

Right-of-Way Protection

Right of way is City property, and certain improvements are not allowed without first obtaining City approval. A right of way permit gives you legal access to work within a City-owned right of way or easement. A permit ensures that work is done safely and meets codes and regulations.

Permits

All work within the public right-of-way requires a ROW Permit. The R-1 ROW Permit is a simplified permit intended to assist owners of single family homes perform minor work in the right-of-way in front of their primary residence. In addition to the R-1 Permit, the property owner is also required to execute a ROW Agreement with the City prior to the R-1 Permit being issued (Exhibit A).

Minor work is defined as improvements costing less than \$10,000 that does not require any engineering or additional permitting, and is to be performed by a homeowner (or their selected contractor) in front of the homeowner's single family residence. This type of permit would be required for any homeowner who wishes to remove/replace curbs, gutters, sidewalks, driveways, or install street trees and other City-approved landscaping in front of their primary residence. If the home is not occupied by the owner (i.e. a rental property, etc.) then the property owner will have to apply for the ROW Permit and execute the ROW Agreement.

Guarantee and Responsibility for Compliance

In the case of noncompliance with the City's requirements, the permit will be void and the facility will be brought into compliance or removed from the right-of-way at the applicant's sole expense.

The City may issue "Stop Work" order(s) upon any permittee committing or creating an unsafe act which may create a public hazard or who is not complying with the permit or the applicable codes. The order shall remain in effect until such time as these matters are corrected.

Permits shall be issued with the understanding that the applicant shall guarantee all work performed under the terms of the permit for a period of one (1) year from the date of final inspection and acceptance of work.

Any failures shall be repaired by the applicant, at the direction of the City, within five (5) days, unless the urgency of the problem requires a quicker reaction time.

The applicant shall be responsible for all repair costs incurred due to damages to existing utilities by failure to use due proper care and safety procedures, including not properly locating or errors in locating existing utilities before and during construction.

Removal/Relocation of Improvements: Upon ten (10) days written notice, the applicant shall be required to remove and/or relocate the improvements placed within the right-of-way at the applicant's sole expense.

It is expressly stipulated that the permit is a license for permissive use only and that the placing of facilities upon public property pursuant to the permit shall not operate to create or vest any property right in said holder.

It is understood and agreed that the rights and privileges herein set out are granted only to the extent of the City's right, title and interest in the land to be entered upon and used by the holder, and the holder will, at all times, assume all risk of and indemnify, defend and save harmless the City from and against any and all loss, damage, cost or expense arising in any manner on account of the exercise or attempted exercises by said holder of the aforesaid rights and privileges.

Protecting the public right-of-way is one of the primary responsibilities of the Public Works Department. All work performed in the public right-of-way requires a Right-of-Way (ROW) Permit of one of the following types:

1. Utility Work - this includes all utility companies (Duke Energy, AT&T, Spectrum and other telecommunications utilities, OUC, Orange County, etc.), as well as private contractors hired by property owners to do the trenching or boring for the placement of these facilities.
2. R-1 Residential - minor frontage work for existing single family home, must be home owner occupied. A signed Agreement between the City and the Property Owner is required prior to the R-1 ROW permit being issued.
3. Land Development - construction of frontage improvements required by a Building or Planning permit.
4. Miscellaneous Work - temporary use of the right-of-way for activities not listed above

Examples of work requiring an ROW Permit include:

- Installation of utility mains and services (water, sewer, storm, gas, electric, telecommunications, etc.)
- Installation of street trees or other City-approved landscaping
- Construction of sidewalks, curbs, gutters, and driveway approaches
- Installation of street lights, traffic signals
- Traffic lane and/or sidewalk closures (some routine maintenance activities exempted)

ROW Permit Information

ROW Permits typically require that contractors procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work by the contractor, his agents, representatives, employees, or subcontractors. Insurance meeting the City's minimum insurance requirements must be in place prior to issuance of a ROW Permit.

ROW Permits may also require a cash deposit or bonds to ensure that the work done in the

public right-of-way is completed in accordance with the City's requirements and the permit that has been issued.

Please note that all ROW Permits must be on the job site at all times.

R-1 Permit Application Package

R-1 ROW Permits will be processed as a variance according to Section 42-64 of the Belle Isle Municipal Code. Along with the requirements for the variance, an application for a R-1 ROW Permit must include the following items:

1. One (1) copy of a drawing showing the location, extent and dimensions of the work.
The drawing shall show the relation of the proposed work to existing improvements.
When approved by the City Engineer said drawing becomes a part of this permit.
2. An Agreement signed by both the City and the property owner.
3. Proof of residence / owner occupied status.
4. Copy of Homeowners insurance.
5. Payment of fee.
6. Faithful Performance Deposit (refunded upon completion of work) (If required by the City)

The application can be made to the City Manager, or City Manager's Designee. Upon receipt of the complete permit application package, the variance will be processed according to Section 42-64.

