

ORDINANCE NO. 6205

**AN ORDINANCE REPEALING AND REENACTING CHAPTER 70,
ARTICLE X, RIGHT-OF-WAY PERMITTING SYSTEM, AND
REVISING AND RENUMBERING SEC. 70-321 AND 70-322
REGULATING SNOW REMOVAL AND PLANTING IN CERTAIN
PUBLIC PLACES**

WHEREAS, Ordinance No. 5483, adopted by the City Council in 2002, adopted a comprehensive right-of-way permitting system, codified at FGC Sections 70-500 through 70-764; and

WHEREAS, minor mistakes were made in the text of the codified version of the ordinance, which are corrected by this ordinance; and

WHEREAS, the City Engineer reviewed the proposed revisions and recommends its adoption; and

WHEREAS, it is the sense of the Council that the Right-of-Way Permitting System should be adopted by reference in a manner similar to the Council's adoption of building codes in Chapter 10; and

WHEREAS, in 2009, the Council, by Ordinance No. 5786, added Sec. 70-321, Snow and ice; removal; standing; casting on public property, and Sec. 70-322, Regulation for planting in a public place, to Article X, Right-of-Way Permitting System; and

WHEREAS, these two sections are better placed in another Article, so this ordinance moves Sections 70-321 and 322 out of Article X to Article IV, Division 2, currently entitled Driveways, to be renamed Alleys, Sidewalks, Planting.

NOW THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF FAIRBANKS, ALASKA, as follows:

SECTION 1. FGC Sec. 70-321 and Sec. 70-322 are hereby repealed and reenacted as Sec. 70-161 and Sec. 70-162, Article IV, Division 2, which is renamed as follows:

DIVISION 2. ALLEYS, SIDEWALKS, PLANTING

Sec. 70-161. Snow and ice; removal; standing; casting on public property.

(a) A person having control of any premise bordered by a graded or paved sidewalk must promptly remove any snow which falls on the sidewalk and must remove or sand any ice which forms on the sidewalk, to the extent that the snow or ice is an impediment to pedestrians.

(b) It is unlawful for any person to move snow or ice from private property or to hire, direct, or allow another person to move snow or ice from private property onto any sidewalk, street,

avenue, or alley in the city to the extent that the snow or ice is an impediment to use of the sidewalk, street, avenue, or alley. It is not a violation of this subsection to move snow from a sidewalk into the adjacent street.

(c) A person violating subsection (b) above is guilty of a minor offense. A person charged with violating subsection (b) must respond to the city clerk's office within 30 days of receipt of the citation. Disposition of a charge under subsection (b) may be without court appearance pursuant to AS 29.25.070 and the Alaska Minor Offense Rules upon payment of a fine of \$200.00 and payment of the state surcharge required by AS 12.55.039 and AS 29.25.074. The fines for these offenses may not be judicially reduced.

(d) The director of public works, or designee, is authorized to direct the removal of any snow or ice that is not promptly removed from a sidewalk, as provided for in subsection (a), or that was taken from private property and moved to a sidewalk, street, avenue, or alley. The cost of such removal shall be charged to the owner of the property, provided the owner or person having control of the premise fails to do so within 24 hours after having received notice from the director of public works, or designee. The cost of removal of any snow or ice done at the direction of the director of public works, or designee, under this subsection shall be set forth in the city schedule of fees and charges for services.

(e) For purposes of this section, a person has control of a premise if they are the owner or occupant of the premise.

Sec. 70-162. Regulation for planting in a public place.

(a) *Trimming, treating.* It shall be the duty of any person growing trees or plants that impact the public highway or right-of-way or who is responsible for trees or plants growing on property abutting on public places to:

- (1) Trim trees or plants so as not to cause a hazard to the public, such as impacting intersection sight distance or obscuring traffic signs, or interfering with the proper public lighting or street lighting;
- (2) To treat or remove any tree or plant which creates a nuisance or is a hazard to any public place by reason of being diseased or insect ridden.

(b) *Setback.*

- (1) *Street.* On a corner lot, trees, or plants within the sight triangular area, as determined by the city engineer, must be planted and maintained in such a manner as to not impact sight distance at intersections and compromise the safety of the traveling public. Trees and plants that impact sight distance at intersections and compromise the safety of the traveling public by impacting sight distance or obscuring signs must be removed as directed by the city engineer.
- (2) *Sidewalk.* No tree or plant may be planted in the green space between the sidewalk and the curb.

(c) The city engineer is authorized to direct the person who is responsible for trees or plants growing on property abutting on public places to trim, treat, or remove any tree or plant so as to comply with subsection (a). If the person responsible for such trees or plants fails to comply, the city engineer may arrange for the removal of such trees or plants. The cost of such trimming, treating, or removal will be charged to the person responsible, provided the person responsible fails to do so after having received notice from the city engineer. The cost of trimming, treating, or removing any tree or plant under this subsection will be set forth in the city schedule of fees and charges for services.

(d) For purposes of this section, a person is responsible for the trees and plants if they are the owner or occupant of the premise abutting the roadway or right-of-way.

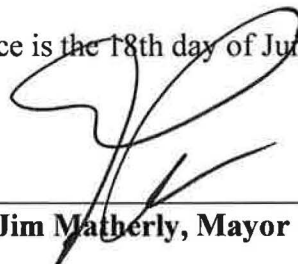
SECTION 2. The current City Right-of-Way Permitting System, codified at Sections 70-500 through 70-764, is hereby repealed and reenacted as follows:

FGC Sec. 70-500. Right-of-Way Permitting System.

(a) The 2022 City of Fairbanks Right-of-Way Permitting System, attached and noted as Attachment A, is hereby adopted by the City of Fairbanks.

(b) Copies of the 2022 City of Fairbanks Right-of-Way Permitting System shall be made available at the office of the City Engineer and published online at the City of Fairbanks website.

SECTION 3. That the effective date of this ordinance is the 18th day of June 2022.



