



Legislation Details (With Text)

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**On agenda:** 6/19/2018      **Final action:** 7/2/2018

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**Effective date:** 7/12/2018

**Title:** Ordinance amending and supplementing the Pittsburgh Code of Ordinances, Title IV: Public Places and Property, Article I: Public Rights-of-Way, Chapter 412: Users of the Pubic Rights-of-Way in order to provide the Director of the Department of Mobility and Infrastructure with necessary authority to regulate the provision of mobility or transportation services occurring upon, public streets, bridges, sidewalks, and other public ways.

**Sponsors:**

**Indexes:** PGH. CODE ORDINANCES TITLE 04 - PUBLIC PLACES

**Code sections:**

**Attachments:** 1. Summary 2018-0610

Date	Ver.	Action By	Action	Result
7/12/2018	1	Mayor	Signed by the Mayor	
7/2/2018	1	City Council	Passed Finally	Pass
6/27/2018	1	Standing Committees	Affirmatively Recommended	Pass
6/19/2018	1	City Council	Read and referred	

Ordinance amending and supplementing the Pittsburgh Code of Ordinances, Title IV: Public Places and Property, Article I: Public Rights-of-Way, Chapter 412: Users of the Pubic Rights-of-Way in order to provide the Director of the Department of Mobility and Infrastructure with necessary authority to regulate the provision of mobility or transportation services occurring upon, public streets, bridges, sidewalks, and other public ways.

**The Council of the City of Pittsburgh hereby enacts as follows:**

**Section 1.**

CHAPTER 412: - USERS OF THE PUBLIC RIGHTS-OF-WAY

§ 412.01 - ~~SINGULAR~~ SINGLE POINT OF CONTACT.

- (a) The Director of the Department of Mobility and Infrastructure, or that Director's designated representative, shall serve as the single point of contact within the City for all persons regulated under this Article.
- (b) The Director of the Department of Mobility and Infrastructure shall coordinate all contacts with other City departments as necessary to facilitate issuance of any and all permits and registrations required by the Pittsburgh Code of Ordinances.
- (c) The Director of the Department of Mobility and Infrastructure shall prepare policies and forms as necessary

for the implementation of this Chapter.

(Ord. 21-2000, eff. 7-21-00; Ord. 21-2004, § 16, eff. 12-2-04; Ord. No. 68-2015, § 1, eff. 12-28-15; Ord. No. 2-2018, § 8, eff. 2-15-18)

§ 412.02 - USE OF RIGHTS-OF-WAY.

(a) No person shall enter upon, over or under, or use or occupy any public street, bridge, sidewalk or other public way for the purpose of providing telecommunications, cable, or information services, public utilities, mobility or transportation services, or other services without first filing a bond, registering and/or obtaining a permit from the Director of the Department of Mobility and Infrastructure.

(b) The Director of the Department of Mobility and Infrastructure shall have the sole discretion to assign priorities among competing users of the public rights-of-way, generally according to the order of completed permit applications. ~~The Director will~~ have the power to prohibit or limit the placement or use of new or additional equipment within the rights-of-way if there is insufficient space to reasonably accommodate all requests to occupy and use the rights-of-way. In making such decisions, the Director shall strive, to the extent possible, to accommodate all existing and potential users of the rights-of-way, but shall be guided primarily, but not exclusively, by considerations of the public interest, the public's need for the particular service, the condition of the rights-of-way, the time of year, the protection of existing equipment in the rights-of-way, and future City plans for public improvements and development projects.

(c) The Director of the Department of Mobility and Infrastructure shall have the authority to establish yearly fees for all rights-of-way, easements or other uses of public property over or under any public streets, bridges, sidewalks or other public ways in the City by persons supplying telephone, electric, light, heat, water, steam, power, mobility or transportation services, or any other service, except cable or telecommunications fees which are governed by Chapters 425, Cable Communications, and 427, Telecommunications Systems in the Public Rights-of-Way, respectively. The fees shall be established by the Director, subject to approval by Council, based on historical, actual costs to the City of maintenance of the public property, ~~and~~ estimated prospective costs of maintenance thereof, and other actual or reasonably anticipated costs to the City. Costs of maintenance chargeable to such suppliers shall include inter alia all costs to the City for relocation of any and all City facilities located upon, over or under the public property.

