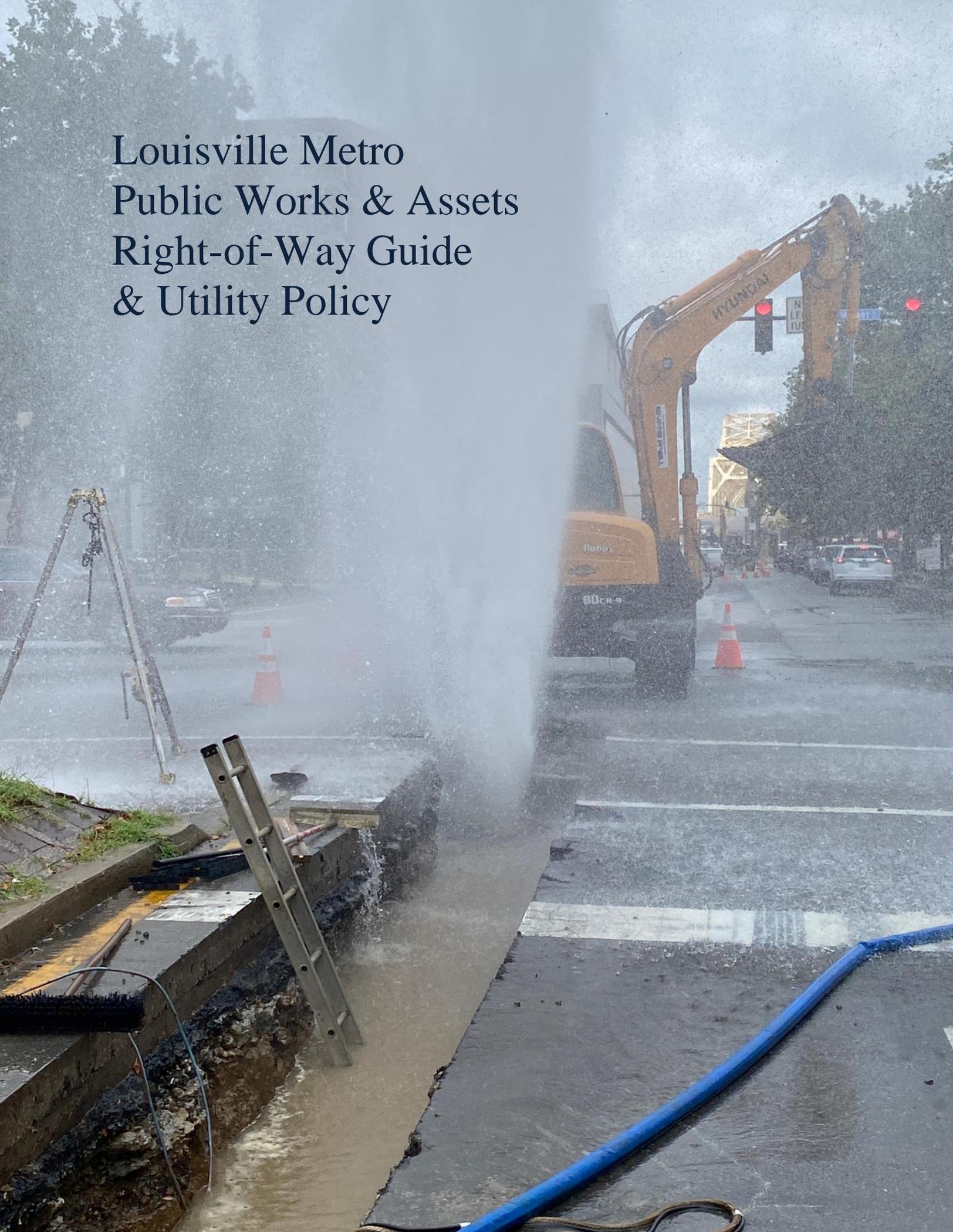


Louisville Metro
Public Works & Assets
Right-of-Way Guide
& Utility Policy



FINAL
V: 1/1/2021

Forward

The Louisville Metro Public Works & Assets Right-of-Way Guide and Utility Policy was developed within the Permitting Division to guide Applicants seeking permission to perform work within the Metro maintained Public Rights-of-Way. This latest edition not only updates the 2017 Utility Policy, it also provides requirements for all other types of permits and activities within the Public Right-of-Way, which did not previously exist as a single document.

A special thanks to Al Andrews, manager of the Permitting Division, for his dedication to creating this comprehensive guideline.

A handwritten signature in black ink, appearing to read 'Jeffrey Brown', with a long horizontal flourish extending to the right.

Jeffrey Brown, PE
Assistant Director
Metro Public Works & Assets

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Part I. Purpose, Objectives, and Authority

Section 1.01 Purpose

This document was established to provide a comprehensive, integrated reference outlining the terms and conditions for the care and use of the Louisville/Jefferson County Metro Government Public Right-of-Way. This document seeks to provide guidance on the steps for obtaining the necessary permit(s) or license(s) to utilize the Public Right-of-Way. This document also outlines and provides the governing policies for its use, required fees, and associated Penalties for non-compliance with the policy conditions as established herein. A potential user may be but is not limited to any contractor, franchised or legislatively empowered utility companies, Person, or any legal business entity desiring to utilize the Public Right-of-Way.

In the case of franchised or legally empowered utilities, it is recognized that there is a need to accommodate permitted users of the Public Right-of-Way to facilitate the continued provision of public services; however, Metro must ensure that the primary purpose of the Street – passage of vehicular, bicycle, and pedestrian traffic – is maintained to the greatest extent possible. The use of the Street corridors by any permitted user is secondary to the movement of traffic. This Right-of-Way Manual attempts to strike a balance between the public need for efficient, safe transportation routes and the utility services within these routes all while maintaining public safety and protecting the Public Right-of-Way.

This Manual attempts to address typical issues and frequently asked questions but does not include a discussion or information concerning every issue that may arise regarding the Public Right-of-Way. Therefore, to address changing needs to better manage the use of the Public Right-of-Way, this Manual will be updated as conditions warrant.

For additional information please contact:

Louisville Metro Department of Public Works
444 S. 5th Street
4th Floor
Louisville, KY 40202
502-574-5810

Section 1.02 Objectives

This document has four (4) primary objectives:

- A. Permitting Use of Public Right-of-Way: Permits & Licenses: This objective is designed to facilitate Utility Company and other work within the Public Right-of-Way through the implementation of a comprehensive permit and licensing process. *See Part III, Permitting: Use of the Public Right-of-Way.*
- B. Public Safety / Minimize Public Inconvenience: Metro must ensure that public safety is maintained and public inconvenience is minimized by establishing time constraints for Utility Company work, response time for Utility Company repairs to pavement, and standards for work zone safety. *See Part VI, Public Safety/Minimize Public Inconvenience.*

- C. Protect Public Infrastructure: This objective seeks to protect the public's infrastructure investment by establishing repair standards for Utility Company cuts made to the Streets or Sidewalks and by specifying the inspection requirements for these repairs. Standards include but are not limited to Americans with Disabilities Act (hereinafter referred to as “ADA”) Standards for Transportation Facilities, Kentucky Transportation Cabinet Standard Drawings and Specifications, and Louisville Metro Standard Drawings and Specifications. *See Part VII, Protect Public Infrastructure.*

- D. Facilitate Standards for Utility Company Elements: Metro recognizes that certain work within the Public Right-of-Way is necessary to provide our citizens with essential services. By establishing uniform placements for utilities, conflicts between utilities may be minimized, benefiting all parties. Location and configuration standards for utilities is detailed in *Part VIII, Facilitate Standards for Utility Company Elements*. While working within the Public Right-of-Way, Permittees shall meet all requirements of law including, but not limited to, the Americans with Disabilities Act (hereinafter referred to as “ADA”), the Kentucky Department of Transportation (hereinafter referred to as “KYTC”) Standard Designs, the Manual on Uniform Traffic Control Devices, Louisville/Jefferson County Metro Government Code of Ordinances, Louisville Metropolitan Sewer District (hereinafter referred to as “MSD”) Standards, Roadside Design Guide, Parks policies, and American Association of State Transportation and Highway Officials (hereinafter referred to as “ASTHO”).

The following Right-of-Way Manual has been prepared to guide Metro staff, Applicants, and Permittees in achieving the above stated objectives. The Right-of-Way Manual is intended to provide general guidance only. Specific requirements will be developed based on site-specific conditions. Also, as with any policy, exceptions may be granted as deemed necessary by the Director of Public Works or designee (hereinafter referred to as “Director”). Louisville Metro Public Works & Assets (LMPWA) will conduct periodic reviews of the Right-of-Way Manual and may invite Permittee's input in order to make this document an effective tool for the conduct of our mutual responsibilities to serve our respective "customers."

Section 1.03 Authority

The Director is charged with the responsibility for ensuring that any work in or other use of the Public Right-of-Way complies with the applicable Louisville/Jefferson County Metro Government Code of Ordinances (hereinafter referred to as “LMCO”); more specifically Section 97.090, which states, "No person other than an authorized officer or employee of the Metro Department of Public Works shall make any opening, cut, or excavation in or under the surface of any street, alley, sidewalk, or highway of Louisville Metro without a written permit from the Works Director," and Section 97.076(B)(1), which states, “No party shall place, construct, or maintain within the right-of-way of any public way of Metro Government any permanent or immovable object, street furniture, structure, sidewalk, entrance way, driveway or other installation, except as otherwise permitted by resolution or ordinance of the Louisville Metro Government.”

The placement of utilities in the Public Right-of-Way is permitted at the discretion of the Louisville Metro Public Works & Assets Department.

Part II Definitions and Conditions

Section 2.01 Definitions

As used in this Right-of-Way Manual, the following terms will have the following definitions:

- A. Applicant: A Person that has applied for a valid permit from LMWA but has not been issued a valid permit.
- B. Central Business District or CBD: The area from River Road to one block south of Broadway; Roy Wilkins east to Hancock Street.
- C. Construction Activities: Any activities within the Public Right-of-Way that may reasonably be expected to:
 - 1. Continue for more than 8 hours, or
 - 2. Cause an unusual degree of noise or vibration, or
 - 3. Involve the closure of any part of Street or direct access to a business, or
 - 4. Include an excavation within or the cutting or removal of asphalt or concrete pavement and/or Sidewalk.