Jim Matherly, Mayor

AYES: Marney, Clark, Cleworth, Therrien, Rogers, Gibson
NAYS: None
ABSENT: None
ADOPTED: June 13, 2022

ATTEST:

APPROVED AS TO FORM:



D. Danyielle Snider, MMC, City Clerk



Paul Ewers, City Attorney

2022 CITY OF FAIRBANKS

RIGHT OF WAY PERMITTING SYSTEM

(Adopted by Ordinance No. 6205, June 13, 2022)

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Section 500. Definitions.

The following terms and words are defined and construed to mean as provided below.

Article: References to this "article" mean 70-500 through 70-764.

Excavation: The removal, clearing away, open cuts, trenching, tunneling, boring, drilling, bulldozing, digging out, leveling, clearing, or moving of earth or soil by manual or mechanical means within the right-of-way.

Facility: All utilities and publicly and privately-owned improvements located within the rights-of-way owned or managed by the City of Fairbanks, including city and private storm drains, streetlights, and traffic control devices.

GOEs: Grants of easement (GOEs) are easement interests owned or managed by the city which are created by a specific grant, the purpose and function of which is similar to PUEs grants of easement for private surface access or installation of facilities by a single utility are not covered by this article.

Maintenance: Upkeep, repair, or improvement work on an existing facility which does not expand the area occupied by or change the location of the facility.

Permits: There are six types of permits relevant to the use of city rights-of-way:

1. *Major right-of-way permits:* Except as determined otherwise by the city engineer, the following facilities require a major permit to be authorized within the right-of-way.
 - a. Longitudinal facilities. Facilities located within the right-of-way and running generally parallel with adjoining right-of-way lines.
 - b. Aerial conductors and appurtenances thereto, the length of which exceed 1,000 feet.
 - c. Longitudinal joint use facilities.
2. *Minor right-of-way permits:* All other facilities will require a minor permit in order to be authorized within the right-of-way. The following facilities are specifically included as requiring a minor permit.
 - a. Non-longitudinal buried utility service lines including appurtenances thereto, excluding buried telephone and cable TV lines that do not cross the roadway. (See definitions "major permits".)

- b. Driveways/curb cuts and culverts.
 - c. For purposes of establishing fees, permits listed below at subsections (3) – (6) will be considered minor permits.
3. *Driveway/sidewalk/curb cut*: A permit allowing modifications of sidewalks, curbs, and right-of-way to allow vehicular access to the public right-of-way. Permit may require installation of culverts and modification of the site drainage. The permit must follow the requirements of this article and FGC Chapter 70, article IV, division 2 – Alleys, Sidewalks, Planting.
 4. *Encroachment permit*. A permit issued for the acknowledgement of an obstacle or intrusion of a privately owned facility into the right-of-way. The obstacle/intrusion would be largely temporary in nature and removable upon request of the city/city engineer. Notification of the city council is required. The permit must follow the requirements of this article.
 5. *Excavation permit*. A permit issued for an excavation in the public right-of-way after completion of installation of a utility facility. The permit must follow the requirements of this.
 6. *Temporary use permit*. A permit allowing use of the right-of-way for such a period as to not exceed 24 hours. The permit would be for the use of the right-of-way surface or above. Excavations are not covered by this permit. The permit must follow the requirements of this article.

Professional engineer: An engineer registered and licensed to do work in the State of Alaska.

Professional land surveyor: A land surveyor registered and licensed to do work in the State of Alaska.

PUEs: Public utility easements (PUEs) are easements created by plat or by grant creating easement interests used or are useful for utility purposes.

RCA: Regulatory Commission of Alaska

Right(s)-of-way: The terms "city right-of-way", "right-of-way" and "public place" mean all streets, avenues, ways, boulevards, drives, alleys, walkways, sidewalks, drainage areas,

PUE's, GOE's, planting strips, bicycle paths, squares, plazas, and the space above or beneath the surface of such places, to the extent the city owns or has management authority of such places.

Temporary use: Temporary obstruction or surface use of the right-of-way with duration of less than 24 consecutive hours.

Use: The term "use" means to construct, store, erect, or maintain any public or private improvements in, upon, over, or under any city right-of-way. In addition, "use" includes the permanent or temporary occupation of the right-of-way for any purpose or duration exceeding 24 hours not normally associated with the transport of people, vehicles, or equipment. Excavations within the right-of-way for any period are included under this definition of "use".

Utility: Every corporation, company, individual, or association of individuals as defined by AS 42.05.720 that owns, operates, manages, or controls any plant, pipeline, or system including, but not limited to, furnishing electrical service, telephone service, cable television service, natural or manufactured gas service, water service, sewer service, steam or district heat service to the public for compensation.

Sections 502-509. Reserved.

Section 510. Authority.

This policy is implemented pursuant to the following provisions of law:

1. AS 29.35.010(10): "All municipalities have the following general powers, subject to other provisions of law: (10) to regulate the operation and use of a municipal right-of-way, facility or service."
2. AS 42.05.251: "Public utilities have the right to a permit to use public streets, alleys, and other public ways of a city or borough ... Upon payment of a reasonable permit fee and on reasonable terms and conditions and with reasonable exceptions as the city or borough requires ..."
3. AS 29.10.200. Powers of Home Rule Municipalities.

Sections 511-519. Reserved.

Section 520. Right-of-way permitting statement.

The City of Fairbanks hereby establishes the following system to effectively manage its rights-of-way, to protect the public streets and alleys, to avoid conflicts by users of the right-of-way, to reduce construction and rehabilitation costs, and to minimize traffic delays and safety hazards to the public.

Section 521. Reserved.

Section 522. Management authority.

Management authority over the rights-of-way, as defined, including, streets, roads, PUE's, GOE's, and alleys located within the corporate limits of the City of Fairbanks, resides with the City of Fairbanks, a home rule city of the State of Alaska. Easements exclusively for a single utility outside of the right-of-way will not be managed by the city.

Section 523. Policy.