(d) Each applicant before starting any work involving any apparatus, device, transmission facilities or means for the supply of telephone, electric, light, heat, water, steam, power, mobility or transportation service, or any other service shall submit to the City detailed plans of its proposed construction or service. All plans shall be subject to City approval before an agreement or a permit is granted.

(e) All construction and/or service provided shall be in conformity with plans and specifications promulgated by the Department of Mobility and Infrastructure and subject to City inspection.

(f) By accepting a permit, a permit holder agrees:

(1) To remove or relocate at its own expense all installations and/or services from the public rights-of-way upon thirty (30) days' written notice from the City requesting the removal; and

(2) To indemnify and hold harmless the City in connection with any removal or relocation, and for any costs incurred as a result of removal or relocation.

(g) During the permit term, a permit holder may, at its own cost and expense, trim trees in or on the rights-of-way for the safe and reliable operation, use and maintenance of its facilities. All tree trimming must be

performed in accordance with standards promulgated by the City, and approved in advance by the City Forester.

(Ord. 21-2000, eff. 7-21-00; Ord. 21-2004, § 16, eff. 12-2-04; Ord. No. 68-2015, § 1, eff. 12-28-15; Ord. No. 2-2018, § 8, eff. 2-15-18)

§ 412.03 - REGISTRATION REQUIRED.

(a) Each person who uses or otherwise occupies, or seeks to occupy or use, the rights-of-way or any equipment located in the rights-of-way, or who has, or seeks to have, equipment located in rights-of-way shall register with the City Department of Mobility and Infrastructure. That, such registration will ~~to~~ be renewed on an annual basis, and updated or supplemented as necessary to keep such registration current and accurate. The fee for this registration shall be set by the Director of the Department of Mobility and Infrastructure. Any person that presently maintains equipment in the public rights-of-way on the effective date of this Article shall register with the City within ninety (90) days of the effective date of this Article.

(b) The requirements for registration contained in this Article do not apply to service lines within the right-of-way, provided that the service line connects to a main or trunk line which is permitted in accordance with this Article, that the service line provides service to only a single property, and that the service line is owned by the owner of that property.

(c) A permit holder shall request renewal or a new permit by making written application to the Director of the Department of Mobility and Infrastructure not more than ninety (90) days before the expiration of such permit (s).

(Ord. 21-2000, eff. 7-21-00; Ord. 21-2004, § 16, eff. 12-2-04; Ord. No. 68-2015, § 1, eff. 12-28-15; Ord. No. 2-2018, § 8, eff. 2-15-18)

§ 412.04 - NO CONSTRUCTION OR SERVICE PROVISION WITHOUT REGISTRATION.

No person may perform construction of any kind or provide a service such as those described in § 412.02(a) in the rights-of-way without first registering with the City. No permits for construction or provision of a ~~will a~~ service such as those described in § 412.02(a) will be issued to any person until all registration requirements have been met.

(Ord. 21-2000, eff. 7-21-00)

§ 412.05 - REGISTRATION INFORMATION.

(a) At the time of registration, the applicant shall provide the City with the following information, or shall notify the City that the following information is included in the applicant's application for a use agreement or its existing franchise with the City. The applicant shall inform the City of any changes to the information within fifteen (15) days.

(1) Its name, address, and, if applicable, electronic mail address; and telephone and facsimile numbers.

(2) The name of a local representative, the representative's address and, if applicable, electronic mail address; and telephone and facsimile numbers of same, including information that will enable the City to contact the local representative, or other appropriate official, in the case of emergency.

(3) A certificate of insurance:

A. Verifying that an insurance policy has been issued to the applicant by an insurance company licensed to do

business in the Commonwealth of Pennsylvania in an amount and form acceptable to the City;

B. Verifying that the applicant is insured against claims for personal injury, including death, as well as claims for property damage arising out of the applicant's use and occupancy of the rights-of-way, including, but not limited to, protection against liability arising from completed operations, damage to underground equipment, and collapse of property;

C. Naming the City as an additional insured for whom defense will be provided as to all such coverages;

D. Requiring that the City be notified not less than sixty (60) days in advance of cancellation of the policy; or

(4) In lieu of the certificate of insurance required under (3) herein, proof of self-insuring status that demonstrates adequate financial resources to defend and cover claims.