Construction Activities include but are not limited to the installation of poles, small cell antennae, and conduit in the Public Rights-of-Way. Notwithstanding the above, construction activities exclude Utility Company locate markings and routine repairs such as service connects and/or disconnect.

- D. Encroachment: Unauthorized use and occupation of the Public Right-of-Way or easements including, but not limited to, construction, signs, fences, misc. permanent structures, buildings, poles, pole banners, telecommunication infrastructure, utilities, parking, or storage.
- E. Historic District: Any locally designated historic landmark or landmark district, any property or district either listed or eligible for listing on the National Register of Historic Places, or other locally recognized historic property or district and overlay districts as established by LMCO Chapter 162.
- F. Light Occupancy Vehicles: Modes of transport (including electric) that are provided by very light vehicles such as scooters, skateboards, bicycles, etc.
- G. LMPWA: Louisville Metro Public Works & Assets.
- H. Louisville Metro: The geographical boundaries of Louisville and Jefferson County Metro Government.
- I. Metro: Louisville/Jefferson County Metro Government, including LMPWA.
- J. MUTCD (Manual on Uniform Traffic Control Devices): The national standard for traffic control devices for all highways and Streets open to public for travel which has been adopted by the Kentucky Transportation Cabinet and Metro. *See* <http://mutcd.fhwa.dot.gov/>.

- K. Penalty: A punitive measure imposed by Metro for a violation of a provision of the LMCO, Right-of-Way Manual, and/or a franchise agreement.
- L. Permittee: Any Person who has applied for and been issued a valid permit from LMPWA, which grants access to the Public Right-of-Way for the time duration requested and for a specific activity.
- M. Person: Any individual or any association, firm, partnership, joint venture, corporation, or other legally recognized entity, whether for profit or not for profit. Person does not include Metro.
- N. Public Right-of-Way: Metro’s property of any interest therein, whether or not in the form of a strip, for or devoted to (a) public transportation purposes; or (b) the placement of utilities and other traditional uses along a transportation route, whether by dedication, prescription or otherwise, as well as the space above and below.
- O. Right-of-Way Manual: the LMPWA Right of Way Guide & Utility Policy.
- P. Sidewalk: The paved portion of the Public Right-of-Way intended for use by pedestrian traffic. Sidewalks are usually concrete. Unusual or decorative Sidewalks are permitted by special agreement.
- Q. Street: The portion of the Public Right-of-Way intended for use by vehicular traffic including, but not limited to, alleys, roads, highways, or lanes. Streets may be asphalt, concrete, or unimproved.
- R. Street Furniture: Miscellaneous objects placed in the Public Right-of-Way including but not limited to, news and information distribution boxes or corrals, refuse receptacles, telephone panels and booths, bus shelters with or without seating, outdoor restaurant furniture, public seating, flower boxes or plant containers, bike racks, decorative objects, kiosks, objects of art and structures erected or placed by authorized public agencies for public safety and/or public welfare purposes.
- S. Utility Company: For the purposes of this document, companies supplying services including, but not limited to, cable television, sewer, water, gas, electric, and telecommunications, located within the Public Right-of-Way.

Section 2.02 Conditions

A. Improved and Unimproved Public Right-of-Way

1. General

The boundaries and ownership of the land are recognized even if that land is “vacant.” If a building or structure is built, the land is considered “improved.” The improvement may be used or unused, occupied or unoccupied, well maintained, or deteriorated.

2. Specific Improvements

The Public Right-of-Way may or may not be “improved” with a Street, Sidewalk, or other facilities. It may or may not be graded, drained, or equipped with utilities. Nonetheless, the boundaries and ownership (the state or fact of exclusive rights and control over property) of the Public Right-of-Way exists

independent of any improvement or lack of any improvement. Ownership may be by fee, expressed dedication, or easement.

3. Reference Manuals

LMPWA has previously published documents that provide detailed technical information regarding specific issues. These include:

2016 Standard Specifications for Road & Bridge Construction
<https://louisvilleky.gov/public-works/document/2016-impw-specifications-revised-2018>

2019 Standard Drawings for Construction Within the Public Right-of-Way
<https://louisvilleky.gov/document/louisville-metro-standard-drawings-2019pdf>

B. Conflicts

In the event that some details in the Right-of-Way Manual or any attachments or Appendices to it conflicts with the LMCO, the LMCO shall prevail. If there is a conflict between the franchise agreement, LMCO, and/or the Right-of-Way Manual, then the franchise agreement shall prevail.

Part II. Permitting: Use of the Public Right of-Way

Section 3.01 General

Any work within the Public Right-of-Way that disturbs the Street, pavement, curb and gutter, driveway entrances, Sidewalk, landscaping or grassed areas, and any work that blocks or alters the normal flow of vehicular or pedestrian traffic, requires a permit. Essentially, any work within the right of way boundaries requires a permit.

Metro recognizes the importance of progress through the development of transportation, communication, and other essential infrastructure resources that will utilize the Public Right-of-Way for the public good. To facilitate these infrastructure improvements and any other work within the Public Right-of-Way, the implementation of a comprehensive permit process is essential.

Permits may now be applied for online. For details on how to set up an account and to apply for a permit online go to <https://louisvilleky.gov/government/public-works>.

Before work or use of the Public Right-of-Way begins, the appropriate permit(s) shall be obtained from LMPWA. Unless otherwise agreed, emergency work requires that a permit be obtained as soon as possible but not later than eighteen (18) hours after the onset of work (LMCO Section 97.091). During regular work hours, utilities must report emergency work to LMPWA's Permit Division. Beyond normal work hours, utilities must notify Metro Emergency Management and MetroCall 311 of emergency work.

With online capability, extensions and renewals are no longer processed by LMPWA. It is the

responsibility of the Permittee to determine if a permit is about to expire or needs extending and to apply for a new permit request. In the body of the description, the Permittee shall indicate that this is a renewal/extension of a specific permit and that number shall be supplied in the narrative of the new application.

When planning for the location of the permitted work area, the following items should be considered and integrated into the development of the application for a permit:

A.State Routes and Suburban Cities

Many Streets in the Metro area are maintained by suburban cities, privately, or the Commonwealth of Kentucky. Prior to preparing the application package for LMPWA, the Applicant is urged to check [LOJIC](#) mapping to determine the entity who owns/maintains the Streets. LMPWA will assist with any questions in this process. Where applicable, the Applicant shall contact the suburban city to discuss its permit requirements. Likewise, several State routes run through not only the Central Business District but also through the county. When work is planned in the State Right-of-Way, the Applicant shall contact the KYTC District-5 Office to determine permitting requirements and if joint permits are required. This should be done prior to sending applications to LMPWA.

State Routes in the CBD

- Main Street
- Second Street
- Preston Street
- Broadway
- Market Street
- Jackson Street

B.Parkways

For any work planned within the Olmsted parkway system, the Applicant shall contact Louisville Metro Parks (hereinafter referred to as “LMP”) to notify them of proposed work. Notification should include a description of the work to be done, the location, the date when construction will begin, and the estimated duration of the construction period. Based on the results of this notification, the Applicant must then submit a permit application, including any exhibits, to LMP allowing two (2) weeks for review and approval. Following approval by LMP, the Applicant must submit its application to LMPWA, which shall include the LMP permit as an attachment.

C. Working in Historic Districts

In Historic Districts, the Permittee must be aware of the type of Street and Sidewalk to determine the type of repair or restoration needed. All areas within designated Historic Districts must be repaired using like materials and restored to its original condition that existed at the time the permit was issued. Historic elements and materials, i.e., limestone curbs, cobblestone paths, etc., should be preserved or salvaged. Replacement materials and details shall match the original in quality, appearance, and durability. For information on Historic Districts go to

<https://louisvilleky.gov/government/planning-design/historic-preservation-urban->

[design](#).

The following is a list of permits and licenses currently issued by LMPWA. For each permit, a brief description is provided to include the requirements for submittal along with any associated conditions and/or restrictions for each. Where applicable, links to websites that contain additional information are also provided.

Section 3.02 Public Right-of-Way Encroachment Permit

A. Description

The most common permit issued by LMPWA. This permit involves work that may include but is not limited to the following: utility main and/or lateral replacement and repair; valve replacement and repair; installation of new underground mains, laterals, structures or accessories; splices; buried drops (under Streets or Sidewalks); pole changes for electrical or telecommunications infrastructure improvements, accidents, etc.; cathodic protection; boxes, telecommunication cabinets and ground level elements; hand-holds; vault installations and jacking or boring under the Public Right-of-Way where disturbance within the Public Right-of-Way may occur.

Other types of work may include heavy lifting with large cranes for construction materials, AC units, etc., exterior building maintenance, tree maintenance, and/or removal and utility location activities that require a lane closure such as potholing. Depending on the type of work as described herein, any of the following may be necessary to conduct and support the work:

- Lane closure,
- Sidewalk closure,
- Street closure,
- Bike/Light Occupancy Vehicle facility closure,
- Excavation (in Street or Sidewalk or both), and
- Any combination of the above.

It should be noted that the above support activities are components of the permit, not separate permits.

B. Requirements

At a minimum, the following is an overview of the information required for input into the LMPWA's online application process. Applicants are encouraged to visit the website at the link provided in Section 3.01 and become familiar with the application process for Encroachment Permits.

1. A detailed description of the project. Describe what is to be done with Metro assets (i.e.: close a lane, close a Sidewalk, close the Street, etc.). Also, please provide a reasonably detailed explanation of the proposed project. This description will be

used on your permit.

