

**CITY OF OAKWOOD
ADMINISTRATIVE POLICIES AND PROCEDURES**

POLICY NO. 23

SUBJECT: RIGHT-OF-WAY ADMINISTRATION POLICY

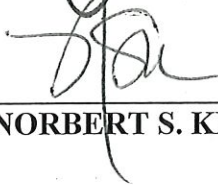
DATE: SEPTEMBER 11, 2017

RECOMMENDED BY:



ROBERT F. JACQUES, LAW DIRECTOR

APPROVED BY:



NORBERT S. KLOPSCH, CITY MANAGER

POLICY: This policy establishes a protocol for administering Chapter 951 of the Streets and Public Services Code, and related ordinances dealing with work in city rights-of-way.

PURPOSE: This policy is intended to provide guidance in administering utility installation, maintenance, and other construction projects within city rights-of-way.

RESPONSIBILITIES: Responsibilities for implementation of this policy are as follows:

Finance

The Finance Department is responsible for processing all payments relating to the right-of-way management and for sending invoices as appropriate.

Public Works

The Public Works Department is responsible for receiving forms and applications relating to administering the right-of-way ordinance and for issuing certificates and permits, and for all field work relating to administration of the right-of-way ordinance. The Engineering Technician has primary responsibility for monitoring all field work and for daily interactions with the utility providers covered under the right-of-way ordinance, including those City, County, RTA, and cable providers that are exempt from certain provisions.

GENERAL PROVISIONS:

Effective this date, a "Right-of-Way Administration Policy" is hereby established to provide policy guidance and procedures to city of Oakwood employees and officials that are responsible for administrative actions relating to installation, maintenance, and other utility construction projects within city rights-of-way.

1. **Utility Providers covered under the ordinance.** "Providers" are those who have above-ground and/or underground utility facilities (pipes, poles, conduit, wires, etc) located in city rights-of-way ("ROW").
2. **Certificates of Registration.** Unless exempt, all Providers are required to apply for, and receive, a Certificate of Registration ("COR") which is valid for 5 years. No permits can be issued to a Provider that does not have a current COR. Only City, County, RTA, and cable providers are exempt from the requirement to apply for a COR.

- a. Applications for a Certificate of Registration

- i. Application forms will be available at the Public Works building and will be accepted in the same manner as other permit applications. A copy of the application form is attached to this policy as Appendix 1.

An application is incomplete if it is missing any of the following:

1. \$500 application fee;
2. An insurance certificate OR a request to self-insure. (NOTE: Self-insurance is only an option for certain large companies. If there is any question on this requirement, please consult the Law Director.);
3. Proof of current Bureau of Worker's Compensation coverage;
4. Certificate of Incorporation, if applicable;
5. PUCO Certificate of Authority to Operate, if applicable;
6. All applicable regulatory approvals, permits, authorizations, or licenses;
7. A tax release form (Appendix 1(A), attached); and
8. A statement of all planned construction and major maintenance projects for the current year.

- ii. In 2015, all Providers must apply by March 31, 2015. After 2015, applications should be received by January 1 of the year it is due for renewal. **A COR is valid for 5 calendar years.** (For example, a COR issued in the month of April 2015 is considered to be valid for calendar years 2015, 2016, 2017, 2018, and 2019, and is due for renewal at the beginning of 2020.)

- b. No permits can be issued to a Provider that does not have a current COR. However, the ordinance provides a 6-month grace period that is only available in the year 2015, and only to existing utility Providers. Construction permits for existing utility Providers should not be denied based on lack of a COR until after June 30, 2015.

- c. Application review process. Once submitted, the COR application should be forwarded to the Law Director for review. Application reviews should be prompt but may take as long as reasonably necessary. The standards for review are described in Section 951.106.3 of the ROW ordinance. If the standards are met, the COR should be promptly issued, with a copy retained by the Public Works Department. A sample COR form is attached as Appendix 2.

If needed to properly consider the application, the Law Director may request follow-up information from the applicant; this can include:

- i. Any required attachments that were not provided with the application;
- ii. A narrative description of the Provider's proposed activities in city ROW;
- iii. Financial statements;
- iv. Other information about the applicant's financial, managerial, or technical ability to do the kind of work proposed or to otherwise satisfy the requirements of Chapter 951.

- d. Ongoing obligations during 5-year COR period. Each Provider is required to submit an annual statement to the Engineering Technician of all planned construction and major maintenance for each calendar year during its registration. If there are no anticipated projects for a particular year, the statement should still be submitted and should indicate that. The Engineering Technician has discretion to review these statements and determine if additional information is necessary.

