

Introduced by \_\_\_\_\_

First Reading \_\_\_\_\_

Second Reading \_\_\_\_\_

Ordinance No. \_\_\_\_\_

Council Bill No. B 121-25

### **AN ORDINANCE**

amending Chapter 24 of the City Code to establish requirements relating to trenchless excavation associated with the installation of utilities in public rights-of-way; and fixing the time when this ordinance shall become effective.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBIA, MISSOURI, AS FOLLOWS:

SECTION 1. Chapter 24 of the Code of Ordinances of the City of Columbia, Missouri, is hereby amended as follows:

Material to be deleted in ~~strikeout~~; material to be added underlined.

Sec. 24-166. Policy and definitions.

(a) It shall be the policy of the city to authorize use of the rights-of-way by public utility rights-of-way users in a manner that minimizes interference to the public use and minimizes the burden on the rights-of-way physically and aesthetically to the fullest extent permitted by law. Any use of the rights-of-way by any person shall be subject to the terms and conditions hereof, in addition to all applicable federal, state or local requirements, and nothing herein shall be enforced or interpreted to contravene any superseding law, including but not limited to RSMo. § 67.1830, et seq., to the extent applicable to any given circumstance.

The right granted to a public utility rights-of-way user to use the rights-of-way is limited to the use authorized in accordance with this article. These rights shall grant non-exclusive use only to that right-of-way user, except where otherwise provided herein or when expressly authorized by the city.

(b) The following definitions shall apply to this section, except that where the definitions set forth in RSMo. § 67.1830, as may be amended, are required by law to apply to specific uses of the rights-of-way, such definitions shall apply to such circumstances. City means the City of Columbia, Missouri, a municipal corporation and any duly authorized representative.

*Director* means the director of public works of the City of Columbia, Missouri, or the director's authorized representative, who shall be the primary city official responsible for administration of this article. The director may delegate any or all of the duties hereunder.

*Excavation* means any act by which earth, asphalt, concrete, sand, gravel, rock or any other material in or on the ground is cut into, dug, uncovered, removed, or otherwise displaced, by means of any tools, equipment or explosives, including trenchless excavation, except that the following shall not be deemed excavation:

- (1) Any de minimis displacement or movement of ground caused by pedestrian or vehicular traffic;
- (2) The replacement of utility poles and related equipment at the existing general location that does not involve either a street or sidewalk cut; or
- (3) Any other activity which does not disturb or displace surface conditions of the earth, asphalt, concrete, sand, gravel, rock or any other material in or on the ground.

*Excavation permit* means the authorization required to make excavations for the construction, installation, repair or maintenance of any type of facility within the rights-of-way.

*Facilities maintenance* means construction, alteration, maintenance, installation, storage, or location of facilities installed below, on or aboveground in the public rights-of-way, other than excavation, that also:

- (1) Causes or threatens to cause any obstruction or interference to any vehicular or pedestrian traffic or traffic lane in the rights-of-way. It shall exclude any minor obstruction or interference due to minimal operations that are less than two (2) hours in duration and during which the ROW User utilizes safety precautions required by the Manual on Uniform Traffic Control Devices (MUTCD);
- (2) Involves temporary or permanent storage of materials or equipment on rights-of-way;
- (3) Causes or reasonably may cause damage or alteration to any public improvement or vegetation within the rights-of-way; or
- (4) Involves removal, replacement or alteration to any safety feature or requirement within the rights-of-way, including but not limited to removal of manhole covers, altering lighting, traffic signage or signals, placement or removal of traffic barricades, etc.

- (5) Facilities maintenance shall not include routine or other maintenance on poles, boxes, or other facilities that does not result in or qualify under one or more of the conditions described in subparagraphs (1) through (5) herein.

*Facilities maintenance permit* means the authorization required to perform facilities maintenance within the rights-of-way other than excavations.

*Facility* means all or any lines, pipes, wires, cables, conduit facilities, poles, towers, vaults, pedestals, boxes, or other equipment owned or controlled by an entity other than the city.