2. Contact information for both the Applicant and designated contact person.
3. Provide project information including but not limited to the following:
 - Type of work (lane closure, Sidewalk closure, etc.).
 - Pavement type.
 - Street cut information.
 - Start and end work dates. When providing these dates, the Applicant must make every attempt to provide the best estimates of the time required to perform the project. Repeated permit extensions are highly discouraged.
 - A plan for pavement and Sidewalk restoration showing the limits of replacement, and areas of utility markings to be removed at the completion of the project.
4. Project location. Provide a valid Street address as well as other data as prompted by the system.
5. Provide project location maps and a Maintenance of Traffic Plan for upload into the system. The project location map should be prepared in enough detail to assist in assessing the effectiveness of the traffic plan on surrounding Streets, businesses, and residences. The Maintenance of Traffic Plan must comply with the **Manual on Uniform Traffic Control Devices (MUTCD) and should be based on the proposed work to be done in the Public Right-of-Way.** See Section 3.12 for additional details.

In the event of a full Street closure, the Permittee must post closure signage to affected residents and businesses by email, letter, door hanger, etc. a minimum of seven (7) days in advance unless it is an emergency repair. The Permittee shall provide LMPWA verification of this notification prior to beginning the permitted construction activities.

A Maintenance of Traffic Plan showing the proposed detour and associated signage (vehicular and pedestrian) must be submitted and approved by LMPWA prior to posting the closure notice(s).

C. Responsibility

The Permittee is held responsible for the work performed and LMPWA will contact the Permittee for required adjustments or corrections regardless of whether the Permittee performed the work itself or subcontracted and assigned the work. The permit is issued to the Permittee and it is solely responsible for the work performed. **The Permittee shall abide by the terms and conditions of the permit as well as subsequent conditions of this document as it relates to restoration and conduct within the Public Right-of-Way.**

The permit must be on site and clearly displayed at all times. Failure to have a copy of the permit on site will constitute grounds for work stoppage and possible fines. All equipment of the Permittee and any subcontractor within the work zone shall be appropriately marked with the name and contact number to identify responsible parties.

Entities other than the Permittee that may be performing work in the Public Right-of-Way will be expected to perform work in the same manner as described herein.

D. Peak Hour Restrictions

See Section 6.01(B-D) of this document for details on Peak Hour Restrictions.

E. Work Zone Requirements

1. The Permittee must properly mark the area according to the MUTCD.
2. Permittees must obey ALL peak traffic hour restrictions.
3. Permittees may not use the Public Right-of-Way for staging equipment or deliveries. All staging must take place on the site. Permittees may not block the Public Right-of-Way at any time without approval from LMPWA. Remaining travel lanes must remain open to traffic at all times.
4. The LMPWA does not grant workers or delivery personnel special privileges to park at existing parking meters without appropriate fees. All workers, deliveries and construction equipment must obey the existing parking regulations and posted on-Street restrictions.
5. Lane closures may not be used for worker parking.
6. The Permittee is responsible for maintaining public Streets and Sidewalks within the area of the work zone. They are also responsible for ensuring that public Streets and Sidewalks remain clear of mud and dirt and are responsible for damages to Streets and Sidewalks.
7. The Permittee is responsible for public safety at all times during the life of the permit and its extensions.
8. Complete Street closures will not be permitted unless specific approval has been obtained from LMPWA.
9. Care must be taken to preserve and protect Public Right-of-Way trees and shrubs. Any tree within a construction zone that dies within one (1) year must be replaced according to an established ratio based on the value of the tree lost, as calculated by a certified Arborist or landscape architect, unless death by other causes can be proven. Any removal, pruning, or replanting of trees and vegetation, any part of which is within the Public Right-of-Way, will require a permit from the Division of Community Forestry pursuant to Section 3.02(G), below.
10. Except as provided by State or Federal law or regulations, Metro reserves the right to require service extensions to vacant parcels of property for future development to preclude future disruption to the Public Right-of-Way.

F. Meter Bagging/Coordination with PARC

For parking meter bagging requests, a permit from LMPWA is required. Concurrent with the preparation of the application, the Applicant shall contact PARC at 502-574-3817 to obtain any necessary forms required. PARC forms must be completed and attached to the LMPWA application prior to review and approval. Once a permit

is issued by LMPWA, PARC, at its discretion, will issue bags for Meters. If work vehicles will be parking on-site, the permit must always be in the window and visible. Bagging must be done 24 hours in advance of any work, except for emergency work as defined in LMCO Section 97.091.

G. Tree & Vegetation Pruning, Removal or Replacement/Coordination with the Division of Community Forestry

Any work within the Public Right-of-Way requiring the removal, pruning, or replanting of trees and vegetation will require a permit from the Division of Community Forestry. To obtain the proper permit applications, contact the Division of Community Forestry at 502-574-3927.

Section 3.03 Large Area Permit

A. Description

Large area permits are Public Right-of-Way Encroachment Permits that allow a single work type in developed areas within a high-density grid pattern.

B. Requirements and Responsibilities

Requirements and responsibilities for large area permits are the same as Public Right-of-Way Encroachment Permits described in Section 3.02(B), above.

Section 3.04 Dumpster/Pod Permit

A. Description

Dumpster and Pod Permits are granted to allow placement of either a dumpster or pod within the Public Right-of-Way, generally in a parking lane. Placement of dumpsters or pods on Sidewalks will not be permitted.

B. Requirements

At a minimum, the following is an overview of the information required for input into the LMPWA's online application process:

1. Applicant and any designated contact information;
2. Start and end date for placement and use of the Public Right-of-Way; and
3. Type of container requested (Pod or Dumpster).

C. Responsibility

The permit must be on site and clearly displayed at all times. Failure to have a copy of the permit on site will constitute grounds for removal and possible fines.

Containers located in the Public Right-of-Way, including dumpsters, pods, etc., shall be required to have reflective material or other secondary traffic control devices. Traffic control plans may be required at the discretion of LMPWA.

The Permittee is responsible for public safety at all times during the duration of the permit.

Section 3.05 Pole Banner Permit

A. Description

The purpose of the Street Banner Program in Louisville Metro is to promote cultural and civic events and provide aesthetic interest. The banner program has the following goals:

- Add color, excitement, and a festive look;
- Brighten the Streets by introducing colorful and appealing graphic art impressions attached to light poles;
- Aid in the promotion of cultural and civic events;
- Promote Louisville Metro and Metro-sponsored programs;
- Compliment Louisville Metro's beautification and Brightside efforts; and
- Give a unified look to the Streets.

Banners will not be used to advertise individual businesses, sell merchandise, products, or services, or promote organizations or issues within the message. (The sponsoring agency can be recognized in the logo area). Participants must represent or promote non-profit cultural or civic events or activities of general public interest.

B. Requirements

For more details regarding the Street Banner Program, contact LMPWA at 502-574-5810.

Section 3.06 Loading Zone Permit

A. Description

Loading zones are installed for commercial properties that have little or no other access for deliveries. It is primarily used to load and unload materials, packages, and supplies.

Loading zones cannot be installed in fire lanes, no stopping zones, or TARC bus stops.

Loading zones are not for the exclusive use of the Applicant or any other individual.

B. Requirements

Loading zones are governed by the requirements found in LMCO Section 72.038. At a minimum, the following is an overview of the information required for input into the LMPWA's online application process:

1. Business/Applicant's name and contact information.
2. Provide a description of the purpose and location of the loading zone. A valid Street address is required.
3. Requested length of the loading zone.
4. Provide a drawing file to be uploaded into the application that shows the location, length, and any other site conditions that would be necessary to accurately convey the details of the request.

Section 3.07 Accessible Parking Zones (APZ) Permit

A. Description

Handicap accessible parking zones are permitted through LMPWA and are reviewed on an annual basis for renewal. Accessible Parking Zones cannot be installed in fire lanes, no stopping zones, or TARC bus stops. Accessible Parking Zones are not for the exclusive use of the Applicant. Any valid handicap placard holder can park in the zone.

B. Requirements and Responsibilities

At a minimum, the following is an overview of the information required for input into the LMPWA's online application process. For additional information associated with accessible parking, contact LMPWA at 502-574-5810.

1. All Applicants must possess a valid disabled parking license plate, valid disabled veteran's license plate, or hanging placard before an Applicant can submit an application.
2. Provide contact information for the Applicant and the property owner (if applicable). This contact information should include the Applicant's email address.
3. Provide placard or license information (i.e.: placard /license number, expiration date, and name of Applicant's physician).
4. Upload file for proof of license plate or placard.
5. To maintain an accessible parking zone, an annual renewal is required at the end of each calendar year. Holders of an accessible parking zone permit will be notified either by regular mail or email, which is the preferred method. However, it is the responsibility of the permit holder to ensure that the permit is renewed annually.

Section 3.08 Outdoor Restaurant Furniture/Street Furniture Permit

A. Description

As previously defined, Street Furniture includes outdoor restaurant furniture. Outdoor restaurant furniture may include but is not limited to seating, tables, plant containers, and railings that are placed in the Public Right-of-Way, typically on the Sidewalk. Outdoor restaurant furniture is permitted through the Public Right-of-Way Encroachment Permit process described in Section 3.02, instead of the license agreement process. Outdoor Street Furniture permits are renewed annually.

B. Requirements and Responsibilities

At a minimum, the following is an overview of the information required for input into the LMPWA's online application process. For additional information associated with outdoor restaurant furniture, contact LMPWA at 502-574-5810. For details on other Street Furniture requirements, refer to LMCO Section 97.076.

1. Provide address for proposed seating location.

2. Provide contact information for the Applicant and any other designated contacts.
3. Provide project details such as but not limited to the number of tables, chairs, umbrellas, etc.
4. Upload picture or detailed drawing of the layout.
5. Upload an insurance certificate for general commercial liability for one million dollars (\$1,000,000.00) that names Metro as an additional insured.

To maintain the Street Furniture permit, annual renewal is required at the end of the calendar year. Holders of a Street Furniture permit will be notified either by regular mail or email, with email being the preferred method. It is the responsibility of the permit holder to ensure their permit is renewed annually.

Street Furniture shall be located so as not to obstruct the pedestrian path or access to utilities and shall not be attached to utility vault lids.

Section 3.09 Valet Parking Permit

Valet parking permits are special permits issued through LMPWA. Permits are reviewed by LMPWA's Permit and Traffic Engineering sections on a case by case basis. Valet parking permits are issued at the discretion of LMPWA.