It is the policy of the City of Fairbanks to manage and regulate all use of the right-of-way by a right-of-way permitting system. It is not the intent of the city to limit the right of utility companies to maintain and operate existing facilities but to establish and control the conditions under which such actions will be undertaken within the right-of-way. By this system, the city shall authorize and regulate the placement of facilities and other uses as defined in Sec. 70-500, public and private, in the right-of-way, thereby reducing future installation costs for new facilities, insuring full and complete restoration of public facilities within the right-of-way, and minimizing traffic delays and safety hazards for the traveling public. The permitting system will include the following:

1. *Fee schedule.* A fee schedule that equitably distributes the costs of managing the right-of-way.
2. *Permanent record.* A permanent record of authorized uses of the right-of-way will be maintained.
3. *Existing permitted utility facilities.* Upon adoption, all previously permitted public and private utility facilities and improvements within the right-of-way, including all utility facilities previously owned by the city, will have

"grandfather privileges" (are permitted without additional application or the payment of a fee).

4. *Existing non-permitted facilities.* Existing non-permitted facilities within the right-of-way may, at the discretion of the city engineer, be permitted upon receipt of an application for such with best available as-builts, without payment of a fee.
5. *Duplicative.* Compliance with other applicable policies does not diminish the responsibility to meet the requirements of this policy. Any right-of-way within the city under the maintenance and control of the state or federal government, such as Airport Road, is exempt from regulation under this article.

Section 524. Costs.

Except as applicable under section 70-700, the entire cost of use of the right-of-way including construction, installation, operation, maintenance, restoration, relocation, permitting fees, and other expenses incident thereto, are the responsibility of the permittee.

Section 525. Implementation authority.

The permitting system will be implemented under the direction of the city engineer. The city engineer may change, modify, or deviate from these policies when acting in the best interest of the city and may impose additional requirements or restrictions in any permit as a condition of approval of the permit, subject to the right of appeal by a permit applicant to the city council.

Sections 525-539. Reserved.

Section 540. Permits required.

It is unlawful for any person, business, or corporate entity to use the right-of-way as defined in Sec. 70-500 without first having applied for and obtained a right-of-way permit, a temporary use permit, a driveway or cut permit, an encroachment permit, and/or a street excavation permit when required by this article. This includes sidewalks, curbs, and access ramps, which must be constructed to city standards. Such permits will be required as follows:

1. With the exception of utility services, all privately owned improvements within the right-of-way must be authorized by an encroachment permit.
2. Driveways and curb cuts and access ramps within the right-of-way must be authorized by driveway/curb cut permits
3. All temporary use of the right-of-way must be authorized by a temporary use permit.
4. All excavations within the right-of-way not authorized by a driveway/curb cut permit or a right-of-way permit must be authorized by a street excavation permit.
5. Use of the utilidor is subject to the utilidor agreement signed by utilidor users.
6. All other uses of the right-of-way must be authorized by a right-of-way permit as herein provided.

Section 541. Reserved.

Section 542. Individual permit required.

A permit must be obtained for each noncontiguous project involving use of the right-of-way. Such permits are subject to insurance and bonding requirements as hereinafter provided. A permit that is issued for a contiguous project may be amended without an additional "one-time" payment; lineal foot charges will apply, provided that when the project is finished a subsequent extension will require a new permit.

Section 543. Permitted activities.

Permitted activities include all work reasonably associated with maintenance and operation of the permitted facility. Replacement, rehabilitation, and reconstruction of the existing facility that does not negatively impact the right-of-way or existing facilities is permitted under this policy upon advance notice to the city engineer. Additionally, permits may require or authorize the following:

Construct and maintain adjoining structures. Permits may be issued where the right-of-way will be occupied in conjunction with the construction, reconstruction, and maintenance of structures and improvements adjoining the

right-of-way that cannot be reasonably accomplished without encroaching into the right-of-way.

Section 544. State contractor's license.

A state contractor's license is required for any work within the right-of-way, with the exception of certified public utilities performing work on their own facilities, or as approved by the city engineer.

Section 545. Traffic control plans.

Except for aerial installations and repairs and maintenance by utilities, traffic control plans are required for the construction, maintenance, or installation of permitted uses within or adjacent to the traveled way. The permittee must submit a traffic control plan for review and approval by the city engineer. Approved traffic control plans are a condition of issuance of the right-of-way permit. All traffic control plans must conform with the "Manual on Uniform Traffic Control Devices", the latest revision of Part IV of the Alaska Supplement. (See 70-604a.)

Section 546. Staging/work areas.

Upon demonstration of need, the city may, at the request of the permittee of existing facilities, issue a permit(s) for additional access when such is needed to accomplish work on the utility or as may be necessary to meet state or federal safety codes.

Section 547. Temporary use.

Except as hereinafter provided, temporary use of the right-of-way may be authorized by a temporary use permit, where the duration of such use does not exceed 24 hours. A temporary use permit is not required for routine repair or maintenance activities that do not prevent use of the right-of-way by other permit holders or the travelling public. At the discretion of the city engineer, the city engineer or their designee may issue one or more 24-hour extensions to temporary use permits.

Section 548. Street excavation permits.

A current city street excavation permit must be obtained from the city engineering department prior to excavating in the city's rights-of-way.

Section 549.1. Driveways and curb-cuts.

No driveway or curb-cut providing access to a city-owned or maintained street may be constructed without first having obtained driveway/curb cut permit from the city engineer. The driveway permit will be administered and issued subject to provisions of this policy.

1. All driveways providing access to a city right-of-way must be constructed in accordance with the standard construction specifications and standard details of the city.
2. No person shall install a driveway culvert in any ditch, drain, or gutter in any city right-of-way without first submitting a plan for approval to the city engineer and receiving a right-of-way permit for such. Payment of the fee herein provided does not preclude payments for drainage improvements implemented by special assessments.

Section 549.2. Annexations.

Blanket permits will be issued without a permit fee for utilities associated with annexations after receipt of best available as-builts to the city engineer.

Section 549.3. Utility stubouts.

Utility stubouts within the right-of-way are owned by and permitted to the utility provider. Upon application for a permit and connection to a stubout, the permit for the stubout from the utility main to the right-of-way line will be transferred from the utility provider to the property owner in accord with the practice of the utility.

Section 549.4. Ditches and drains.

No person may create any obstruction in any ditch, drain, water passage, or gutter that may hinder the passage of water.

Section 550. Permit application.

By these sections, the city hereby establishes the permit application policy. It is the intent of this policy to establish the standards and means whereby permits may be requested.

Section 551. Reserved.

Section 552. Right-of-way permit application.