3. **Registration Maintenance Fee.** In addition to the COR, each Provider is required to pay an annual Registration Maintenance Fee. Typically it should be paid along with the COR application fee and then again at the beginning of each calendar year during the 5 year COR period. In 2015, because COR applications are not due until March 31, 2015, the fee may be prorated by applying a discount of 8.33% per month for the months of January, February, and March (up to a total discount of 25%), depending on when the COR application is filed and the maintenance fee is paid.

- a. Amount of the Registration Maintenance Fee. The amount of the fee is based on the number of miles of city ROW occupied by the Provider's facilities. The annual fee is \$2,000 for Providers that occupy 20 or more miles of ROW, and \$1,000 for Providers that occupy less than 20 miles of ROW. Most major utility Providers will fall into the higher category; the Engineering Technician should be consulted if there is any question as to which category is correct.
- b. Payments. Registration Maintenance Fees will be accepted in the city's administrative offices or by mail, and will be processed through the Finance Department like any other payment. For known Providers operating on a continuing basis, the Finance Department will generate and issue an invoice in December of each year for the upcoming year's fee.

Upon receipt of payment, the Finance Department will confirm the same to the Public Works secretary. The Public Works secretary will be responsible for mailing each paid Provider an up-to-date copy of the *Right of Way Restoration Rules, Regulations and Standards* document.

- c. Accounting. The Finance Director shall develop an appropriate method of tracking and accounting for Registration Maintenance Fees. For accounting and all other purposes, the fees are considered to be cost recovery payments for the city's administration of the ROW ordinance and maintenance of CORs.
- d. Lapse or non-payment. In the event that a Provider fails to pay an annual registration fee, the Finance Department is to notify the Law Director, who will prepare a Notice of Default. No steps should be taken to terminate the Certificate of Registration without consulting the Law Director.

4. Permits for work in city rights-of-way.

- a. Types of permits. There are two types of permits under Chapter 951. These are Construction Permits and Minor Maintenance Permits. All ROW work requires a permit.
 - i. A Construction Permit is required if the project includes "construction." Under Chapter 951, construction includes, but is not limited to, digging, boring, tunneling, trenching, excavating, obstructing, installing wires, installing conduit, installing pipes, installing transmission lines, installing poles, installing signs, or installing Facilities, other than landscaping or ornamental plantings in, on, above, within, over, below, under, or through any part of the Rights-of-Way. This includes opening and/or cutting into any paved or improved ROW surface. (If there is any question about whether a project constitutes "construction," the Engineering Technician should be consulted.)
 - ii. A Minor Maintenance Permit is required for any ROW work that fits in one of the following categories:
 - 1. A routine repair/replacement that does not involve "construction" (*see* definition, above) and does not require more than 30 minutes of traffic control.
 - 2. Construction that does not require street lane or sidewalk closures, and does not involve cutting any street, pavement, curb, or sidewalk. For thoroughfares and arterial streets, the work must be done in one day between the hours of 9:00 a.m. and 3:00 p.m. In other locations, the work must take less than 8 contiguous hours to complete.

(NOTE: The Engineering Technician may approve small cuts under a Minor Maintenance Permit if, in his professional judgment, it will not involve the use of city oversight and administrative resources that would justify requiring a full Construction Permit.)

b. Applications for a Construction Permit. Application forms will be available at the Public Works building and on the city's website. They will be accepted by the Public Works secretary. Joint applications are acceptable and encouraged. A copy of the application form is attached to this policy as Appendix 3.

i. A Construction Permit application is incomplete if it is missing any of the following:

1. Appropriate permit fee (currently \$45 for work in unpaved ROW areas and \$90 for work in paved ROW areas, but subject to annual review and adjustment by the Engineering Technician to ensure adequate administrative cost recovery);
2. If the applicant does not have a valid Certificate of Registration, the application must include proof that the applicant has written authority to apply for a permit on behalf of a Provider that does have a valid Certificate of Registration;
3. All required attachments, including scale drawings, number and location of pavement cuts, location of all existing and proposed Facilities, and the certification of a Professional Engineer (or other trained technical person acceptable to the Engineering Technician) that the proposed project complies with applicable codes, rules, and regulations;
4. A traffic control plan in compliance with the Ohio Manual of Uniform Traffic Control Devices;
5. For above-ground installation on existing poles, information showing:
 - a. Size and height of existing poles;
 - b. Excess capacity currently available on existing poles; and
 - c. Excess capacity that will exist after installation;
6. For new pole installation, information showing:
 - a. Lack of excess capacity on existing poles or underground systems;
 - b. Lack of financial or technical feasibility to locate Facilities on existing poles or to make a new underground installation;
 - c. Location, size, height, color, and material of proposed pole(s); and
 - d. That the applicant will comply with all laws concerning installation of new poles;
7. For underground installation in existing underground systems, information showing:
 - a. Excess capacity currently available in the existing system; and
 - b. Excess capacity that will exist after installation;
8. For underground installation in a new underground system, information showing:
 - a. Location, depth, size, and quantity of proposed new ducts or conduits; and
 - b. Excess capacity that will exist after installation;