Section 3.10 Construction in the Public Right-of-Way in Conjunction with Permitted Private Property Construction

A. Requirements for Additional Permit

An additional and separate permit from LMPWA is not required if all the following apply:

1. A private property construction project was issued a building permit through the Office of Construction Review;
2. The permitted plans provide for the construction of storm sewers, sanitary sewers, other utilities, Sidewalks, or driveway aprons within the Public Right-of-Way as a condition of the building permit, for which permit and inspection fees were paid and a performance bond posted for the value of the work performed in the Public Right-of-Way; and
3. A Public Right-of-Way Encroachment Permit is issued by the Transportation Planning Division of Develop Louisville's Planning & Design Services.

B. Work Within the Public Right-of-Way

Prior to commencement of any work in the Public Right-of-Way, LMPWA must be notified immediately before construction starts so that its inspectors may monitor and inspect the work within the Public Right-of- Way.

C. Inspection Fees

The cost of inspection will be included in the Site Development inspection fee.

D. Driveways/Curb Cuts

Driveway and curb cut permits are issued and regulated through the Transportation Planning Division of Develop Louisville's Planning & Design Services.

Section 3.11 Maintenance of Traffic Permit

Depending on the type of work covered under the permits discussed in Sections 3.02 and 3.03, a Maintenance of Traffic Plan must be developed around the proposed work. Maintenance of Traffic (MOT) Permits may require any of the following to be considered in the development of a Maintenance of Traffic Plan:

- Lane closure,
- Sidewalk closure,
- Street closure,
- Bike/Light Occupancy Vehicle facility closure, and
- Any combination of the above.

All traffic control around construction sites shall be in accordance with Part 6 of the Manual on Uniform Traffic Control Devices (MUTCD), which is subject to modification in writing for specific locations by LMPWA. Traffic cones are not acceptable as the sole means of traffic control. If pedestrian movement is affected, adequate pedestrian access and walkways shall be provided. Advance notification for any of the above closures shall be provided to any affected businesses by the Permittee. The Permittee is responsible for the maintenance and condition of all traffic control signs and their appurtenances, 24 hours a day, seven (7) days a week. All traffic control signs are to be removed from the work site immediately upon completion of work. Traffic control signs, barriers, or electronically activated (flashing arrow board/warning) signs remaining after seven (7) days, whether construction is complete or not, are subject to impoundment by LMPWA. Applicable fines and fees apply to the sign owners/Permittee to recover the assets from impoundment.

When working in the Metro area, and more specifically in those areas where a higher population of sight impaired individuals live and use the Sidewalks, it shall be the responsibility of the Permittee to maintain awareness of sight impaired pedestrians around the work zone and shall set up signage accordingly. More specifically, the Permittee shall:

- Be aware of potential tripping hazards and potential head/face injuries caused by low signs either in the Sidewalk itself or projecting into the main walking thoroughway of the Sidewalk;
- Where possible, utilize ‘soft’ signs; and
- Daily removal of signage from the Sidewalk. Signs are not to be left on the Sidewalk overnight. Should conditions dictate that signage be left overnight then Permittee shall provide barriers around signs detectable with a cane while still maintaining safe pedestrian traffic movement.

Submittals for Maintenance of Traffic Plans should include but not be limited to an aerial or plan view of the work zone, an outline of the work zone, required MOT signage, cones, barricades, flashing arrow boards, etc., with all dimensions as required by the

MUTCD. Dates of proposed work for full closures will require advanced signage informing residents and/or businesses of the proposed closure. Hand drawn traffic plans will not be accepted.

Should work be paused for more than 24 hours, the Utility Company shall reopen the work zone provided that the work zone has been made safe for vehicular and pedestrian traffic. **The utility company shall not leave closures (Sidewalk or Street) in effect for more than two (2) business days if no work is occurring within that zone.**

Section 3.12 Conditions of Permits

A. Compliance

1. Failure to comply with any of the conditions of a permit is a violation of LMCO and the Right-of-Way Manual and will be subject to the penalties set forth in Part IX of this document.
2. Notice of Violation – If Metro believes that a Permittee has failed to comply with conditions of the permit, Metro shall notify the Permittee in writing of the exact nature of non-compliance (“Violation Notice”).
3. Permittees shall have the opportunity to respond to the Violation Notice contesting the assertion of non-compliance.
4. Permittees shall have the opportunity to cure the alleged non-compliance prior to the invocation of any penalties contained in the foregoing sections.

B. Standard Condition of Permitting

Any permit for construction or other activities is subject to the following standard conditions unless specifically agreed otherwise in writing:

1. Notification for Inspection

All work performed in the Public Right-of-Way is subject to inspection by the LMPWA. At a minimum, the Permittee shall notify the Inspection Department of LMPWA for an inspection 24 hours prior to:

- Commencement of the work, and
- Completion.

It is the obligation of the Permittee to make the site available for inspection within 24 hours.

Permit inspector’s name and contact number shall be listed on the approved permit.

The cost of basic site inspection is included in the permit fee. If repeat or extended inspections are required, an inspection fee of \$100.00 per hour will be charged.

2. Access to Abutting Property

Anyone engaged in permitted activities within the Public Right-of-Way is obligated to maintain reasonable access to property abutting the Public Right-of-Way at all times.

C. Traffic Control

All traffic control must adhere to the standards set forth by the Manual on Uniform Traffic Control devices (MUTCD) and be approved by LMPWA. See Section 3.11 for details.

Any traffic control left in the Public Right-of-Way overnight must be properly inspected and maintained by the Permittee at the end of the workday.

D. Staging/Storage Areas

Parking equipment and/or storing material or supplies within the Public Right-of-Way is not allowed unless a designated parking/storage area is included and approved by LMPWA.

E. Permissible Working Hours

See Section 6.01(B-D) for a description of permissible working hours.

To minimize the negative effects of noise and traffic congestion caused by construction activities, time limitations may be imposed on construction activities pursuant to LMCO Chapter 99.

F. Exceptions

Driveways and entrances to businesses including, but not limited to, loading docks, work areas, parking areas, and other methods for obtaining access to the property may be temporarily disrupted only under the following conditions:

1. If specifically stipulated in the permit;
2. For periods of short duration at non-critical times; or
3. After sufficient notice has been given to the affected businesses, property owner(s), resident(s)/ tenant(s).

G. Public Notification

See Section 3.13 below for further details associated with criteria for public notification.

Section 3.13 Public Notification, Signs, & Identification

A. Public Notification and Site Identification

1. Before final approval for the location of any new Construction Activities, the Applicant, at its own expense, must provide written notification of its intent to begin any new Construction Activities by first class mail to all property owners located along the route of construction and within 150 feet of a proposed new pole installation (this shall not include replacement poles). The Applicant shall provide LMPWA and the affected Metro Council member with a copy of the notice and a list to whom the notice was sent. The Applicant must also certify to LMPWA and the affected Metro Council member in writing that the notice was sent pursuant to the requirements of this section.

The notice shall include (a) the type of construction, dates, and affected Streets (b) an explanation of the purpose of the new Construction Activity; (c) a

description of the proposed location; for poles, this shall including dimensions for any base and/or supporting pad and a depiction of the general appearance; (d) information addressing public safety concerns (e) contact information for the Applicant including the Applicant's email, and (f) a statement advising the property owner that if they have any concerns regarding the Construction Activity they must email the Applicant and LMPWA within ten (10) business days after receipt of the notice.

In advance of construction activities, public notice shall be made to the affected neighborhoods and businesses in the form of the placement and maintenance of appropriate signs in appropriate locations and/or notification in writing as required by the LMPWA. The notification should include type of construction, dates, and affected Streets.

2. If within ten (10) business days of receiving public notice, a Person or any neighborhood associations and homeowners associations, to which the property owner who received notice could belong due to their location submits an email to the Applicant and LMPWA at Al.Andrews@LouisvilleKY.gov, the Applicant must respond to that Person within seven (7) days of receiving said email and email a copy of Applicant's response to LMPWA.

If after reviewing the Applicant's response, LMPWA informs the Applicant that an in-person or virtual meeting is necessary, the Applicant shall host said meeting within fourteen (14) days of notice from LMPWA. No less than seven (7) days prior to said meeting, the Applicant shall provide notice of said meeting to all previously notified parties. At the meeting, the notified parties shall have an opportunity to ask questions or express concerns regarding the proposed new Construction Activities. Applicant shall provide to LMPWA with a sign-in sheet, meeting minutes, and an explanation of any changes from the meeting within five (5) days of the meeting.

No permit shall be issued until at least twenty-one (21) days after the Applicant provides the certification to LMPWA that the notice required by this section was mailed and, if requested by LMPWA, a meeting was conducted.

B. Door-to-Door Notification

1. Requirements

Abutting property owners and tenants along the route of the construction must be notified of the pending activity within the Public Right-of-Way that would unreasonably interfere with either the egress or ingress into said owner's property or include the placement of a permanent structure. Notification shall consist of the distribution of flyers, pamphlets, door hangers, etc. identifying the area, activities, and duration at least five (5) days prior to the beginning of construction. Construction activities should be defined to include work that involves demolition, excavation and explosives, and not include routine repairs such as service connects and/or disconnect.

****Note:** Utilities may use any combination of door hangers, signs, and mailings to advise affected residents and/or neighborhood/homeowners associations of

scheduled and active construction projects, as required by LMPWA.

Section 3.14 Permit Denial

If deemed in the public's interest, the permit application may be denied for the following reasons:

1. Past due fees from prior permits;
2. Failure to return the Public Right-of-Way to its previous condition under previous permits;
3. Undue disruption to existing utilities, transportation, or Metro use;
4. Area is environmentally or historically sensitive as defined by federal, state, or local laws and regulations or within a Historic District;
5. Failure to provide required information;
6. Failure to comply with the removal of attachments on abandoned or unused poles pursuant to 8.01(A)(2); or
7. The Applicant is in violation of the provisions of this Right-of-Way Manual.

Pursuant to Section 3.01, no entity shall occupy a Public Right-of-Way without a valid permit.