*PSC* means the Missouri Public Service Commission.

*Pavement* means the improved surface of the public way with concrete, asphalt, aggregate or other treated materials.

*Person* means an individual, person or body natural or corporate.

*Public easement* means any easement for utilities, access, or other use dedicated to the city or in the name of the city irrespective of whether the easement is held in trust by the city for private and public users, and regardless of whether private utilities or others in addition to or other than the city are actually using the easements.

*Public improvement* means any public project undertaken by the city for the public good.

*Public utility* means every cable television or video service provider, every pipeline corporation, gas corporation, electrical corporation, rural electric cooperative, telecommunications company, water corporation, heating or refrigerating corporation or sewer corporation under the jurisdiction of the public service commission; every cooperatively owned or operated utility pursuant to Chapter 394, RSMo.; every street light maintenance district; every privately owned utility; and every other entity, regardless of its form of organization or governance, whether for profit or not, which in providing a public utility type of service for members of the general public, utilizes pipes, cables, conduits, wires, optical cables, or other means of transmission, collection or exchange of communications, information, substances, data, or electronic or electrical current or impulses, in the collection, exchange or dissemination of its product or services through the public rights-of-way.

*Restoration* means returning the right-of-way surface to its original condition, or better.

*Reseller service provider* means a person providing service within the city that does not have its own facilities in the rights-of-way, but instead uses the rights-of-way by interconnecting with or using the network elements of another right-of-way user utilizing the rights-of-way, and/or by leasing excess capacity from a right-of-way user.

*Rights-of-way or ROW* means the area on, below or above a public roadway, highway, street or alleyway in which the city has an ownership interest, and including such adjacent areas of such public ways within such ownership interest as made available by the city for rights-of-way use herein, but not including:

- (1) Easements obtained by utilities or private easements in platted subdivisions or tracts;
- (2) Railroad rights-of-way and ground utilized or acquired for railroad facilities; or
- (3) Valves, meters, hydrants, poles, pipes, cables, conduits, wires, optical cables, or other means of transmission, collection or exchange of communications, information, substances, data, or electronic or electrical current or impulses utilized by a utility owned or operated by a governmental entity pursuant to Chapter 91, RSMo., or pursuant to a charter form of government.

*ROW authorization or authorization* means an authorization to use the rights-of-way granted to a right-of-way user by the city as provided in subsection (a)(1)—(4) of section 24-167 of this article.

*Rights-of-way user or ROW-user* means a public utility owning, controlling, maintaining, constructing, or installing facilities in the public rights-of-way of the city, unless otherwise expressly exempted by law. The term also shall not include the city; provided that the city shall nevertheless comply with all such requirements applicable to ROW-users to the extent such compliance is otherwise required by applicable state or federal law. ROW work permit or permit means either an excavation permit, or a facilities maintenance permit, or both and shall constitute a "right-of-way permit."

*Service* means that function provided to property adjoining the public rights-of-way from a service provider.

*Standard specifications* means the City of Columbia Street, Storm Sewer, and Sanitary Specifications and Standards, as may be amended, or other successor documents, on file with the director of public works.

*Trenchless excavation* means horizontal excavation parallel to the surface of the earth which does not use trenching or vertical digging as the primary means of excavation, including but not limited to directional boring.

*Trenchless excavation policy* means the City of Columbia Trenchless Excavation Utility Damage Prevention Policy promulgated by the director, as may be amended, and on file with the director of public works.

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Sec. 24-169. Permit conditions.