Applications for right-of-way permits must be filed with the city engineer upon a form furnished by the city and must include the following:

1. The name, address, telephone number, fax number, and e-mail address, to the extent such is available, of the owner of the facility to be permitted and, during the initial construction of the facility or subsequent maintenance thereof, the on-site contact person.
2. Subcontractors' name, address, and phone number (if applicable).
3. An accurate description of the right-of-way or portion thereof desired to be used as specified in this chapter.
4. Construction schedule and expected term of use thereafter.
5. A description of the proposed use or improvements to be installed within the right-of-way.

Section 553. Plans required.

Except as provided below, each application for a right-of-way permit must be accompanied by a set of plans and specifications for the proposed work within the right-of-way. Said plans must include all pertinent right-of-way lines, property boundaries, proposed improvements, drainage conditions where applicable to road reconstruction and provisions, and method of road re-construction and implementation where applicable. The plans must include a description of the work to be accomplished, limits of the work, and other pertinent data to provide the city engineer with all information necessary to evaluate the design, location, and other aspects of the planned installation. The following items may be required:

1. The facilities to be permitted must be located by station and off set relative to center line control, or where appropriate, may be tied directly to property or

- right-of-way lines, or center line control. The city engineer may require additional details be shown on the plans to ensure compliance with this section.
2. Depending upon the location and nature of the planned improvements, the city engineer may require plans and specifications submitted for the work to be stamped by a professional engineer and/or professional land surveyor as provided below.
 - a. All projects plans involving sewer, water, steam, district heat, and cable duct banks must be stamped by a registered professional engineer.
 - b. All project plans involving natural gas, buried communication cables, and joint use facilities on existing poles are exempt from the requirement such plans be stamped by a registered professional engineer or registered professional land surveyor.
 3. The plans must show all surface and buried improvements in the vicinity of the planned work as provided below.
 - a. Plans for buried facilities must show all pertinent surface and buried improvements.
 - b. Plans for surface facilities must show all pertinent surface improvements.
 4. Where required under this section, the basis of horizontal and vertical survey control must be included on the plans and is subject to approval by the city engineer.
 5. All project and storm drain discharge plans must be approved by those agencies with jurisdiction.
 6. Applications for a permit for a service line are exempt from the requirements of this section but must be accompanied by a sketch depicting the following:
 - a. For buried facilities, the property being served, including the lot, block, and subdivision or street address.
 - b. The utility main or trunk lines from which service will be obtained.
 - c. For buried utilities, the location and direction of the planned service line to the point it exits the right-of-way.

- d. The elevation of the service line at the point of connection to the main and at the point it exits the right-of-way. Elevations are required for underground services only.
7. This section does not apply to telephone/cable service drops that do not cross the roadway.

Sections 554-569. Reserved.

Section 570. Processing applications - general.

Right-of-way permit applications will be processed and issued in a timely manner, where the proposed use of the right-of-way does not unduly interfere with public safety and where the intended use can be reasonably integrated with other existing and prospective uses of the public way.

Section 571. Reserved.

Section 572. Processing applications and permits.

The city engineer, or designee, shall examine the permit application to determine if it meets the requirements of this policy.

1. If the proposed use of the right-of-way does not unduly interfere with the rights of the public or other public utilities, the application may be approved, and a draft permit will be prepared for the applicant.
2. The city engineer may attach special provisions and stipulations deemed necessary to protect the city right-of-way and the general public.
3. If the draft permit is agreeable to the applicant, it will be issued, subject to Section 584. Existing users.
4. Where reasonable and practicable, the draft permit will be signed by the city within 24 hours of receipt of the signed application. Permit proposals received on Fridays and days immediately preceding a recognized holiday will be handled on the following regular working day.

5. The city shall retain the original permit and provide a copy to the permittee.

Sections 573-579. Reserved.

Section 580. Permit general requirements.

All permits approved by the city must meet the following minimum requirements. Additional requirements may be imposed by the city engineer as deemed appropriate.

Section 581. Reserved.

Section 582. Location of permitted facilities.

The permit must establish locations for facilities to assure compatibility with all present and planned future uses of the right-of-way in which the utility facility is located.

1. Facilities must be located outside of the existing or anticipated roadway whenever possible.
2. The location of the facility should allow for the safe and practical maintenance and improvement of both the facility and the roadway.
3. Facilities located above grade should be set back from the existing or planned roadway surface and should not be located so to create a visual sight distance or physical obstacle or hazard as established by codes, statutes, or as required by the city engineer.
4. Excavation, back fill or other disturbance by facility construction or maintenance activities must be finished in a manner which restores the right-of-way as herein required.

Section 583. Schedule compliance.

If work is not commenced within the period approved by the city, the permit will be suspended until such time as further approval is issued by the city engineer.

Section 584. Existing users.

If there are other existing facilities located in the right-of-way for which a permit is applied, the applicant is encouraged to provide notice of non-objection from the owner(s) of the existing facilities. If notice of non-objection is not provided, the city engineer shall

contact the owners of existing facilities to determine if there is an objection. In the event the owner of an existing facility does not provide notice of non-objection, or objects to the applicant's permit, the city engineer shall adjudicate whether the applicant's use will damage the right-of-way or the existing facility.

Section 585. Suspension with notice.

All permits are temporary and may be suspended by the city engineer upon 48 hours' notice to the permittee if:

1. The permittee requests such suspension.
2. The work does not proceed in accordance with the approved plans or is not in compliance with the local, state, and federal ordinances, codes or regulations.
3. Entry to the site by the city for the purposes of investigation and inspection has been denied.
4. The permittee has made a misrepresentation of a material fact in applying for the permit.
5. The progress of the work indicates the plan is, or will be, inadequate to protect the public, the adjoining property, the street, or utilities in the street; or the excavation, or fill, endangers or will endanger the public, the adjoining property, the street, or utilities in the street.
6. The permitted activities do not occur according to the approved schedule, or time allowed by extension.

Section 586. Suspension without notice.

The city engineer may suspend a permit without notice when the work becomes dangerous, or any structure becomes unsafe. Upon suspension, all work must cease except as approved by the city engineer.

Section 587. Failure to comply.

