



Text File

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Bill No: 2015-2335, Version: 1

Committee: Committee on Public Works

Status: Passed Finally

Ordinance amending the Pittsburgh City Code, Title 4: Public Place and Property, Article I: Public Rights-Of-Way, Chapter 412 - Users of the Public Rights-Of-Way; by amending language to Sections 412.01, 412.02, 412.03 and 412.08.

WHEREAS, the duties of managing and maintaining telecommunications users of the public rights-of-way were originally vested in the Department of City Information Services, and said Department is now the Department of Innovation and Performance; and

WHEREAS, the Department of Public Works will now assume the duties of managing and maintaining telecommunications users of the public rights-of-way,

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

**Section 1.** Amending the Pittsburgh City Code, Title 4: Public Place and Property, Article I: Public Rights-Of-Way, Chapter 412 - Users of the Public Rights-Of-Way; by amending language to Sections 412.01, 412.02, 412.03 and 412.08 as follows:

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

§ 412.01 - SINGULAR POINT OF CONTACT.

- (a) The Director of the Department of Public Works, 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 Public Works 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 Public Works shall prepare policies and forms as necessary for the implementation of this chapter.

§ 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, [ø] public

utilities, or other services without first filing a bond, registering and obtaining a permit from the Director of the Department of Public Works.

- (b) The Director of the Department of Public Works shall assign priorities among competing users of the public rights-of-way according to the order of completed permit applications and shall have the power to prohibit or limit the placement 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 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 Public Works 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 ~~[communications,]~~ electric, light, heat, water, steam, power 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. 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~~[communications,]~~ electric, light, heat, water, steam, power or any other service shall submit to the City detailed plans of its proposed construction. All plans shall be subject to City approval before an agreement or a permit is granted.
- (e) All construction shall be in conformity with plans and specifications promulgated by the Department of Public Works 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 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 by the City Forester.

§ 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 Public Works, such registration 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 Public Works. 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 [a]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 Public Works not more than ninety (90) days before the expiration of such permit(s).

§ 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:

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- (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 \$300 per day per incidence of unregistered, abandoned or unusable equipment deemed to be a nuisance.