9. Preliminary construction schedule and completion date;
 10. Payment of any prior unpaid amounts due to the city, including any permit fees, loss/damage/expense for prior projects, loss/damage/expense for any emergency actions taken by the city, Certificate of Registration fees, and any other money due to the city from the applicant and/or Provider;
 11. A Construction Bond and Removal Bond, if applicable.
- ii. Generally, permits are required on a per-job-location or per-cut basis. However, the Engineering Technician has discretion to allow multiple cuts to be included in a single permit if, in his professional judgment, the cuts are located in such close proximity to each other that they can be overseen by the Public Works Department as a single project, and will consume no more administrative resources than a single project.
- c. Applications for a Minor Maintenance Permit. Application forms will be available at the Public Works building and on the city's website. They will be accepted by the Public Works secretary. Joint applications are acceptable and encouraged. A copy of the application form is attached to this policy as Appendix 3.
- i. There is no fee for a Minor Maintenance Permit. A Minor Maintenance permit application is incomplete if it is missing any of the following:
 1. If the applicant does not have a valid Certificate of Registration, the application must include proof that the applicant has written authority to apply for a permit on behalf of a Provider that does have a valid Certificate of Registration;
 2. A completed application form; and
 3. A statement regarding the protective measures and devices that will be used for traffic control in compliance with the Ohio Manual of Uniform Traffic Control Devices.
- d. Application review process. Once submitted, all applications should be forwarded to the Engineering Technician for review. Payments will be held by the Public Works secretary during application review. Within 24 hours of permit approval, the payment and a copy of the approved permit will be delivered by the Public Works secretary or one of the Foremen to the Finance Department for processing. If the permit is denied, the Public Works secretary will return payment to the Provider.

Application reviews should be prompt but may take as long as reasonably necessary. The standards for review of a Construction Permit are described in Section 951.117.3; standards for the Minor Maintenance Permit application are described in Section 951.119.3. There are also permissive denial standards described in Section 951.120.2. If the standards are met, and there is no other reason to deny the application, the permit should be promptly issued. There is no separate form for the permit; approval is to be noted on the application along with any conditions or other

requirements. The original should be sent to the applicant with a copy retained by the Public Works Department.

(NOTE: The Engineering Technician may require conditions that, in his professional judgment, are necessary to protect the property and safety of other ROW users and to minimize any disruption and inconvenience.)

- e. Upon issuance of permit the Engineering Technician should take the following steps to ensure proper oversight and follow-up:
 - i. Create a field inspection card and set up the job/project for electronic tracking;
 - ii. Enter a work order for any city utility location that may be necessary;
 - iii. If the permit involves tree trimming, boulevard work, or otherwise impacts areas of concern to the Leisure Services Department, notify the Director of Leisure Services or the City Horticulturist so they can be involved in oversight and inspection; and
 - iv. Coordinate with Provider for any scheduling or incremental inspections that may be necessary.

- f. Emergency/after-hours work. In emergency situations, Providers will be instructed to notify the Safety Department dispatcher on duty, and may begin work upon this notification. The dispatcher should immediately notify the Public Works department by doing both of the following:
 - i. Telephone call to the stand-by foreman (after-hours/on-call); and
 - ii. Email notification to the Engineering Technician. To the extent possible, this notification should include a description of the nature of the emergency, the work to be performed, and the location.

The Provider is required to apply for the applicable Permit within two (2) business days after the emergency. The Engineering Technician may extend the 2-day requirement for good cause.

5. **Construction.** The Engineering Technician may require a Provider (and/or the Provider's contractor) to attend a pre-construction meeting if, in his professional judgment, the project requires significant coordination among the Provider, the city, and/or any other Provider with Facilities in the ROW. Regardless of whether a full pre-construction meeting is held, the Engineering Technician should confirm scheduling with the Provider and coordinate any incremental inspections that may be necessary and appropriate.

The Engineering Technician, in consultation with the Law Director, is responsible for ensuring that the Provider has met the bonding requirements described in Section 951.121 before construction begins.