If work is deemed by the city to be dangerous and is not corrected by the permittee, the city engineer may correct such hazard or make the necessary repairs to render the hazard safe at the expense of the permittee.

Section 588. Occupation of the right-of-way.

During the period of the permit, the permittee is permitted to occupy such portions of the right-of-way as provided for by the permit subject to the following:

1. A reasonable amount of tools, materials, and equipment for construction may be stored in the right-of-way.
2. Excavated waste material must be piled as to not interfere with spaces that may be designated to be left free and unobstructed and not inconvenience an occupant of adjoining properties.
3. Stored waste materials may not obstruct sight distance or otherwise unreasonably compromise traffic safety.
4. Run off from construction and/or maintenance activities, industrial discharges, cooling water, and other stormwater discharges may not conduct pollutants and/or sediments into the city's storm water system and adversely impact the quality of the water discharged.
5. An erosion and sediment control plan detailing a storm water management plan, a waste control plan, and a safety plan must be prepared as required by the city engineer.

Section 589. Notice of completion.

Notice of completion must be provided by the permittee on the first business day following project completion. Final project inspection will be conducted in accordance with section 70-610.

Section 589.1. Emergency work.

In the event a permittee experiences an unexpected failure of a permitted facility, the failure of which is deemed to threaten the public health, safety, or welfare, or cause a loss of product or significant facility damage/failure, the permittee is granted immediate access to the right-of-way as may reasonably be necessary to restore system service and integrity. In such event, it is the responsibility of the permittee to minimize the disturbance to the right-of-way, as well as the duration, inconvenience, hazards, and associated delays to the public.

Section 589.2. Required reporting.

The permittee shall report the emergency work as provided hereinafter:

1. The permittee shall immediately notify the City of Fairbanks Police Department Dispatch of emergency street closures.
2. If an emergency repair is not complete by the first regular working day following any event requiring emergency access to the right-of-way as provided herein, then within four hours following the beginning of the first working day following the system failure, the permittee shall file with the city engineer a report detailing the location, extent of the emergency, and traffic plans. The city engineer, at his discretion, may dictate restoration terms for affected public improvements, traffic plans, or such other conditions as may be deemed necessary.
3. If an emergency repair is complete and full traffic access has been restored by the first regular working day following the system failure, the permittee's report to the city may be limited to locational information.
4. In the event of a public safety emergency, the city has a right to use all or any part of the surface area occupied by the permittee.

Sections 590-599. Reserved.

Section 600. Construction requirements.

All work within the right-of-way must meet the following requirements:

1. Unless other arrangements have been agreed upon, reasonable access must be provided to residences isolated by construction activities and to businesses from during regular business hours.
2. All detours will be planned and coordinated with the city engineer and will be maintained at least daily. Such routes must be swept clean of construction debris and all new potholes caused by the project must be repaired with hot mix asphalt.
3. Acceptable access must be provided for emergency vehicles at all times.
4. Accommodations must be made for mail delivery, refuse collection, and utility service vehicles.
5. Disruption of access to utilities and public facilities must be minimized to the extent possible.

6. Except where alternate facilities or arrangements are provided, work areas will be confined so as to not obstruct driveways and sidewalks except where alternate facilities are provided as required.
7. All work must be performed in a neat and orderly manner and scheduled to minimize interference with the public and traffic.

Sections 601-602. Reserved.

Section 603. Survey monuments.

Prior to removing city property corners, street intersection monuments, or other survey control, the permittee must:

1. Notify the city surveyor prior to removal.
2. Agree to preserve and replace the monuments or control by a professional land surveyor in the manner required by accepted survey practices and as required by AS 34.65.040, Records of Monument.

Section 604. Excavation safety requirements.

All excavations within the right-of-way must meet the requirements of applicable law and regulation, in addition:

1. It is unlawful to create any excavation or fill within the right-of-way without adequate barricades or warning devices. Such barricades, traffic signs, and warning devices must be in conformance with the "Manual on Uniform Traffic Control Devices", the latest revision of Part IV of the Alaska Supplement and must be maintained twice daily.
2. Temporary pedestrian walkways will be constructed to provide for safe travel and convenient for users as required by the city engineer.

Section 605. Restoration and standards.

To the extent any operation or activity by a permittee materially disrupts the surface or subsurface condition of the right-of-way, the permittee shall be responsible to expeditiously restore, remove debris, repair, and reconstruct the affected property to a condition equal to or better than the condition of the property prior to the activity, or as approved by the city engineer. All such work to restore, repair, and reconstruct the

property must comply with Design and Construction Guidelines of the City of Fairbanks Street and Drainage System and City of Fairbanks Standard Specifications for Roadway and Utility Construction. Additionally, the permittee shall be responsible to maintain the excavated area to condition satisfactory to the city engineer for a period of one year following the date of original entry into the right-of-way and shall meet the following requirements:

1. The responsibility for restoration of the right-of-way lies wholly with the party making the excavation or otherwise disrupting the condition of the right-of-way.
2. Every effort must be made to complete all work and restore the street to its original condition in the shortest possible time. Except in the case of unusual and extenuating circumstances as determined by the city engineer, the contractor shall be charged a penalty whenever the time an excavation remains open or the street has not been restored to its original condition exceeds the maximum allowed in the following schedule:
 - a. Allowable time for commencing to completion of work under a minor permit, including back filling of excavation within the traveled way.

Residential: Three calendar days.

Business or arterial: 18 hours (maximum of six hours between 7:00 a.m. and 7:00 p.m.) For a major permit, work will be completed in accord with the terms of the permit.

- b. Additional charges for time that excavation remains open in excess of allowable time.

Residential: \$100.00 per day.

Business or arterial: \$20.00 per hour.

- c. Total allowable time for commencing excavation to final completion of roadway restoration including paving replacement, ditch grading, and cleanup.

Residential: 14 calendar days.

Business or arterial: 14 calendar days.

- d. Additional charges for time street or sidewalk has not been restored to its original condition.

Residential: \$100.00 per day.

Business or arterial: \$20.00 per hour.