Part IV Obstructions Regulated/License Agreements

Section 4.01 General Provisions Concerning Encroachments

Within the Public Right-of-Way, it is unlawful to place, construct, or maintain any permanent or immovable object, Street Furniture, structure, Sidewalk, or other installation without first obtaining a permit from LMPWA. Persons/Utilities seeking to place an object, structure, Street Furniture, or any other installation shall submit the signed application form as provided by LMPWA. For outdoor restaurant seating, the current procedure is to apply through the Public Right-of-Way permitting process as discussed in Section 3.08. For all other permanent objects or installations in Public Right-of-Way, the application shall be in the form of a License Agreement and may be applied for online at the link provided in Section 3.01.

A. License Agreement Provisions

A License Agreement is required to place any object, structure, or Encroachment permanently in the Public Right-of-Way. License Agreements shall be for a term of ten (10) years. Attachments to the License Agreement include but are not limited to:

1. Plan of proposed structure/sign/etc.,
2. Certificate for one million dollars (\$1,000,000.00) in general commercial liability insurance with Metro named as an additional insured. This is the minimum requirement and LMPWA reserves the right to require a higher value based on the

risk presented.

3. A bond, the amount of which is set by LMPWA. The bond shall survive for the life of the License Agreement.

LMCO requires License Agreements to contain certain provisions for Metro's protection: Specifically, License Agreements are generally required to contain provisions that are the responsibility of the licensee that includes, but are not limited to the following:

1. Indemnifying and holding Metro harmless,
2. Maintaining the Encroachment, and
3. Removing the Encroachment.

B. Potential Situations Involving License Agreements

The most frequently encountered situations requiring License Agreements are signs, awnings, marquees, and to a lesser extent privately constructed and operated Bridges or Tunnels, Decorative Sidewalks, and Special Encroachments.

Section 4.02 Signs, Awnings, and Marquees

Erecting and maintaining any awning, canopy, marquee, or sign structure that is free standing or attached to a building, which occupies space within the Public Right-of-Way, or that in the event of failure may present a danger to the public, will require a License Agreement.

Section 4.03 Special Encroachment

Constructing, erecting, and maintaining any non-standard structure or facility within the Public Right-of-Way will require a License Agreement. Examples include but are not limited to Street Furniture, fountains, trash cans, recreation, or playground items. Also, any portion of a building or other building-related structure projecting greater than 18" into the Public Right-of-Way will require a License Agreement. Examples include but are not limited to balconies, footers, entrances, ramps, patios, railings, or any other such permanent structure/item that occupies the Public Right-of-Way. Underground building-to-building structures that serve each building such as chiller lines or communication ductwork will likewise require a License Agreement.

Section 4.04 Decorative Sidewalks

A. Metro Standards Policy

Metro maintains standards for Sidewalk construction within the Public Right-of-Way. The intent of these standards is to ensure that Sidewalks are constructed in a safe, cost effective, and easily repairable manner.

B. Special Sidewalk Districts:

Historic or special districts within Metro may have additional requirements for brick Sidewalks, extra width Sidewalks, or other details. Replacement for Sidewalks in a special Sidewalk district shall be done with in-kind materials.

C. Decorative Sidewalk Agreements

If the owner of an abutting property desires to construct a Sidewalk in the Public Right-of-Way that is to be constructed from unusual or exotic material, of a non-standard design or construction, will vary from the requirements of an applicable historic or special district, or otherwise will be special or unique, a Decorative Sidewalk Agreement is required. Civic improvement groups or other entities wishing to construct decorative Sidewalks abutting multiple properties may enter into Special Agreements with Metro.

D. Limitations Applicable to Decorative Sidewalks

1. The use of light gray or buff color tinted concrete or geometric imprints (hex pattern, brick pattern, etc.) in broom finish concrete do not alone constitute a decorative Sidewalk and do not require a Special Agreement. However, such details must be shown on the engineering plans submitted for a permit.
2. The use of vivid or exotic colors, inlays, special stones, non-standard textures, or pavers does constitute a decorative Sidewalk that requires a Special Agreement.
3. Unless a Special Agreement specifically states to the contrary, the owner of abutting property is obligated to maintain the Sidewalks fronting the owner's property, including any decorative Sidewalks. If Metro or public utility work crews cut or damage a standard Sidewalk, they must repair the Sidewalk to good condition. If Metro or public utility work crews damage a decorative Sidewalk, they must make good faith efforts to minimize damage, save paving materials removed, and repair the Sidewalk in a compatible manner.

However, if the repair of a decorative Sidewalk requires extraordinary time, effort, or material, the owner of the Sidewalk is responsible for the extra time, effort, and material, necessary to make the repair.

Section 4.05 Bridges and Tunnels

In order for a Person to construct, own, or operate a private pedestrian, vehicular or utility bridge, tunnel, or similar passage between buildings over, under, or into the Public Right-of-Way, a License Agreement is required. Use of a bridge, tunnel, or passageway is limited solely to intermittent passage of pedestrians, vehicles, or for locating utilities. Encroachment space cannot be utilized as occupied space for Persons, the transaction of business, advertising, or storage of material.

Section 4.06 Private Utilities/Telecommunications

A Utility Company with either a valid franchise agreement or claiming a legal right to occupy the Public Right-of-Way pursuant to a pre-Kentucky Constitutional charter may operate in the Public Right-of-Way without a License Agreement.

Part V Commercial Activity within the Public Right-of-Way

Section 5.01 Vending

A. Permit Required

Buying and selling goods within the Public Right-of-Way is prohibited except by

permit. Vending permits are issued and enforced by the Department of Codes and Regulations.

B. Blocking Public Right-of-Way Prohibited

Blocking a Sidewalk when conducting an authorized Metro permitted sale of goods is prohibited. A minimum passageway width of at least four (4) feet must be maintained along the Sidewalk at all times pursuant to LMCO Section 97.072.

Section 5.02 Vending Machines (food, drinks, etc.)

Unattended vending machines or similar devices may not be located within the Public Right-of-Way.

Section 5.03 News and Information Distribution Boxes and Corrals

The placement of news and information distribution boxes in the Public Right-of-Way must be placed in accordance with Chapter 97 of the LMCO.

A. Permit Required

It is unlawful for any Person to place, locate, or operate any news and information distribution boxes on a Sidewalk or within any part of the Public Right-of-Way without first obtaining a permit from LMPWA.

B. Identification

Each news and information distribution box must display the name, address, and telephone number of the Person responsible for its placement, maintenance, and repair pursuant to LMCO Chapter 97.

C. Encroachments Into Sidewalk and Street

News and information distribution boxes shall not project onto, into, or over any part of a Street or interfere with or impede the flow of pedestrian or vehicular traffic, including any legally parked or stopped vehicle, or any other lawful use applicable to the Public Right-of-Way.

D. Obstruction

News and information distribution boxes may not be located where it presents a dangerous condition or obstruction, endangers the safety of Persons or property, or unreasonably interferes with the entrance or access to any residence, business, utility pole, sign post, traffic sign or signal, fire hydrant, gas or water valve, mailbox, or similar utility facility.

E. Multiple Publication-Vending Devices

News and information distribution boxes may be placed next to each other, as long as no group of news and information distribution boxes extends more than 6 feet along a curb or wall. News and information distribution boxes placed in the Central Business District (CBD) must be placed in Corrals. See LMCO Section 97.076 for guidance on placement, number, size, and maintenance.

F. Affixation to Property

News and information distribution boxes shall not be fastened or chained to any property that is not owned by the owner of the publication vending device or to any permanently fixed object. However, publication vending devices, when placed side by side, may be chained or otherwise attached to one another.

G. Placement of Individual Vending Devices

See LMCO Section 97.076(H) for guidance on the placement of individual vending devices.

H. Maintenance

News and information distribution boxes must be maintained in a state of good repair at all times pursuant to LMCO Section 97.076(I).

I. Abandoned News and Information Distribution Boxes

Any news and information distribution boxes placed upon the Public Right-of-Way that in the sole determination of the Director appears to be unused in that location for at least 45 Days is considered abandoned.

The abandoned news and information distribution boxes will be subject to all removal or other remedial procedures provided for in LMCO Chapter 97 or other applicable governmental requirements.

J. Advertising

It is unlawful for any Person to use a news and information distribution boxes for advertising or purposes other than information identifying the publications sold within the specific device.

Section 5.04 Street Benches

A. Street benches must be placed on concrete pads fastened to the pad with break-away fasteners and shall not be attached to utility vault lids.

B. Placement of benches must comply with ADA standards.

C. Benches must be monochromatic in appearance.

D. Benches must have slatted see-through back or no back with arm rests on each end.

E. Advertising on Benches within the Public Right-of-Way will not be permitted.

Section 5.05 Utility Boxes within the Public Right-of-Way

See Part VIII of this document.

Section 5.06 Dockless Vehicles: Scooters and eBikes

Dockless Vehicles include (1) a bicycle, an electric bicycle, or an electric motor-assisted scooter, as defined in LMCO Chapter 74, that can be located and checked-out without interacting with a human, and (2) an electric motor-assisted scooter with no more than two ten-inch or smaller diameter wheels that has handlebars, that is designed to be stood upon, and is powered by an electric motor that is capable of propelling the device with or without

human propulsion at a speed no more than fifteen miles per hour on a paved level surface. The word vehicle(s) may be used interchangeably with Dockless Vehicles as discussed in the Dockless Vehicle Policy. The policy is established to provide rules and regulations governing the operation of Dockless Vehicles within the Public Right-of-Way and to ensure that the operation of such mobility systems is consistent with Metro's larger safety and transportation goals.

The Dockless Vehicle Policy may be found at: <https://louisvilleky.gov/government/public-works/dockless-find-and-ride-vehicles>.

Part VI Public Safety/Minimize Public Inconvenience

LMPWA is charged with managing and coordinating all construction in the Public Right-of-Way and easements. A major objective is to provide for public safety and to minimize inconvenience during the course of construction activities within Metro. Accordingly, the constraints specified below vary according to the classification of the work area.

