurance for each governmental applicant in accordance with and subject to the limitations as set forth in F.S. § 768.28.

(d) *Temporary obstruction of streets and sidewalks.*

- (1) Any permit issued pursuant to this chapter under this section may be revoked at any time for violation of the terms of the permit. The city manager or his designee may revoke this permit with justification.
- (2) The permit holder shall not locate a temporary office, trailer, portable toilets, equipment or storage of materials and supplies within the temporary obstructed right-of-way. Such temporary office, trailer, portable toilets, equipment or storage of materials and supplies may be allowed by the public works department subject to a separate fee subsection (e) (4) in addition to the fee for a permit for the partial or full obstruction or closure listed in subsection (e)(3). A violation of this section shall result in a fine of \$262.50 per day for each violation.
- (3) If the dimensions of the obstruction exceed the dimensions allowed by the permit, the permittee and the building owner shall jointly be assessed a fine equal to \$262.50 per day for each violation, plus any appropriate additional fees for the obstruction.
- (4) The permittee must provide a construction staging plan showing the location of lifting equipments, if applicable, ingress and exit points, and a signed and sealed statement from a registered professional engineer in the state that no suitable onsite alternative exists.
- (5) For purposes of this section, the following definitions shall apply:

Construction fence screen is a light, flexible fabric bearing printed text and pictures to give information and with edge grommets to facilitate attachment to a rigid frame.

Construction windscreen is a visual/dust barrier composed of a flexible, woven fabric with edge grommets to facilitate attachment to a rigid frame.

Temporary construction fence is used when contracting or planning to construct improvements on the premises and which facilitates temporary security and surety for the premises.

- (6)

Subject to compliance by the permit holder with applicable provisions of the sign codes of Miami-Dade County and the city, the permit holder may affix a construction fence screen or construction windscreen containing onsite advertising to the temporary construction fence abutting or located in the public right-of-way subject to an additional fee listed in subsection (e)(5). The dimensions of the construction fence screen or construction windscreen shall not exceed the dimensions of the temporary construction fence, and shall comply with section 33-99 of the Miami-Dade County Code. The content of the onsite advertising shall be limited to pictorial and text information advertising the sale or rental of the premises, construction actually being done on the premises, or future construction to be done on the premises on which the onsite advertising is located. For purposes of this section, such advertising described in the preceding sentence shall only be onsite advertising. No advertising is allowed for goods, off-site products or services, alcoholic beverages, tobacco products or adult entertainment as defined by the city zoning code. Nothing in this section shall be interpreted to permit a sign where the sign copy does not pertain to the use of the property, units sold, or the sale or lease of the property on which sign is displayed and which does not identify the place of business as purveyor of the units advertised on the sign.

(e) *Fees.*

- (1) A fee of \$120.00 shall accompany each permit application to the police department, to be retained by the city regardless of action taken in the grant or denial of the permit.
- (2) An initial inspection fee of \$25.00 shall accompany each permit application to the public works department.
- (3) A non-refundable fee for a permit issued under this article for the partial or full obstruction by construction **related activities exceeding five days in duration** shall be as follows.
 - a. \$0.20 per linear foot per day of sidewalk/curb usage.
 - b. \$0.30 per linear foot per day of parking lane usage.*
*This fee is in addition to fees payable under chapter 35 of this Code, as amended.
 - c. \$0.35 per linear foot per day of lane closure or partial lane closure of traffic and auxiliary lane usage.

The fees shall accompany each permit application to the department of public works for the use of the public right-of-way.

(4)

A non-refundable fee for a temporary office, trailer, portable toilets, equipment or storage of materials or supplies within the partial or full obstruction area shall be as follows:

- a. \$0.10 per linear foot per day of sidewalk/curb/swale usage.
- b. \$0.15 per linear foot per day of parking lane usage.
- c. \$0.20 per linear foot per day of lane closure or partial lane closure usage.

The fees shall accompany each permit application to the department of public works for the use of the public right-of-way.

- (5) A non-refundable fee of \$0.06 per square foot per day of construction fence screen or construction windscreen containing advertising affixed to temporary construction fence located abutting the public right-of-way or in the public right-of-way. The fee shall accompany each permit application.
- (6) All fees collected by the public works department in accordance with subsection (e)(3), (e)(4) and (e)(5) shall be deposited in a rollover account to be known as the lane closure fund. This account shall be used for the inspection of lane closures, advertising construction fence screens and construction windscreens, and maintenance of the public right-of-way.
- (7) Waiver of fees. The fees described in subsection (e)(3), (e)(4) and (e)(5) shall not apply to the city or any other federal, state, county, city, school district entity, or for construction, excavation, and repair within the public right-of-way. The fees described in subsection (e)(1), (e)(3), (e)(4) and (e)(5) herein above may be waived or reduced by the city commission if the commission determines that such a waiver or reduction is in the city's best interest.
- (8) After the fact permit fee. For any public street **or alley closure** described in section 54-3, performed without the required permits and inspection, **quadruple the application and inspection fee described in subsection (e)(1) and (2) herein.**
- (f) *[Special revenue fund.]* The revenues received will be placed in a special revenue fund. Ninety percent of this revenue will be used for public right-of-way improvements and repairs. Ten percent of special revenue will be used for public works department training, materials and equipment related to road closures. Expending these funds will be at the discretion of the city manager by recommendation of the public works or capital improvement directors.
- (g) *Public gatherings.* This section shall not prevent any person or persons from assembling on the streets or sidewalks, or in any park, or on private property, for the purpose of making any speech, engaging in spontaneous expression, or conveying any message to the public or

government without holding a permit pursuant to this section. In addition, this section shall not apply either to an "assembly," to a "parade" or to a "special event," as they are defined in section 54-1.

(Code 1967, § 54-3; Ord. No. 8995, 1, 10-17-79; Ord. No. 9532, § 1, 12-9-82; Ord. No. 10658, § 3, 10-12-89; Ord. No. 11045, § 4, 3-11-93; Code 1980, § 54-3; Ord. No. 11276, § 3, 7-13-95; Ord. No. 12505, § 3, 3-25-04; Ord. No. 12545, § 2, 6-10-04; Ord. No. 12584, § 2, 9-9-04; Ord. No. 12639, § 2, 1-13-05; Ord. No. 12919, § 1, 5-10-07; Ord. No. 12928, § 4, 6-28-07; Ord. No. 13087, § 2, 9-10-09; Ord. No. 13142, § 14, 2-11-10; Ord. No. 13195, § 5, 9-27-10; Ord. No. 13276, § 2, 7-28-11; Ord. No. 13467, § 2, 6-12-14; Ord. No. 13519, § 2, 5-14-15)

Editor's note— Ord. No. 12584, § 2, adopted September 9, 2004, changed the title of § 54-3 from "Permit required for work or special events that obstruct or close street or sidewalk or impede traffic; fees; waiver of fees" to "Permit required for work that obstructs or closes a street, or sidewalk or impedes traffic; fees; waiver of fees."