3. However, if the permittee fails, refuses, or neglects to restore the street and/or sidewalk to its original condition within a total of 14 calendar days after commencing excavation, the city engineer is authorized and directed to have such street and/or sidewalk restored to its original condition by city work forces and/or other contractual arrangements with appropriate charge back to the original permit holder for the entire cost of such work. If an applicant feels that charges levied by the city engineer or his authorized representative are unreasonable, they may appeal to the mayor by a letter to the city engineer within ten city working days after the charges have been levied in writing to the contractor involved.
4. As the excavation work progresses, all affected roads and sidewalks must be thoroughly cleaned of all rubbish, excess earth, rock, and other debris deposited by the permittee.
5. All cleanup operations will be accomplished at the expense of the permittee and must be completed to the reasonable satisfaction of the city engineer.

Section 606. Pavement and concrete removal.

Where excavations or trenches are made in exposed concrete and pavement surfaces, a power-driven saw must be used to cut a kerf deep enough to permit complete breakage of the concrete or pavement without ragged edges. The edge of all pavements must be properly cut, and all loose material must be removed before new pavement is placed.

Section 607. Compaction.

Compaction of back fill material must be equal or greater to that of surrounding in situ material.

Section 608. Removal of facilities.

Abandoned underground utility facilities may not be allowed to remain in place if they would degrade the roadway or damage existing facilities.

Section 608.1. Surface facilities.

Where an existing joint use pole-line is relocated to another accessible location, the joint users will be required to also relocate. The relocation must occur within a 90-day period. After the relocation of the joint users is complete, the pole-line owner will remove the abandoned poles. Should the abandoned/orphaned poles still remain in place beyond 60 days after relocation, then the city may remove the poles and bill the pole owner for the actual costs.

Section 609. Abandoned facilities.

The city is not responsible for costs incurred by a future permittee arising or resulting from facilities found to be abandoned in place.

Section 610. Project inspection and correction.

The city has the right to inspect all projects and to determine compliance with this article.

Section 611. Reserved.

Section 612. Inspection and report.

Inspections will be conducted as deemed necessary by the city engineer, except final inspection will be conducted at the completion of the project for each permitted project. An inspection report will be prepared and filed in the permit file to acknowledge the terms and conditions of the permit have been met. A copy of the report will be provided to the permittee.

Section 613. Testing.

The city reserves the right to order or to otherwise conduct materials testing, certified compaction tests, or such other tests as the city feels are reasonably necessary to ensure the integrity of the right-of-way. If the test reveals the work is not in compliance with requirements, the permittee shall be responsible for the costs thereof. If the test reveals the work is in compliance with requirements, the city shall pay the costs thereof.

Section 614. Quality control.

The city has the right to reject the materials or workmanship if reconstruction of the right-of-way is not in compliance with city standards and ordinances and to stop work until corrections are made.

Section 615. Corrective action.

If corrections are not made by the permittee in a timely manner, the city engineer may take necessary corrective action as deemed necessary, in which case, all direct and indirect expenses incurred by the city are chargeable to the permittee. Such fees may include labor, equipment, materials, and burden as generally applicable.

Sections 616-619. Reserved.

Section 620. Fees required.

All permits issued by the city for facilities installed within the jurisdiction of the city after the effective date of this article are subject to fees and charges as herein provided.

Sections 621-622. Reserved.

Section 623. Right-of-way permit fees.

Right-of-way permit fee amounts are set forth in the current City Schedule of Fees and Charges for Services. The following permit and fee requirements are applicable (plan review, inspection, and permit processing):

1. *Major permits.* A one-time fee for each permit will be charged prior to issuance of the permit, plus a lineal foot charge for each longitudinal lineal foot of permitted facility. Aerial facilities and horizontal boring are exempted from the lineal foot charge as provided above.
2. *Minor permits.* A one-time fee for each permit will be charged prior to issuance of a minor permit involving excavations within a road prism. Where an individual permit is issued for multiple facilities, the permit fee will be computed for each facility permitted under the permit. Aerial utility services and buried telephone and cable TV facilities that do not impact the road prism/ditch line are exempt. Curb cuts, driveways, and sidewalk construction permits have reduced fees.

3. *Common trench.* For the sake of computation of fees, multiple facilities installed in a common trench will be charged a permit fee based upon a single facility. The associated fee will be apportioned equally to the common users.
4. Each facility, regardless of whether applied for separately or jointly, will be considered, for the purpose of this section, to be a separate permit.
5. Lineal foot determinations will be based upon the total plant installed at a given time and location. For example, multiple conductors installed under one project in single trench or installed aurally on a single pole line will be considered a single facility for purposes of computing lineal footage.
6. If connections to utility stubouts can be accomplished without excavation within the right-of-way, the permit for the service connection will be provided without fee.

Sections 624-644. Reserved.

Section 645. Incorrect locates.

The city is not responsible for damages arising from incorrect or incomplete locates or inaccurate or incomplete as-builts of non-city-owned facilities.

Sections 646-649. Reserved.

Section 650. Assigned facility locations.

Facilities must be located within the right-of-way as herein provided.

Section 651. Reserved.

Section 652. Location grid.

To the extent practicable, all facilities within the right-of-way must be located as shown by the document entitled assigned facility location.

Section 653. Exceptions to assigned locations.

When the permittee deems it unreasonable to place a facility at the assigned location, the permittee must apply for an exception. The request should include the following:

1. A complete written explanation; and
2. Additional plans, drawings, and sketches as necessary to show problem areas, existing facilities located within the right-of-way, and locations where the permittee would like to place the planned facility.

Section 654. Exception approval.

The city engineer shall consider the request of the permittee and approve or disapprove the request within three working days of the request.

Section 655. Disallowed relocation costs.

In the discretion of the city engineer, an "at your own risk" permit may be issued for situations of locations where a permit would normally not be available. In such a case, the facility is not entitled to reimbursement under section 702(3).

Section 656. Reserved.

Section 657. Burial depth.

Underground lines must be installed at a minimum crossing depth of 24 inches, but different depths of burial may be directed by the city engineer to accommodate unusual topography or street widths, especially in areas where storm drainage ditches are used adjoining the roadway.

Section 658. Existing facilities.