Section 6.01 Work Within the Pavement

A. General

There must be at all times sufficient traffic lanes open to permit a substantially normal flow of traffic and proper provisions for maintenance of traffic. Street intersections must be kept open to traffic with enough space providing for two (2) lanes of traffic unless an exception is granted by the Director. Traffic lanes shall be a minimum of ten (10) feet wide unless lanes of lesser width are approved by the Director. All exceptions to the Right-of-Way Manual shall be in writing.

When notified by Metro of an improper maintenance of traffic, the Permittee shall provide proper provisions for traffic control immediately. In case of emergency, arrangements are to be made by the Permittee with the Police Department so that officers may be assigned to handle traffic until facilities for traffic maintenance can be obtained and placed. If proper facilities for maintenance of traffic and/or proper provisions for traffic control are not being provided by the Permittee, LMPWA may take necessary steps to place traffic maintenance and traffic control facilities in proper condition. The cost thereof shall be collected from the Permittee.

Steel plates or bridges of sufficient size shall be furnished to cover openings, and to provide crossings over trenches or new pavement on main thoroughfares and at important intersections. The plates or bridging shall be securely fastened in place to prevent movement. It shall remain in place when no work is being done on a particular length of opening on which it is used as a cover. Temporary paving with a cold asphalt mix should be used to feather the edges of the plate to form a wedged taper to cover the edges of the steel plate in advance of oncoming traffic. Other alternative methods to accomplish this will be considered for approval.

When the final surface is not installed after backfilling of the trench, it shall be necessary to place a temporary surface on any Street cut opening. The temporary surface installation and maintenance shall be the responsibility of the Permittee until the permanent surface

is completed and accepted. The temporary surface shall be either hot mix asphalt, cold mix asphalt or lean concrete with a minimum 1,000 psi compressive strength. Also see Section 7.02(A) for further details. Temporary asphalt surfaces shall be compacted and rolled smooth with a drum vibratory roller.

Meter Bagging: For parking meter bagging requests, a permit from the Parking Authority of River City (PARC) is required. When permit has been obtained, contact PARC at 574-3817 with meter and permit number as well as location(s). If work vehicles will be parking on site, the permit must always be in the window and visible. Bagging must be done 24 hours in advance of any work.

B. Arterial Streets

Arterials are those Streets in Louisville Metro designated as major thoroughfares (see LMPWA Street Class on LOJIC). Being essential to the safe movement of the majority of citizens, these Streets require stricter regulation to maintain the orderly and safe flow of traffic. Unless enough traffic lanes remain open to permit a substantially normal flow of traffic, work will be confined to the hours between 9:00 a.m. to 3:00 p.m. and 6:00 p.m. to 6:00 a.m., however, the Director may grant a change in hours.

When the final surface is not immediately installed after backfilling of the trench, it shall be necessary to place a temporary asphalt surface on any Street cut opening. The temporary surface installation and maintenance shall be the responsibility of the Permittee until the permanent surface is completed and accepted.

C. Collector Streets

These are all Streets that connect local Streets to arterial Streets.

Note: restrictions such as those for arterial Streets may apply depending on peak traffic hour activity. Generally, there will be no restrictions on work hour or workdays; construction shall be limited to 7:00 a.m. – 9:00 p.m. Monday through Friday (emergency work excluded). Two-way traffic shall be maintained at all times during peak traffic times; one lane closure will be allowed between 9:00 a.m. and 3:00 p.m. with flaggers.

Permanent restoration shall occur within one (1) week except as outlined by LMPWA in the permit. When the final surface is not installed within one (1) week after backfilling of the trench, it shall be necessary to place a temporary asphalt surface on any Street cut opening. The temporary surface installation and maintenance shall be the responsibility of the Permittee until the permanent surface is completed and accepted.

D. Local Streets

Local Streets are the Streets and cul-de-sacs which provide direct access to adjacent property or individual homes. Generally, there will be no restriction on work hours or workdays. Construction hours shall be limited to 7 a.m. – 9 p.m. Monday through Friday (emergency work excluded). At a minimum, a single lane shall provide for passage of two-way traffic with a flagman available for control.

Permanent restoration shall occur within two (2) weeks except as outlined in the permit. If the final surface is not installed within two (2) weeks, it shall be necessary to place a temporary surface on any Street cut opening. The temporary surface installation and maintenance shall be the responsibility of the Permittee until the

permanent surface is completed and accepted.

Section 6.02 Work Outside the Pavement

All work areas within the Public Right-of-Way and outside the pavement shall be restored to its original condition or better after work completion. Pits/trenches that remain open overnight shall be secured to protect the public and adjoining property. In no case shall any work area outside of the pavement be left in a disturbed state longer than 30 days. When notified of a failure in the work area (i.e. cave-in), the Permittee shall respond, and repair said work within twenty-four (24) hours.

Section 6.03 Work Areas Generally

Disturbed areas shall be limited to no more than 300 linear feet of open trench before temporary repairs are initiated.

Care should be taken in job site parking to avoid damage to Sidewalks and landscaping. Any curb, gutter, Sidewalk, or landscaping damaged by the Permittee shall be removed and replaced within thirty (30) days after the damage has occurred. Parked construction vehicles and equipment shall not restrict private property access for both pedestrians and traffic, nor hinder sight distances for traffic.

When notified of an unsafe opening by LMPWA or any other Metro entity, the Permittee shall respond within twenty-four (24) hours.

No work will be permitted (except for emergencies) on certain Streets during special Metro events, such as Derby, Thunder Over Louisville, Light Up Louisville, etc., or others as designated in writing by the Director.

Salvage Requirements for work in the Metro area: Brick paver salvage is required throughout Louisville Metro pursuant to LMCO Section 97.095. For salvage activities in the Metro area including Historic Districts, the Permittee must be aware of type of Street, Sidewalk, and curbing to determine the type of repair or restoration needed. All areas within Metro, including the designated Historic Districts must be repaired using like materials and restored to its original condition. You can find more information on historic districts and Overlay District areas at <https://louisvilleky.gov/government/planning-design/historic-preservation-landmarks-and-overlay-districts>.

Work in a Restricted District: All work in District A must comply with the provisions of LMCO Chapter 53.

The Permittee must provide and maintain safeguards, safety devices, protective equipment, and take any other needed actions necessary to protect the public and property in connection with their work. The presence of barricades, lights, or other traffic control devices provided and maintained by any party other than the Permittee shall not relieve the Permittee of its responsibility. All traffic control around construction sites shall be in accordance with the Manual for Uniform Traffic Control Devices (MUTCD) and Louisville Metro Pre-Approved Plans, subject to modification for specific locations by LMPWA Traffic Engineering.

Erosion and sediment control around work sites shall be in accordance with the MSD standards. Inlet protection shall be provided at curb inlets and yard drains. Under no circumstances shall material (sediment, gravel, concrete, asphalt, etc.) be washed into

storm drains. Excess material/sediment shall be allowed to dry and then be removed by vacuum sweeper or shovel and hauled away. Street washing shall be allowed only after sediment is removed in this manner. Effluent from dewatering operations shall be filtered and/or passed through an approved sediment-trapping device and discharged in a manner that does not adversely affect adjacent property. Saw cutting effluent and waste shall not enter the storm system and the Permittee conducting the saw cutting shall be prepared to collect the effluent and waste before starting the work. Upon notification of excessive erosion or sediment around work sites, the Permittee must take corrective action within twenty- four (24) hours.

Section 6.04 Noise and Vibration Standards

In order to preserve our historic structures, Permittees performing excavation work that could have a negative impact on structures within any Historic District (LOJIC.org) or Designated Local Landmark need to consider the type of equipment and method of construction being used. A list of Designated Local Landmarks is located at

https://louisvilleky.gov/sites/default/files/planning_design/landmarks_and_historic_pr es/individual_landmarks_list_1.14.19.pdf and <https://louisvilleky.gov/government/planning-design/historic-preservation-landmarks-and-overlay-districts>.

Operation of heavy construction equipment, particularly pile drivers and other impact devices such as pavement breakers, create seismic waves that radiate along the surface of the earth and downward into the earth. These surface waves can be felt as ground vibration. Vibration from operation of this equipment can result in effects ranging from annoyance of people to damage of structures.

Any work occurring within 500' of a structure in a Historic District that qualifies as a historic building per Section 106 of the National Preservation Act or within 500' of a Designated Local Landmark shall submit a vibration mitigation plan with the Encroachment Permit application. Activities within these areas cannot generate a peak particle velocity (PPV) exceeding 0.2 inches/second at the affected building. The mitigation plan could include but is not limited to vibration monitoring at the building during construction or consideration of an alternative construction method(s).

Part VII Protect Public Infrastructure

LMPWA utilizes the inspection process as the primary instrument to protect public investment in its infrastructure. Through a uniform and responsive inspection process, the public can be assured that work has been completed in accordance with current standards for reconstruction and site restoration. The objective of LMPWA's inspection effort is to ensure that Metro's infrastructure attains its maximum useful life and utility restoration callbacks are minimized.

Section 7.01 Quality Assurance/Quality Control/Inspection

Every Street and Street repair situation is unique. While design criteria and construction standards cannot address every situation, the following standards were developed to maintain consistency. In most cases, the minimum acceptable standards for construction

or repair is listed, and when strictly applied, the minimally acceptable product. Therefore, this criterion shall be utilized to maintain the same integrity of the Street pavement and subsurface condition prior to excavation for utility installations.

Metro's quality assurance effort complements the Permittee's quality control efforts. Quality assurance is provided by LMPWA staff, who is responsible for the inspection of all Public Right-of-Way work. The staff serves as a liaison to the Permittee to advise on construction standards, to advise on the extent of restoration, and to coordinate activities between Metro and other Permittees.

Quality control is the responsibility of the Permittee. The Permittee is expected to be familiar with the applicable standards referenced herein and to employ qualified sub-permittees who utilize these standards in the restoration of the Public Right-of-Way. Permittees who fail to comply with these standards risk exclusion from performing future Public Right-of-Way work.

Surface tolerances for Street repairs must meet the standard for new construction. That is, the finished surface of the Street repair should be tested with a ten-foot (10') straightedge parallel to the centerline or perpendicular across joints. Variations measured from the testing face of the straightedge to the surface of the Street repair should not exceed one-quarter inch (1/4").