6. **Inspection.**
- a. Incremental inspections. The Engineering Technician will be primarily responsible for incremental inspections during construction as may be necessary, and will ensure that proper traffic control measures are utilized where appropriate. In certain cases (*i.e.*, projects that involve tree trimming, boulevard work, or that may otherwise

impact areas of concern to the Leisure Services Department), the Engineering Technician should coordinate incremental inspections with the Leisure Services Department. Any problems or irregularities should be resolved immediately.

- b. Remediation. All remediation shall be completed consistent with requirements set forth in the *Right of Way Restoration Rules, Regulations and Standards* document. In most cases, remediation will be expected to be performed immediately upon completion of the work. The only exceptions are:
 - i. Projects where delayed remediation is communicated to the city in advance and agreed upon, with appropriate terms and conditions established by the Engineering Technician or Director of Public Works;
 - ii. Situations where, in the Engineering Technician's professional judgment, delay is unavoidable due to weather or similar extraordinary circumstances beyond the Provider's control, in which case remediation will be expected as soon as reasonably practicable.

If delayed remediation is permitted, the Engineering Technician will ensure that the Provider takes steps to temporarily remediate/protect the site, including cold patch, gravel, barriers, signage and the like, as appropriate. The Engineering Technician will closely monitor delayed remediation sites to ensure that these temporary measures are properly maintained until permanent remediation is completed.

- c. Final inspection. All work must be performed in an acceptable workmanlike manner, consistent with all industry standards and satisfactory to the city in all respects. No shoddy, rough, uneven, or flawed work (including remediation) will be approved. Providers will be instructed to notify the Engineering Technician upon completion of all work and remediation to schedule a final inspection.
- d. Follow-up inspections. Chapter 951 requires Providers to guarantee their remediation work for one year after completion. During that year, Providers are required to correct any failures or deficiencies within 5 days after receiving notice from the Public Works Department, weather permitting. The Engineering Technician will ensure that all work sites are periodically re-inspected during the year following completion. If remediation measures are found unacceptable, the Engineering Technician is responsible for promptly notifying the Provider (or permit-holder, if Provider's work was performed by a contractor) and coordinating necessary repairs.

RIGHT-OF-WAY PERMIT FEE SCHEDULE

January 2021

Excavations within UNPAVED city rights-of-way

- Review application and prepare permit (Admin): .25 hours x \$30.09 = \$7.52
- Locate city utilities (Maintenance): .50 hours x \$30.12 = \$15.06
- Oversee excavation and restoration (Inspector): .67 hours x \$47.82 = \$32.04

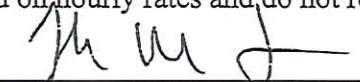
TOTAL: \$54.62... Use \$55...Current Fee \$50.00

Excavations within PAVED city rights-of-way

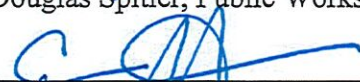
- Base permit fee as calculated above: \$55
- Oversee excavation backfill/compaction (Inspector): .33 hours x \$47.82 = \$15.78
- Oversee asphalt/concrete replacement (Inspector): .67 hours x \$47.82 = \$32.04

TOTAL: \$102.82... Use \$105.00...Current Fee: \$95.00

* Rates are based on hourly rates and do not reflect fringe benefits.

Recommended by: 
Tom Long, Engineering Technician

Reviewed by: 
K. Douglas Spitler, Public Works Director

Concurred in by: 
Cindy Stafford, CPA, Finance Director

Approved by: 
Norbert Klopsch, City Manager

Effective January 20, 2021

**CITY OF OAKWOOD
FEE SCHEDULE**

**Written permits and site inspections are required for all work items listed below.
The stated fees must be paid prior to issuing permits.**

	<u>Fee</u>
<u>Building/Accessory Structure</u>	
Pergola/Gazebo (< 150 s.f.)	\$40
Greenhouse (< 150 s.f.)	\$40
Play Structure	\$40
Pond	\$40
Above Ground Pools	\$40
Spa/Hot Tub/Jacuzzi	\$40
Storage Shed (< 150 s.f.)	\$40
TV Tower/Satellite Dish	\$40
Misc. Building Permits	\$40

<u>Condenser Units/Heat Pumps</u>	
Condenser Unit/Heat Pump per location	\$40

<u>Demolitions</u>	
Demolitions, Relocation of Building	\$75

(Note: A copy of major demolition permits and permit applications shall be sent to the Regional Air Pollution Control Agency (RAPCA), Attn: Sarah Gostomsky Asbestos Coordinator, PO Box 972, 451 W. 3rd St., Dayton, OH 45422. RAPCA will enforce EPA Reg. 150.)