Much of the right-of-way is occupied by facilities which are not located in the above detailed locations. When replacement or reconstruction of existing facilities takes place, every effort will be made to conform with the assigned utility locations. Exceptions to assigned locations will be requested and approved as herein described.

Section 659. Reserved.

Section 660. As-builts - general.

With the exception of service lines, all permitted facilities within the right-of-way must be documented by adequate as-builts plans or sketches submitted by the permittee as herein provided.

Section 661. Reserved.

Section 662. As-builts required.

Except as provided below, upon completion of the project, the permittee is required to provide certified as-builts of facilities installed within the right-of-way. The as-builts must include and be subject to the following requirements. Failure to submit as-builts in a timely manner will result in termination of the permit for the facility and, at the option of the city engineer, removal of the facility as herein provided.

1. The as-builts must be accurate, legible, and a complete reflection of conditions as constructed, including final location, stationing, elevations, and detail of all improvements. Said information must be tied to horizontal and vertical control points.
2. As-builts must be furnished prior to release or refund of bonds or deposits provided by the permittee.
3. As-built information must be obtained by accepted engineering and survey practices, which may include GPS locational references, when the technology is feasible and available.
4. All as-built drawings must be reviewed and stamped by a professional land surveyor and professional engineer (if required by design modifications).
5. The city engineer has the authority to waive or amend the requirements for as-builts as deemed necessary.

Section 663. Format required.

As-builts may be provided in either full or half-size prints. Compatible electronic media is desirable and at the option of the permittee may be provided as an alternative to the hard copy media otherwise required. If electronic media is provided, it should be in the current or compatible version of AutoCAD in use by the city at the time the as-builts are submitted and may not include fonts other than standard AutoCAD fonts.

Section 664. Technical requirements.

As-builts required by this policy will normally meet the following requirements:

1. The as-builts submitted must document facility location within:
 - a. Horizontally: Plus or minus one foot from center line; and
 - b. Vertically: (Buried utilities only) Plus or minus one-quarter foot.
2. As-builts must meet the following horizontal and vertical datum and control requirements:
 - a. Horizontal control: Horizontal control must be based upon the subdivision in which the survey is located; and
 - b. Vertical datum: Specify the datum used; the 1966 datum is preferred.
3. The as-built control intervals will be not less than 100 feet, plus all horizontal and vertical facility angle points and services.

Exceptions to the above apply to situations where "best available" as-builts fall short of these standards.

Section 665. Buried service requirements.

The location of buried utility services will be documented by an as-built sketch submitted by the permittee which accurately depicts the following information. All horizontal distances must be referenced to property corners, street intersection monuments, or other readily identifiable physical features. Vertical elevations must be based upon main line elevations or known benchmarks.

1. The property being served including the lot, block, and subdivision or street address.
2. The utility main or trunk lines from which service will be obtained.
3. A minimum of three swing ties to prominent features locating the service at the point of connection on the main and the point at which the service line exits the right-of-way. Alternate methods of locating the service may be submitted subject to approval by the city engineer.

4. The type of service and all elevations necessary to establish the vertical location of the service line (buried services only).

Section 666-699. Reserved.

Section 700. City project construction.

Existing permitted facilities affected by city street or storm drain projects will be accommodated by the city as follows.

Section 701. Reserved.

Section 702. Utility accommodation.

In the event the city plans the construction or reconstruction of any street, road, alley, or other such right-of-way in which permitted facilities are located, the city will perform as follows:

1. Notify the permittee of its intended plans and provide the permittee the opportunity to incorporate planned or needed utility modifications and upgrades within the planned project by the city. The costs of all such optional utility modifications and upgrades will be borne by the permittee.
2. If, however, in the opinion of the city, the planned street construction or reconstruction by the city requires the removal, relocation, or modification of any utility permitted under this policy, the city may:
 - a. Afford the permittee the opportunity to make the necessary modifications separate and apart from the city's project.
 - b. Or at the option of the permittee, such modifications may be incorporated as part of the city's project.
3. Unless mutually agreed otherwise, the city shall be responsible for the cost of removal, relocation, or modification of any utility conflicting with a city project.
4. The city shall not be responsible for the cost of upgrading existing utilities. The city's responsibility for costs will be based upon a like quality replacement of existing utilities. If the permittee opts to upgrade or otherwise improve the utility to be relocated, the permittee shall be responsible for such "betterment costs."

Section 703. Non-permitted utilities.

(a) Non-permitted utilities will be afforded no protection under this section. All relocation, modification, upgrade, and betterment costs associated with any city-planned project will be at the expense of the owner of the non-permitted utility. Any relocated facility must be permitted as required by this policy.

(b) In the event a facility is not constructed in the manner and location provided for by the permit issued for the facility, the city may require the facility be relocated. Such facilities will not be eligible for relocation costs by the city and will be at the expense of the permittee.

Section 704-709. Reserved.

Section 710. Liability - general.

The permittee shall assume all responsibility to restore the right-of-way, to protect existing city-owned facilities, to protect the public, and other right-of-way users as follows.

Section 711. Reserved.

Section 712. Liability.

Nothing in this chapter is intended to impose a duty on the city to inspect any activity of a permittee for purposes of assuring compliance with standards set forth in this chapter; nor does the city warrant to a permittee the right-of-way will be preserved in any particular condition.

Section 713. Performance bond.

The city engineer may require a performance bond prior to issuance of the permit to insure restoration of all city-owned improvements within the right-of-way. Bonds will not be required for local utilities unless the utility fails to complete restoration on a permitted project within the preceding 12 months. No bond will be returned until acceptable as-builts have been submitted to the city. The performance bond will be released upon project completion and satisfactory restoration of the right-of-way.

1. Bonding and back-charge. A performance bond must be provided to ensure street restoration work is completed in a satisfactory manner. Said bond will be provided during the construction period in cash, certified check, or other security form acceptable to the city engineer in a sum equal to \$75.00 per lineal foot of trench in improved streets (paved), and \$50.00 per lineal foot of trench in unimproved streets (gravel) with security minimums of \$1,500.00 and \$1,000.00, respectively and will be returned after final inspection.
2. Following release of the bond, if the permittee fails to maintain the excavated area as provided for by section 605, in addition to the other remedies provided for by this policy, the city engineer may refuse future permits to the permittee until such time as the failure has been corrected by the permittee.
3. Neither partial or entire use of the permitted area by the city engineer, public or others constitutes acceptance of work not done in accordance with this permit or relieve the permittee of liability in respect to any express warranties or responsibility for faulty materials or workmanship. The permittee shall remedy any defects in the work authorized under this permit which may appear within a period of one year for the date of substantial completion.