The following conditions shall apply to all ROW work permits issued under this article, unless specifically stated otherwise in the permit, and all work in the rights-of-way by an ROW-user:

- (1) *City specifications; applicable codes.* All restoration of city ROW caused by excavations and facilities maintenance shall comply with the city standard specifications as may be amended from time to time by the authority of the director establishing such specifications and procedures consistent with the requirements and purposes of this chapter. A ROW-user shall perform all excavations or facilities maintenance in full compliance with all applicable engineering codes adopted or approved by the city and in accordance with applicable statutes of the State of Missouri, and the rules and regulations of the PSC and any other local, state or federal agency having jurisdiction over the parties. A ROW-user shall be responsible for all excavations or facilities maintenance done in the rights-of-way, regardless of by whom the excavation or facilities maintenance is performed.
- (2) *Permit-specific conditions.* Each ROW work permit shall be deemed to incorporate the provisions of this article as permit conditions. The director may also impose additional reasonable conditions upon the issuance of a ROW work permit and the performance of the ROW-user in order 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. Such reasonable conditions may include, but are not limited to:
  - a. The amount of excavation or facilities maintenance which may occur at one time and the amount of rights-of-way which may be obstructed during construction;
  - b. The number or size of conduits or other facilities that may be installed by each ROW-user based on the reasonable needs to ensure that no one ROW-user may unreasonably consume a disproportionate amount of the available rights-of-way to deter competition or deprive the public or others of the reasonable use of the rights-of-way;
  - c. Posting of an additional or larger performance and maintenance bond for additional facilities, except as otherwise provided in section 24-174 hereof, when the established amount is reasonably determined to be insufficient;

- d. The design, location, and nature of all facilities based on nondiscriminatory basis in ensuring the safe, efficient and appropriate use of the ROW consistent with this article and applicable law;
  - e. Reasonable conditions to effectively manage erosion and sediment control; and
  - f. Other reasonable conditions regarding the timing, safety precautions, or specific implementation of the specific work proposed.
- (3) *Responsible for costs.* A ROW-user shall be responsible for all reasonable costs borne by the city that are directly associated with a ROW-user's ROW work permit or use of the rights-of-way thereunder.
  - (4) *Stop work orders.* Except in cases of an emergency or with approval of the director, no excavation or facilities maintenance may be done in violation of a stop work order issued by the director if, in the director's determination, conditions are unreasonable for such excavation or facilities maintenance based on standard engineering and construction practices.
  - (5) *No Interference with right-of-way uses.* A ROW-user shall not disrupt rights-of-way such that the natural free and clear passage of water through the gutters or other waterways is interfered with. No person may park private vehicles within or next to the facilities maintenance or excavation area, except for such areas which may be designated and marked as safe areas for vehicle parking in accordance with an approved traffic control plan.
  - (6) *Responsible for subcontractors.* If excavation or facilities maintenance is being done for the ROW-user by another person, a subcontractor or otherwise, the ROW-user shall be responsible for ensuring that the excavation or facilities maintenance performed by said person is consistent with ROW-user's permit and applicable law and ROW-user shall be responsible for promptly correcting acts or omissions by said person.
  - (7) *Minimum impact required; no interference.* The ROW-user shall, in the performance of any excavation or facilities maintenance required for the installation, repair, maintenance, relocation and/or removal of any of its facilities, limit all excavations or facilities maintenance to that necessary for efficient operation and so as not to interfere with other users of the rights-of-way.
  - (8) *Open excavations; street-plate bridging.* The ROW-user shall not permit an excavation to remain open or facilities maintenance actions to continue in the rights-of-way longer than is necessary to complete the repair or installation or action, and in no event may an excavation or facilities

maintenance remain open or continue beyond the expiration of the ROW work permit or any approved extension. Any excavation left open overnight on any thoroughfare or collector type street shall be securely covered. Unless otherwise approved by the director in writing, all excavations shall be filled in or covered at the end of each working day. The ROW-user assumes the sole responsibility for maintaining proper barricades, plates, safety fencing and/or lights as required from the time of opening of the excavation until the excavation is surfaced and opened for travel. Street plate bridging (SPB) to cover open excavations shall be authorized subject to requirements contained in the standard specifications.