The drawings will be reviewed by the City Engineer or Director of Public Works. The City Engineer, or Public Works Director, will review the drawings to ensure conformance with City standards and any approved site plans. A minimum of five (5) working days should be allowed for this preliminary review. Following the preliminary staff review, comments will be returned to the applicant for any changes. Comments may ask that additional information be submitted for review, or that additional information be shown on the drawings. The City Engineer or Public Works Director will provide a written report to the City Planner for inclusion in the packet.

Upon completion of the items above and the variance granted by the Planning & Zoning Commission, the ROW permit will be issued. **Prior to beginning any construction, the applicant must request and arrange a field meeting with the Public Works Director.**

EXHIBIT A

**RIGHT-OF-WAY UTILIZATION
AGREEMENT**

THIS AGREEMENT, made and entered into this _____ day of _____, 2022, by and between THE CITY OF BELLE ISLE, FLORIDA, a political subdivision of the State of Florida, whose address is 1600 Nela Avenue, Belle Isle, FL 32809, hereinafter referred to as “**City**”, and _____, whose address is _____, Belle Isle, Florida 32812, hereinafter referred to as ”**Applicant**”.

WITNESSETH:

WHEREAS, the City has responsibility and authority over the Hoffner Avenue Right-of-Way located at (Street Address); and

WHEREAS, the applicant’s property located at (Street Address) lies adjacent to the (Street Name) Right-of-Way at the address or location listed above; and

WHEREAS, the applicant desires to apply for a variance to (Describe the Improvements).

NOW THEREFORE IN CONSIDERATION of the mutual covenants and conditions provided for in this Agreement and other good and valuable consideration, the receipt of which is acknowledged by both parties, the parties hereto do mutually agree as follows:

1. **INSTALLATION OF (Describe the Improvements)**. The **City** approves the installation of (Describe the Improvements) as depicted in Exhibit A within the (Street Name) Right-of-Way at the address or location description provided by the **Applicant** and subject to the issuance of a permit and variance by the **City**.

The **Applicant** shall be responsible for the installation, construction, repair and maintenance of the Improvements. The **Applicant** shall be financially responsible for any damage to the Improvements and/or right-of-way and shall notify the City if such damage occurs. The **Applicant** shall be responsible for securing all necessary applicable government permits including variances prior to the installation of the Improvements.

The **Applicant**, his successors or assigns shall maintain and keep in slightly condition all of the Right-of-Way Area and the Improvements and that City shall not be responsible for such maintenance at any time.

The **Applicant** understands that if the Improvements have to be removed, relocated, etc. during any construction or modifications, and that such relocation or replacement of the Improvements will be done at the **Applicant's** expense. The **City** agrees to notify the **Applicant** sixty (60) days in advance of such modifications.

2. **RELEASE.** The **Applicant** does hereby release the **City** and its agents and employees from any claim of damages now existing or hereafter accruing relating in any way to the provisions of this Agreement.
3. **INDEMNITY.** The **Applicant** does hereby agree to indemnify and hold the **City** harmless from and against any and all claims, damages, losses, expenses (including but not limited to attorney's fees), causes of actions, judgments, and/or liabilities arising out of or resulting from, in any fashion, the approval of the Agreement. This grant of indemnity shall be irrevocable. The grant of indemnity contained herein is absolute and unlimited.
4. **LITIGATION.** In the event of any litigation arising out of this Agreement, the prevailing party shall be entitled to recover all reasonable costs incurred including attorney fees and further including any costs or attorneys' fees incurred with respect to any appellate or bankruptcy proceedings related thereto.
5. **BINDING EFFECT.** This Agreement shall be binding upon the parties and their respective successors and assigns.
6. **AMENDMENTS.** This Agreement may be amended by mutual written agreement of the parties and only by such duly authorized written agreement, properly executed and the same formality of this Agreement.
7. **TERM AND TERMINATION.** This Agreement shall continue in full force and effect until mutually terminated by both parties. The **City** may only terminate the Agreement if the **Applicant** remains in breach of its maintenance obligations hereunder following thirty (30) days advance written notice to the **Applicant** describing the alleged breach. If the **Applicant** fails to cure the breach within such thirty (30) day period, at the end of such period the **Applicant** shall restore the **City's** right-of-way to the pre-existing condition or the parties will enter into an alternative written agreement concerning the maintenance.

IN WITNESS WHEREOF, the parties hereto have executed the Agreement on the day and year above first written

APPLICANT:

CITY:

Sign: _____

Sign: _____

Print: _____

Bob Francis, ICMA-CM

City Manager

ATTEST:

Yolanda Quiceno, City Clerk

EXHIBIT A

Map and description of the Improvements