Section 7.02 Reconstruction/Restoration Standards

The proposed criteria are guidelines to achieve the goal of "quality" in Street repairs. When used in conjunction with good planning and judgment, the repair methods will maintain the Street at an acceptable condition with minimal degradation. All restoration shall result in a work site condition equal to or better than the condition that existed prior to construction. The following provisions will serve as guidelines for work in Metro:

A. Pavement Excavation/Trenching

Before any digging may commence, the pavement shall be saw cut around the perimeter of the proposed trench. Pavement cuts shall be filled with compacted select material. At a minimum, either concrete or asphalt shall be placed to match the existing Street cross section.

In an excavation, select material shall be placed in lifts and compacted as indicated in the "Report of Trench Backfill Procedure Updates for LWC, LG&E and MSD Pavement Restoration," University of Louisville Center for Infrastructure Research; and Stantec Consulting Services.

Once the compacted backfill is placed, the asphalt cutback shall be made. The cutback must extend 1-foot minimum on each side of the opening and must be over undisturbed existing base. All edges of the opening shall be neatly cut with an asphalt saw and uniformly tacked. In concrete pavement, the depth of the cutback excavation shall be to the depth of existing concrete pavement or eight inches, whichever is greater. In asphalt pavement, the depth of the cutback excavation shall be to a depth of ten-inches (10") to allow for an eight-inch (8") concrete cap and a two-inch (2") asphalt surface.

Trenches filled with flowable fill or a lean concrete (1,000 psi) to the Street surface

will not be required to make the 1-foot cutback on each side of the trench.

When it is necessary to use cold patch in an opening due to the unavailability of plant mix materials, the cold patch will be compacted with a vibratory drum roller.

Pavement restoration will be approved based on their general appearance as well as their "rideability." Rideability is defined as a leveling tolerance to within one-quarter inch (1/4") at any point across the Street cut as it relates to the surrounding asphalt Street surface.

In all cases, site clean-up is necessary and required.

B. Overlay Requirements:

1. All public Streets will be overlaid when any of the following conditions apply: When any underground facility is installed in the Street and is parallel to the centerline of the Public Right-of-Way, the Street must be overlaid from curb line or edge of pavement to curb line or edge of pavement for the entire length of the utility extension. If the utility extension terminates within 150 feet of the near Public Right-of-Way line of an intersecting Street, the overlay shall extend to said Public Right-of-Way line. Otherwise, the overlay shall extend 15 feet from the end of the excavation. If granted an exception by the Director, limits of overlay may be reduced to existing joints in the pavement.
2. When any underground facility is installed in the Street that is perpendicular to the Public Right-of-Way centerline and if there are three such crossings within 150 feet of each other, the overlay shall encompass all excavations and extend from curb line or edge of pavement to curb line or edge of pavement. If the last excavation is within 150 feet of the near Public Right-of-Way line of an intersecting Street, the overlay shall extend to said Public Right-of-Way line. Otherwise, the overlay shall extend 15 feet from the end excavation. If granted an exception by the Director, limits of overlay may be reduced to existing joints in the pavement.
3. When any underground facility is installed in the intersection of two or more-Streets, the entire intersection shall be overlaid to the extended Public Right-of-Way line of each intersecting Street. Restoration shall be done by LMPWA and reimbursed by the Permittee in accordance with the guidelines found in item (O) of this Section. Reimbursement to LMPWA for restoration of an intersection will cover pavement only and will not include ADA ramps or Sidewalks.

An adequate overlay will consist of a 2" mill around the perimeter of the proposed overlay, tack coat and a 2" overlay of surface asphalt, with sealing on all of the joints.

C. Signalized Intersections

In no case shall a Permittee cut into the pavement of a signalized intersection without having contacted the LMPWA Electrical Maintenance Shop (hereinafter referred to as "EM") at 502-574-3261 forty-eight (48) hours prior. EM will locate buried loop detection devices to protect them from damage. Any Permittee that damages a loop detector must have the loop repaired or be charged for the repair or reinstallation of the device.

D. Pavement Marking

Lane striping or other painted and affixed delineators that are removed by Permittee shall be replaced by the Permittee before restoration is considered complete. The inspector will

notify the Permittee of the product (traffic paint, thermoplastic, raised pavement markers, lane tape) and applications; Traffic Engineering will approve all traffic delineation materials. If pavement markings are not properly replaced twenty-four (24) hours after written notice to the Permittee, LMPWA may take necessary steps to replace pavement markings. The cost thereof shall be collected from the Permittee.

E. Sidewalk

Sidewalks damaged by Permittee shall be removed and replaced in full sections. A section's size will be determined by ADA standards or by a Metro inspector. All edges of concrete to be removed shall be saw cut and then formed from construction (or dummy) joint to joint. Any sections of Sidewalk which have been undermined as work progressed will also be cut out and replaced with suitable backfill prior to replacement.

Should damage to Sidewalks be observed after the work has been completed, the Permittee shall be notified in writing to perform required repairs within thirty (30) days. Where Sidewalk sections are removed at Street corners, the Sidewalk and adjacent curb shall be restored as a curb cut handicapped ramp. Construction of the ramp shall be in accordance with current ADA standards.

F. Aprons

Driveway aprons will not be "patched" following work by a Utility Company. All edges of concrete restoration shall be saw cut and the property owner's access to his/her property shall not be unreasonably denied. In the event of a necessary repair, an apron will be repaired with the same material from which it was made (i.e. exposed aggregate aprons will be repaired with exposed aggregate concrete).

G. Curb and Gutter

When a curb and gutter is replaced, it shall be restored to the nearest joint, match existing curb elevations, ensure constant grade, and positive drainage. Expansion material will be used at joints. Should the work include the removal of a section that was finished with a dummy joint, the Permittee will saw cut the joint prior to forming and pouring the new section.

H. Utility Marking

The extent and volume of Utility Company markings on Streets and Sidewalks that remain after construction is a source of concern to Metro. It is understood that multiple requirements for Utility Company markings may be made in the same general area. While this requirement is in conformance with State Regulations, this practice creates an inefficient system of redundant markings that is a visual nuisance to the citizens of Louisville Metro. Markings made on curbs, Sidewalks, and pavement as well as markings made beyond the location which will not be removed during construction tend to remain in place for an indefinite time. Therefore, Metro's policy is that marks shall be large enough and frequent enough to be seen by the Permittee but not to become graffiti on the pavements, curbs, and Sidewalks. Utility Company marking removal shall be detailed within the restoration plan for each Encroachment Permit application along with a schedule for removal. At its sole discretion, LMPWA may require Utility Company markings for a permitted project to be removed within a reasonable time period as agreed to by LMPWA and the Permittee following completion of the project. Any markings left after the agreed-upon time period shall be removed at the

Permittee's expense.

As the use of concrete pavers and specialty concrete finishes increases, Permittees are specifically cautioned to be discrete with marks on these surfaces, whether on Metro-owned or private property.

I. Grass Areas and Trees

All areas that have been landscaped prior to construction shall be restored to original or better condition. Unlandscaped areas that were otherwise covered with vegetation shall be reseeded with grass seed after construction. In areas that have been previously sodded, sod will be considered the appropriate restoration.

Any removal, pruning, or replanting of trees and vegetation in the Public Right-of-Way will require a permit from the Division of Community Forestry pursuant to Section 3.02(G).

In the event that construction may impact a tree root zone area (the area underneath the drip line of the tree), Metro may require boring by the Utility Company instead of an open trench.

J. Landscaped Areas

Extensive landscaping exists throughout Metro, principally in medians of arterial Streets. When work is planned in a planted area, it is the Permittee's responsibility to contact the Division of Community Forestry to apply for an Encroachment Permit, which allows for consultation and possible removal/replacement of plantings. LMPWA shall determine the policies and procedures to be followed for maintenance of the plants. Any removal, pruning, or replanting of trees and vegetation in the Public Right-of-Way will require a permit from the Division of Community Forestry pursuant to 3.02(G).

In cases where above-ground work needs to be screened or where existing plant materials must be replaced, the Permittee shall install landscaping materials in accordance with a landscape plan provided by Metro. For more detail refer to "Standard Landscaping Screening Materials for Use in the Public Right-of-Way" and "General Landscaping Notes" outlines in general acceptable materials and practices at <https://louisvilleky.gov/government/division-community-forestry> .

K. Special Construction

Historic Districts which consist of exposed aggregate Sidewalk, brick paving, granite curbs, cobblestones, and "bomanite" type concrete, are extremely difficult to match and may require replacement of entire slabs versus patching. Extreme care is required. All work under the pavement of a locally designated historic landmark shall require prior coordination with LMPWA.

L. Parks and Parkways

LMP is committed to the preservation, protection, and enhancement of Metro's Parks and parkways. General guidelines for work in Metro's parks and parkways is provided at: <https://louisvilleky.gov/government/parks>.

M. Brick Paver Salvage

Brick masonry pavers removed by any Person shall be salvaged for future use. Permittees that must remove brick pavers as part of an excavation project shall salvage

the material and deliver to LMPWA for storage. Salvaged or harvested brick masonry pavers can then be used for the purposes of preservation and maintenance of existing brick Streets and alleys. Pavers that are installed pursuant to this section shall be installed using the same construction processes and techniques as used in the existing historic surface where possible (*also see* LMCO Section 97.095).

N. Environmentally Sensitive Areas

Proposed Permittee work in environmentally sensitive areas, which include wetlands, streams, unstable slopes, and areas of differential settlement (i.e. peaty soils), may require review by MSD for possible mitigation requirements. It is the Permittee's responsibility to educate itself on the location of sensitive areas. *See* the Louisville/Jefferson Information Consortium ([LOJIC](#)) for interactive maps identifying this area within Metro.

O. Alternative to Final Paving

As an alternative to performing final paving, a Permittee may pay a monthly sum to LMPWA covering LMPWA's costs for final paving. Final paving is defined as the top two (2) inches of pavement restoration, which is more specifically discussed in Section 7.02(B) of this document and as described in the Permittee's Public Right-of-Way Encroachment Permit(s) issued by LMPWA.