- (9) *Barricades and safety devices.* All excavations and facilities maintenance shall be barricaded in such a manner as to protect both pedestrians and vehicular traffic. Such excavations, facilities maintenance and barricades shall be lighted at night with danger signals in such a manner that all traffic may be warned of the existence and location of such excavations, facilities maintenance and barricades. All traffic control devices shall be in compliance with the current version of the Standard Specifications and the Manual of Traffic Control Devices (MUTCD), unless otherwise agreed to by the city. All surplus excavation materials, tools or supplies at the site of the excavation or facilities maintenance shall be barricaded and lighted at night in the manner described in this section. No open excavation may be left in the pavement area without placing street plates over the opening.
- (10) *Traffic control.* Whenever there is an excavation or facilities maintenance by the ROW-user, the ROW-user shall be responsible for providing adequate traffic control to the surrounding area as determined by the director. In the event the excavation or facilities maintenance is not completed in a reasonable period of time, the ROW-user may be liable for actual damages to the city for delay caused by the ROW-user pursuant to this article.
- (11) *Hours of activity.* Non-emergency excavations or facilities maintenance on arterial and collector streets may not be performed during the hours of 7:00 a.m. to 8:30 a.m. and 4:00 p.m. to 6:00 p.m., in order to minimize disruption of traffic flow. The ROW-user shall perform non-emergency excavations or facilities maintenance on the rights-of-way at such times that will allow the least interference with the normal flow of traffic and the peace and quiet of the neighborhood, and work shall be limited to the hours of 7:00 a.m. to 7:00 p.m. on Mondays through Fridays and 9:00 a.m. to 5:00 p.m. on Saturdays; no such work shall performed on Sundays unless approved by the director.

(12) *Location of facilities; undergrounding.*

a. All underground mains and service lines with ancillary appurtenances thereto shall, wherever available, be placed in utility easements adjacent to the rights-of-way. If a utility easement or space within a utility easement is not available, whenever practicable, underground mains and service lines with ancillary appurtenances thereto shall be placed between the curb or pavement edge and sidewalk line in the section of the street known as the parkway. Where the pavement and sidewalk occupy the entire street, the underground utilities shall be located under the sidewalk, unless otherwise directed by the city.

b. Except as provided herein, all facilities constructed after the date of this article shall be placed underground. Facilities may be located aboveground if approved by the director for good cause or as may otherwise be specifically authorized in a franchise or ROW agreement consistent with law. Aboveground facilities may be installed if approved by the director where alternative underground facilities are not technically or economically feasible, or where the imposition of such additional costs of undergrounding on the ROW-user are precluded by applicable law.

(13) *Additional requirements for excavation activities.* In addition to the permitting and construction requirements contained in this article, any entity or person performing excavation shall comply with the Underground Facility Safety and Damage Prevention Act within Chapter 319, of the Revised Statutes of Missouri, as amended, City Code section 16.239 Notice of intent to excavate; One Call System, and the city trenchless excavation policy.

~~(13-14)~~ *Notice of completion.* The ROW-user shall notify the office of the director upon completion of the excavation or facilities maintenance authorized by the permit.

~~(14-15)~~ *Guarantee of work.* Every ROW-user to whom an excavation permit has been granted shall guarantee for a period of two (2) years the restoration of the rights-of-way in the area where such ROW-user conducted an excavation and performed the restoration. Such ROW-user shall guarantee and pay for the restoration of the rights-of-way against sagging, buckling, deterioration, and other premature failures of the restoration.

~~(15-16)~~ *Tree trimming.* A ROW-user shall neither remove, cut, nor damage any trees, or their roots, in and along the rights-of-way of the city except as authorized by the city pursuant to an approved tree trimming plan authorized by an excavation or facilities maintenance permit or otherwise authorized under RSMo. § 537.340. The type and extent of trimming and



pruning shall be in accordance with the requirements of the city as provided in article II of this chapter.

- ~~(16-17)~~ Inspection of permits. Permits issued shall be available by the ROW-user at all times at the indicated work site and shall be available for inspection by the director, other city employees and the public.

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Sec. 24-173.1. Trenchless excavation.