Section 714. Reserved.

Section 715. Surety.

All surety in lieu of bonds must be approved by the city attorney.

Section 716. Bonding, multiple permits.

Where it is probable more than one permit will be required, the applicant may post, or the city engineer may require the applicant post, bond in the amount sufficient to cover the cumulative risk. If an applicant applies for a permit to use the right-of-way and in the opinion of the city engineer the work exceeds the amount of the presently posted bond, an additional bond may be required.

Section 717. Bond exemptions.

The State of Alaska, the Alaska Railroad Corporation (ARRC) or municipal corporations of the State of Alaska are exempt from bonding requirements otherwise required herein. These entities must furnish a certified statement assuring the city all costs for repair of damage is the liability of the permittee.

Section 718. Reserved.

Section 719. Hold harmless.

The permittee agrees to hold the city harmless from any and all suits, damages, or awards to the extent resulting or arising from any construction, installation, repair, maintenance activity, or utilization by permittee of the right-of-way associated with the permitted facilities.

Section 719.1. Commercial general liability insurance.

Except as approved by the city attorney, the permittee must provide a policy of commercial general liability insurance covering project completion, explosion hazard, underground property hazard, and contractual liability for limits not less than:

1. \$1,000,000.00 combined single limit for bodily injury sustained by one or more persons or for property damage as a result of any one occurrence;
2. \$2,000,000.00 aggregate for bodily injury sustained or for property damage during the policy year; and
3. \$1,000,000.00 umbrella for any excess during the policy year, except no umbrella coverage is required for minor permits.
4. The city is to be added as an additional insured on each of the policies required under this section and a 30-day notice of cancellation is to be given.

Section 719.2. Laws to be obeyed.

All permittees are responsible for full compliance with all federal and state laws, all local laws, ordinances and regulations, which in any manner affect those engaged or employed by the permittee, or which may affect the conduct of the work by the permittee. The permittee shall protect and indemnify the city from any claim or liability arising from or based upon the violation of any such law, ordinance, regulation, order, or decree by permittee.

Section 719.3. Noncompliance.

The permittee is responsible to comply with each and every provision of this article and all conditions and requirements imposed by a permit issued by the city and accepted by

the permittee. Failure to comply with any such requirement may result in corrective action by the city. If, in the opinion of the city engineer, work by the permittee is non-compliant, the permittee is responsible to promptly restore the right-of-way in a manner acceptable to the city engineer. If such restoration work is not promptly accomplished by the permittee, the city may:

1. Exercise the bond provided by the permittee to ensure the work is completed in an acceptable manner; or
2. Conduct such work and the permittee shall be responsible for all associated costs incurred by the city.

Section 720-739. Reserved.

Section 740. Assignment and transfer - general.

Permits may be assigned only as provided herein.

Section 741. Reserved.

Section 742. Assignment and transfer.

Except as provided below, a permittee may not assign a right-of-way permit without written approval from the city engineer, said approval shall not be unreasonably withheld. Where a utility service is not owned by the utility, the property owner is the permittee and is responsible for the service. The permits for the utility service line will be considered an appurtenance to the property served and will flow with the transfer of title to a new owner when the property is conveyed.

Section 743. Change of address.

The owner of any existing permit is responsible to advise the city of any change of address. Notice of such must be provided to the city in writing.

Section 744-749. Reserved.

Section 750. Enforcement and appeals process.

The city engineer shall work to equitably resolve issues associated with use of the city's rights-of-way. However, if a permittee or applicant disputes a determination of the city engineer, that determination may be appealed to the mayor, council, and RCA.

Section 751. Reserved.

Section 752. Work without a permit.

Except in case of a bona fide emergency, no work within the right-of-way will be allowed without a permit. If such occurs, the city may assess the offender triple permit fees and the offender will be subject to FGC Sec. 1-15. If such failures are deemed to be systemic in nature, future permits will not be issued.

Section 753. Revocation.

The city engineer may revoke a permit that has been suspended.

Section 754. Appeals – general.

An applicant for a right-of-way permit who is dissatisfied by a determination of the city engineer regarding the terms and condition of such permit may within ten working days appeal such determination to the mayor.

Section 755. Appeal process.

Within five days of filing the grievance, the mayor shall interview the applicant or otherwise conduct a hearing into the facts of the matter and make a decision, which decision will be delivered to the applicant.

1. An appeal of the mayor's decision may be made to the city council within 20 days of the mayor's written decision. An appeal is timely when filed with the city clerk's office within 21 working days of the date of mailing of the mayor's decision.
2. A person aggrieved by the decision of the city council can appeal to the RCA in accordance with RCA rules.

3. The appellant shall be responsible for their costs associated with making the appeal.

Sections 756-759. Reserved.

Section 760. Unauthorized encroachments.

After adoption of this permitting system, no utilities, structures, fences, culverts, driveways, ditches, or any obstruction to any existing ditch or drainage structure, or other private improvements may be placed in whole or in part within the right-of-way (excluding PUE's and GOE's) without a permit for such as may be provided for by this article.

Sections 761-762. Reserved.

Section 763. Improvements not grandfathered.

To the extent such non-utility improvements may exist prior to the date of implementation of this article, such private improvements will not be grandfathered under this system.

Section 764. Encroachment resolution.

If an unauthorized encroachment is found to interfere with a planned or existing use of the right-of-way by the city or public utility, the city shall resolve the encroachment as follows:

1. The city engineer shall notify the record owner of the property of the unauthorized encroachment and shall provide the owner 14 days to resolve the encroachment by either application for a right-of-way permit or by removing the facility within the right-of-way.
2. If the improvement is not removed within the period allowed, or if a permit is not issued by the city for the improvement, the city may at its option remove or relocate the facility from within the right-of-way and bill the property owner for the costs incurred.