



Department Source: Public Works

To: City Council

From: City Manager & Staff

Council Meeting Date: October 19, 2020

Re: Public Utility Right of Way Users - Plan Review, Permitting, and Inspection Processes

## Executive Summary

City Council requested a report at the October 5, 2020 Council meeting detailing the internal City processes associated with the plan review, permitting, and inspection of public utility work in and around the City right of way.

## Discussion

Public utility right of way users are required to obtain a permit prior to work beginning within the City's right of way per Chapter 24, Article X of the City's Code of Ordinances. Examples of public utility right of way users include traditional utilities such as Ameren and Boone Electric and telephone/cable television/internet providers such as CenturyLink, Mediacom, Charter, Socket, Bluebird, and Chariton Valley. Construction plans and a permit application are submitted and reviewed by City staff. In addition to the details associated with the proposed project the plans must also detail how traffic control will be handled in compliance with the Manual of Uniform Traffic Control Devices (MUTCD) and right of way restored per the City's Street, Storm Drain, and Sanitary Sewer Specifications and Standards. The right of way user's contractor is verified as having a current City business license and insurance in compliance with City requirements as part of this review as well.

Permits are not required for work within the platted utility easement alone. In most locations the utility easement is the ten foot wide tract of land running parallel with the roadway behind the sidewalk in a modern subdivision. This area is platted specifically for the use of public utility right of way users.

Section 24-169 does allow the City to impose permit specific conditions "to protect the public health, safety, and welfare, to ensure the structural integrity of the rights-of-way, to protect the property and safety of other users of the rights-of-way, and to minimize the disruption and inconvenience to the traveling public." Some examples specifically included in City ordinance include:

1. The amount of excavation or facility maintenance which may occur at one time and/or amount of right of way which may be obstructed during construction.
2. The number and size of facilities that may be installed in the right of way to ensure one right of way user does not consume a disproportionate amount of the available right of way to deter competition or deprive others of the use of the right of way.



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3. The design, location, and nature of all facilities based on nondiscriminatory basis in ensuring safe, efficient, and appropriate use of the right of way.
4. Reasonable conditions to effectively manage erosion and sediment control.
5. Other reasonable conditions regarding the time, safety precautions, or specific implementation of the specific work proposed.

City staff also requests that the right of way user detail how they intend to notify citizens of the proposed project. Door hangers are strongly encouraged as is providing a local contact for both the contractor and the public utility. Regardless of how citizens are notified before work commences, public utilities and their contractors vary greatly in the quality of their responses to citizen complaints.

Contractors are required by Missouri law to call Missouri One Call and have underground utilities located prior to excavation. The quality of the actual locates depend on the data available and older parts of the City typically have less information available than newer portions of town. Furthermore, only utility mains, not the service lines that feed the structure, are located as part of this process. Regardless, any damages to mains or service lines are the responsibility of the contractor. Citizens impacted by damages may contact City staff for assistance but often a more direct approach is reaching out to the impacted utility so that service can be restored as soon as possible.

Due to staff reductions in fiscal year 2021, Community Development has three site inspectors, previously four, charged with the inspection of all work within the City right of way. Most linear construction projects are handled with drop in inspections unless infrastructure restoration (street, sidewalk, drive approach, etc.) is proposed. For those inspections the contractor is required to call and request an inspection when the infrastructure is ready for final repair.

Work within the right of way is required to be guaranteed for a period of two years. This guarantee requires that the right of way user pay for the restoration of the right of way against "sagging, buckling, deterioration, and other premature failures of the restoration."

Previously the most common reason fiber optic cables were run along the City right of way was to bring internet service to citizens. However, recently City staff has seen an increase in requests to run fiber optic cables to serve small wireless facilities either on existing City infrastructure (i.e. utility poles, traffic signal poles, etc.) or on poles owned by the right of way user. These facilities are regulated by Chapter 24, Article XI. On tonight's Council agenda there was an example of a right of use agreement for each, one project bringing internet service to a business in downtown Columbia and one project to facilitate small wireless facilities for a national cell phone provider.



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Chapter 24, Article XI of the City's Code of Ordinances was adopted by City Council in February 2019. This ordinance was adopted in response to the passage of State legislation (Sections 67.5110 to 67.5121, RsMo) which encouraged municipalities to adopt ordinances and develop agreements that make available to wireless providers terms that comply with the "Uniform Small Wireless Facility Deployment Act." City ordinance divides permit requirements for small cell wireless facilities into two categories; work inside the right of way and outside the right of way. Community Development's plan review, permitting, and inspection process is very similar to what is outlined above. However, these projects also include the assistance of the Utilities Department so as to properly address the use of their facilities when applicable.

## Fiscal Impact

Short-Term Impact: None

Long-Term Impact: None

## Strategic & Comprehensive Plan Impact

### [Strategic Plan Impacts:](#)

Primary Impact: Infrastructure, Secondary Impact: Not Applicable, Tertiary Impact: Tertiary

### [Comprehensive Plan Impacts:](#)

Primary Impact: Infrastructure, Secondary Impact: Not applicable, Tertiary Impact: Tertiary

## Legislative History

Date	Action
n/a	None

## Suggested Council Action

Acceptance of the report.