(a) It shall be unlawful for any entity or person to use trenchless excavation or to direct the performance of trenchless excavation within the city or the service areas, properties, rights-of-way or easements of the city which shall in any way disturb, move, cut, or damage any utility line, cable, pipe, or facility without prior written approval of the owner of the utility or facility. Notwithstanding anything contained in this article to the contrary, the requirements of this section shall apply to both public and privately-owned underground facilities, including facilities owned by the city.

(b) All ROW-users shall comply with the trenchless excavation policy promulgated by the director in addition to the requirements contained in this section.

(c) Methods of trenchless excavation that can be effectively monitored, both vertically and horizontally, by electromagnetic locating methods, or other precise methods, shall be allowed so long as the equipment is calibrated to industry standards and is in good working order.

(d) Unguided trenchless excavation methods such as moles, missiles, hogs, pneumatic gophers, bullet moles, and similar methods shall not be permitted without prior written authorization from the director.

(e) Directional drilling or boring may not begin before 7:00 a.m. or continue later than 3:30 p.m. and may only be conducted on Monday through Friday excluding holidays listed in city code section 19-121 except with prior written approval of the director. These limits shall not apply to other phases of construction such as notification of excavation, potholing, or restoration work.

(f) All bore crossings shall occur at a pothole and the potholed facility must remain visible for inspection until such time as the trenchless excavation is complete and ready for backfill. If it is determined that boring equipment will cross the utility at a different location than the intended pothole, a new pothole at the current location shall be excavated and the utility shall be exposed at the new crossing location. The depth of the boring equipment shall be noted upon the ground in white spray paint at all utility crossing locations. All potholes shall fully expose the crossed utility and twenty-four (24) inches below the bore depth if the crossed utility is confirmed to be below the boring depth. Additional potholing shall be completed along existing utilities where the trenchless

alignment parallels an existing facility as set forth in the trenchless excavation policy. Where parallel alignments are closer than six (6) feet to an existing facility, a pothole plan shall be required and must be approved by the director prior to the trenchless excavation work being performed. All potholes under pavement shall be filled within twenty-four (24) hours with flowable fill.

(g) A ROW-user shall not operate or facilitate the operation of more than two (2) trenchless excavation boring machines simultaneously without obtaining a separate multi-location trenchless excavation permit from the director. Such permit may be approved under the following conditions:

- (1) The ROW-user shall file a separate application with the director to obtain a multi-location trenchless excavation permit. The application shall contain detailed information regarding the locations where trenchless excavation boring machines will be utilized along with a plan to utilize services of an independent third-party safety monitor ("Safety Monitor") to oversee active directional boring.
- (2) The Safety Monitor shall approve every bore plan prior to boring, monitor each crew during directional boring operations, and oversee no more than four (4) boring machines at one time.
- (3) The Safety Monitor shall meet the minimum requirements for a Safety Monitor as set forth in the trenchless excavation policy and shall be approved to serve as a Safety Monitor by the director.
- (4) The Safety Monitor shall be present during all pre-construction meetings(s) that include boring sites and be physically present at least once per day with each crew being monitored at boring site(s) when any directional boring operations are taking place. The Safety Monitor shall ensure that the boring crew complies with all best practices, policies, regulations and laws. If the Safety Monitor observes any practices that are contrary to policy, regulation or law, the Safety Monitor shall issue a stop work order and notify the director immediately. Failure to have the required number of Safety Monitors during directional boring work is unlawful and may, in addition to other penalties, result in a stop work order on all sites under excavation by the ROW-user until the required Safety Monitors are provided and approved by the director.
- (5) The application for issuance of a multi-location trenchless excavation permit shall be accompanied by an additional fee of fifty dollars (\$50.00) plus sixty cents (\$0.60) per linear foot of planned trenchless excavation boring.

(g) Any permit, consent or approval of the director may be withdrawn for any reason set forth in section 24-177 of this Code for revocation of permits.

SECTION 2. This ordinance shall be in full force and effect from and after its passage.

PASSED this \_\_\_\_\_ day of \_\_\_\_\_, 2025.

ATTEST:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Mayor and Presiding Officer

APPROVED AS TO FORM:

\_\_\_\_\_  
City Counselor