(5) If the applicant is a corporation, written evidence that it is authorized to do business in the Commonwealth of Pennsylvania, as recorded and certified by the Pennsylvania Secretary of State.

(6) A copy of the applicant's certificate of authority from the Pennsylvania Public Utility Commission, if required.

(7) Proof that the applicant has posted all the required bonds or provided proof of adequate financial resources to defend and cover claims.

(Ord. 21-2000, eff. 7-21-00)

#### § 412.06 - REPORTING OBLIGATIONS.

(a) Each applicant shall, at the time of registration, file a construction and major maintenance plan, or a service provision plan, as applicable, to the extent it is known or otherwise devised, with the City. ~~Such~~ That plan shall be submitted using a format designated by the City and shall ~~will~~ contain the information determined by the City to be necessary to facilitate the coordination and reduction in frequency of construction and/or service activities in rights-of-way. To the extent that the plan changes, each permit holder shall use its best efforts to update the plan on an annual basis, or December 1 of each year. The plan shall include, but not be limited to:

(1) The specific locations and the beginning and ending dates of all known planned construction and/or services to be commenced during the next calendar year; and

(2) The tentative locations and beginning and ending dates for all construction and/or services contemplated for the five (5) years beginning with the next calendar year.

(b) Each permit holder shall maintain records of the location of its equipment in the rights-of-way, if available, and such other records as the City may reasonably require. Each permit holder shall annually cause an audit to be performed, at its sole expense, or otherwise certify that the records that are on file with the City are accurate and complete.

(Ord. 21-2000, eff. 7-21-00)

#### § 412.07 - MAPPING DATA.

(a) Each registrant shall use its best efforts to provide to the City within a reasonable time a true and accurate copy of information indicating the horizontal and vertical location of all equipment that it currently owns or controls in the rights-of-way or anticipated to be in the rights-of-way, in the case of some services. Each registrant also shall use its best efforts to make this information available in electronic format.

(b) Within thirty (30) days of the acquisition or construction of additional equipment or any relocation, abandonment, or disuse of existing equipment, a permit holder shall supplement its mapping information with "as-built" submissions. Each permit holder shall use its best efforts to make this information available in electronic format.

(Ord. 21-2000, eff. 7-21-00)

§ 412.08 - UNREGISTERED, ABANDONED AND UNUSABLE EQUIPMENT.

(a) One hundred eighty (180) days after the passage of the ordinance adopting this Article, any equipment in a right-of-way that is owned or otherwise under the control of a person who has not registered with the City shall be deemed a nuisance.

(b) A registrant who has determined to discontinue all operations in the City must either:

(1) Provide information satisfactory to the City official that the registrant's obligations for its facilities in the rights-of-way under this Chapter and under other applicable provisions of this Code have been lawfully assumed by another registrant;

(2) Obtain written permission from the City official to abandon the facilities in place; or

(3) Submit to the City official a proposal and instruments for transferring ownership of its facilities to the City, and the City accepts such proposal in writing.

(c) Facilities of a registrant who fails to comply with this Article shall be deemed to be abandoned. Abandoned facilities shall be deemed to constitute a nuisance.

(d) In dealing with unregistered, abandoned or unusable equipment deemed to be a nuisance, the City may exercise any remedies or rights it has at law or in equity, including, but not limited to:

(1) Abating the nuisance and seeking reimbursement from the registrant for the cost of abatement; or

(2) Taking possession of the facilities and using them as deemed to be in the City's best interests, including, but not limited to, upgrading, reusing, sale or lease; or

(3) Issuing citations and assessing penalties of up to three hundred dollars (\$300.00) per day per incidence of unregistered, abandoned or unusable equipment deemed to be a nuisance.

(Ord. 21-2000, eff. 7-21-00; Ord. No. 68-2015, § 1, eff. 12-28-15)

§ 412.09 - VEHICLES AND EQUIPMENT.

Any person working within the City right-of-way must have their company or personal name displayed on each piece of equipment and/or vehicle.

Initials or abbreviations are only acceptable if they are a part of their registered name. The display of their name may be on a temporary magnetic sign. This display must be in English and legible from twenty-five (25) feet away. Any person not receiving compensation for their work will be subject to a warning and no fine will be implemented.

(Ord. No. 4-2000, eff. 3-29-00)