<u>Right-of-Way (R/W) Work</u>	
Driveway Approaches / Aprons	\$40
Sidewalk/Curbs in Right-of-Way	\$40
Small Cell Wireless Permit	\$100
Blanket Permits for Digging in R-O-W, non-utility	\$250
Misc. Right-of-Way Permits	\$40

<u>Utility Right-of-Way Work</u>	
Construction Permit -Unpaved R/W	\$55
Construction Permit - Paved R/W	\$105

<u>Right-of-Way Administration</u>	
Application fee for 5-year Certificate of Registration	\$500
Annual Maintenance Fee	
a. 20 or more miles of R/W occupied:	\$2,000
b. Less than 20 miles of R/W occupied:	\$1,000

Work on Private Property

Driveways/Garage Floors	\$40
Sidewalks/Steps	\$40
Parking Lot Resurfacing/New	\$40
Patios/Porches/Stoops	\$40
Parking Pads	\$40
Wheelchair Ramp	\$40

Fences/Retaining Walls

Fence	\$40
Railroad Ties/Landscape Timbers	\$40
Brick, Stone, Concrete Walls	\$40

Fire Permits

Fire Alarm	\$40
Fireworks Display	\$40
Storage Tank Removal	\$40
Temporary Tents	\$40

Signs and Awnings requiring permits

\$40

Property Owner Utility Work

Water Taps- 1" or less	\$75
Water Taps - 2" or less but greater than 1"	\$150
Water Taps – larger than 2"	No of inches x \$75
Sanitary Sewer Taps	\$60
Storm Sewer Taps	\$60
Replace Drain Pipe to Curb	\$40
Replace Gas Service	\$40
Replace Water Service	\$40
Install Irrigation System	\$40
Install Electrical Fence	\$40
Misc. Utility work	\$40

Miscellaneous Fees

Annual license to construct concrete sidewalks, curbs or gutters, both for contractors and their subs. Ordinance #741.03	\$40
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Permit to work in street right-of-way.
Ordinance # 901.01, 901.03 & 901.07

\$40

Miscellaneous Fees Cont'd

Permit for sanitary sewer connections for properties outside the city. Ordinance #915.12	\$75
Planning Commission and BZA Filing Fee. Ordinance #1004 & 1006	\$100
Publication for Variances/Special uses	Actual Cost
Secretarial Fee to Process BZA and Planning Commission Applications	\$50
Conditional Use & Application. Ordinance #1005	\$40
Plat Applications Ordinance #1171.10	\$250
Plat Engineering Fee Ordinance #1171.10	Actual Cost
Pre-Sale Inspection under the Property Maintenance Code. Ordinance #17-106.6	\$60
Property Maintenance Code inspections made of rental units after tenants vacate units. Ordinance #17-106.11	\$60
Appeals under Property Maintenance Code. Ordinance #17-111.1 & 17-111.3	\$75
Variances from Property Maintenance Code. Ordinance #17-111.2 & 17-111.3	\$75
Mobile Food Truck Permit	\$10
Administrative Labor For Lot Mowing	\$130
Administrative Labor Property Damage	\$100
<u>Mulch Delivery</u>	
3 Cubic Yards	\$100
6 Cubic Yards	\$150

Miscellaneous Fees Cont'd

Special Pickup

Residents receive 2 free special pick-ups per calendar year
Additional pick-ups are charged \$100

Dumpsters

Dumpster rental/administrative fee \$100
Disposal of remodeling debris/mixed contents: Actual Fee Cost
Disposal of concrete/dirt/sod only: \$53

Public Records Request

Based on guidance provided by the Ohio Attorney General Office, there is no charge on requests of 25 pages or less for copies on standard size paper. Requests of more than 25 pages will be billed for each page requested at the rates indicated.

Standard office sizes

Paper – Black & White	
8.5"x11"	\$.02 per page
8.5"x14"	\$.04 per page
11"x17"	\$.05 per page
Paper – Color	
8.5"x11"	\$.09 per page
8.5"x14"	\$.11 per page
11"x17"	\$.12 per page

Other

CD - ROM	
700 mb	\$.65
Special large sizes	
12" x 18"	\$.45 per page
18" x 24"	\$.85 per page
24" x 36"	\$.90 per page
30" x 48"	\$1.49 per page

APPROVED: _____


Norbert S. Klopsch, City Manager

1-20-21

Date