A Permittee may choose to utilize this alternative with the concurrence of the Director. If approved by LMPWA, the Permittee shall enter into an Agreement with LMPWA. An Agreement form is provided by calling LMPWA at 502-574-5810. Criteria and procedures associated with the final paving alternative are likewise contained in the Agreement. A Permittee desiring to choose this alternative shall submit its request in writing to the Director.

If a Permittee installs any underground facilities in the intersection of two or more Streets, LMPWA must restore the intersection. The Permittee must likewise reimburse LMPWA for these costs in accordance with the terms of the Agreement described above.

Section 7.03 Moratorium on Street Cuts/Excavations

Streets reconstructed or repaved within the preceding five years are subject to a 5-Year Moratorium to protect the public infrastructure and to maintain the integrity of the pavement and the Public Right-of-Way. LMPWA reserves the right to deny any Street excavation or require repairs that are over and above these specifications. LMPWA recognizes work specific to each Utility Company may take place on newly paved Streets within the above criteria. Metro may, at the discretion of the Director, permit excavations on a case-by-case basis. Permitted conditions may include:

- Emergencies;
- Installation, repair, or replacement of services;
- Providing services to buildings or customers where no other reasonable means of providing services exists; and
- Other requested work reviewed on a case-by-case basis at the discretion of the

Director, but does not obligate approval.

To request a waiver, the Permittee shall submit a written request to LMPWA describing the scope of work, necessity of the open cut, why the project cannot be deferred, and a proposed restoration plan. If justified, a permit will be issued for the work and restoration plan specific to the project.

Standards for restoration shall follow those outlined in this Section. LMPWA reserves the right to reasonably modify the standards as field conditions dictate. Alternate methods of pavement sealing for certain types of repairs will be entertained on a case-by-case basis.

To assist with project planning, LMPWA will publish a list of Streets scheduled to be paved within the next three years. A list of Streets subject to the 5-Year Moratorium will be published by July 1st each year.

Part VIII Facilitate Standards for Utility Company Elements

While Metro recognizes that progress benefits all of its citizens, that progress must be tempered with the careful and responsible use of the Metro Public Right-of-Way. The catalyst for its use, permits, and licenses is outlined in Part III of this document. When any Utility Company, operate within the Public Right-of-Way, the following standards apply.

Section 8.01 Standards for Typical Utility Company Elements

The following information provides location and configuration standards for utilities in new developments and redevelopments, existing Public Right-of-Way, easements, and Metro Capital projects. This section also addresses the requirements for telecommunication elements proposed to occupy and function within the Public Right-of-Way. The goal is to standardize Metro's requirements for the placement of Utility Company elements in accordance with applicable Metro standards, ordinances, regulations, long-range plans, and current accepted Utility Company standards.

A. Utility Company Elements

1. Meters: Where practical, water meters should be located within two feet of the back of the curb or at the property line where there is no curb and gutter. When possible, avoid placing within Sidewalks or driveway aprons. Where new driveway aprons are to be built over existing water meters, Metro shall notify the Louisville Water Company and advise the homeowner of conflict consequences.
2. Poles: With all new Street side pole installations, including poles installed to support a small cell antenna, and when required associated attached appurtenances, consideration should be given to clear zones as designated by the Roadside Design Guide. See Subsection B for additional standards related to small cell antennae. Downguys shall be minimized and provided with yellow covers. Unused or abandoned guy anchors shall be removed (not cut flush) six inches (6") below grade and Sidewalk section replaced, or surface backfilled and restored to original contours. Unused or abandoned poles shall be removed immediately by the pole owner once the pole becomes unused or abandoned. Poles that have attachments remaining after a replacement pole has been placed nearby shall remove the replaced pole after sixty (60) days. The attachment owners shall be notified by the pole owner of the poles

impending removal and the attachment owners shall make arrangements to move the attachments to the replacement pole within the 60 days. Failure to transfer within 60 days is an express ground for permit denial under Section 3.14 of this Right-of-Way Manual. The pole owner shall notify LMPWA if the attachment has not been relocated to the new pole within the sixty (60) day requirement.

3. In areas such as the Central Business District and in any new development(s), including capital projects and subdivisions, Metro reserves the right to require underground services. Any proposed overhead facilities shall be subject to review by the Director. The Director must review any proposed changes to existing overhead utilities in developed areas, including but not limited to routing changes, installation of different materials or type of facilities other than currently in use, and pole pattern re-locations.
4. Sewer cleanouts: Sewer cleanouts will be provided per MSD specifications and located at the Public Right-of-Way line. -
5. Valves: All valves are to be installed with valve boxes set flush (1/4" + tolerance) with adjacent surfaces and located out of the pavement if possible. Gas valves for private services shall be located at or near the property line and outside of concrete Sidewalks when feasible. When possible, avoid placing within Sidewalks or driveway aprons. When notified by Metro of the settlement of a valve box, the Permittee shall raise the box within 30 days.
6. Vaults: Locations of all vaults (telecommunications and electric) shall be coordinated with Metro on a case-by-case basis. Access to vaults located in the Streets must be through standard manhole castings. Vaults located under Sidewalks shall be provided access through a structural grate. For any vault to be repaired, replaced, or installed, the grate must meet ADA criteria longitudinally and horizontally.
7. Waterlines: Waterlines shall be installed underground with clearances determined by Louisville Water Company standard specifications at Utility Company crossings. Installing facilities directly over and parallel to water mains must be avoided.
8. Ground Level Elements (hereinafter referred to as "GLEs"): GLEs are the elements associated with electrical and telecommunications utilities, including but not limited to Panel Boxes, Distribution Boxes, Transformers, Public Telephone Kiosks, Pedestals, Switches, Battery Cabinets, Cabinets, and other similar equipment, including poles installed for the sole purpose of supporting such equipment.

GLEs including new poles shall not be installed in the CBD. Metro recognizes however that circumstances may require an evaluation for installation on a case-by-case basis. This evaluation shall be at the discretion of LMPWA and will be considered through the conditions of the standards presented in Subsection B. This review will include proposed reviews of placement of new poles or replacement of existing pole(s) within the CBD. Metro reserves the right to review any and all proposals on a case-by-case basis and any approvals shall be at the discretion of LMPWA. GLEs proposed outside of the CBD likewise will be reviewed on a case-by-case basis in accordance with the conditions found in Subsection B.

Except for poles and within the CBD, GLEs shall be painted green, black, or brown (unless aluminum or stainless). Where a GLE is proposed outside the CBD or in a residential area, the Director shall determine to what extent if any, appropriate

screening is required. Such plantings shall be reviewed and approved by the Metro Urban Forester prior to installation. The Permittee is responsible for the maintenance and upkeep of any plantings.

When installed in easements alongside open drainage ditches such ground level elements shall be placed 10' from the edge of the ditch to allow for access by slope mowing equipment. Any exceptions will need specific written approval from LMPWA.

GLEs must be metered to the extent they require an independent power supply, and the responsible Permittee must pay any service charges, meter fees, lighting and maintenance fees and other expenses associated with connecting to the municipal power provider.

Utility Companies engaged in the installation and maintenance of telecommunications utilities and associated equipment are encouraged to obtain a private easement for Large GLEs.

9. Hydrants: Fire Hydrants shall be set to established grade, with the center of the barrel two feet (2') behind the face of the curb line for standard curbs, and eighteen inches (18") behind the back edge of the curb for rolled curbs. In the absence of a curb, the hydrant shall be set approximately five feet (5') to fifteen (15') from the edge of the pavement, and no more than fifteen feet (15') from a hard-traveled surface.
10. Underground Cables and Pipelines: In new developments and redevelopments, Metro reserves the right to review the location of all underground facilities prior to construction.
11. Any removal, pruning, or replanting of trees and vegetation in the Public Right-of-Way will require a permit from the Division of Community Forestry pursuant to 3.02(G).
12. Placement Standards: Placement of Small Cell Antennae and GLEs in the Public Right-of-Way requires a balanced approach. During the site selection process, the Permittee must coordinate Small Cell and GLE locations generally based on the following criteria:
 - Aesthetics as related to the placement of poles/GLEs while maintaining sensitivity to local concerns.
 - Established principals of radio frequency design. It is understood that antennae within the proposed grid may be moved to accommodate site conditions, aesthetics, and/or public concerns; as such, flexibility must be designed into the system.

As further guidance subject to satisfaction of the basic overall placement criteria set forth herein and as applicable, the terms of any franchise, license agreement, or municipal facilities agreement approved by Metro, sites for GLEs and poles for Small Cell antennae located in the Public Right-of-Way may also be evaluated based upon the following sequential preference provided that the site conditions and engineering criteria for the grid system is in compliance with accepted standards of practice, with flexibility maintained in all designs.

- Public Right-of-Way or Utility Company easement abutting industrial sites;

- Public Right-of-Way or Utility Company easement abutting office or commercial sites;
- Public Right-of-Way or Utility Company easement abutting parking lots that accommodate multi-family residential uses;
- Public Right-of-Way or Utility Company easement abutting government centers, public or private schools, churches, or other public buildings;
- Public Right-of-Way or Utility Company easement abutting undeveloped sites;
- Public Right-of-Way or Utility Company easement abutting the rear yard of a single-family residential property at an interface with a made alley;
- Public Right-of-Way or Utility Company easement abutting the back yard of a single-family or multi-family residential property that is not at an interface with a made alley;
- Public Right-of-Way or Utility Company easement abutting the side yard of a corner single-family residential property; and
- Public Right-of-Way or Utility Company easement abutting the front yard of a residential property.

While not an all-encompassing list, it is provided to develop a thoughtful approach to proper siting of utilities and associated elements. For example, assuming a proposed location meets all other placement criteria, a structure may be permitted to be placed in a Public Right-of-Way or Utility Company easement abutting the front yard of a residential property only if the Permittee demonstrates to the Director's satisfaction that it cannot reasonably be placed in any location as described above.

The foregoing notwithstanding, new or replacement Utility Company structures and related appurtenances must be placed in accordance with AASTHO (American Association of State Transportation and Highway Officials) Roadside Design Guide and may not create a sight distance obstruction.

B. Additional Standards for Telecommunications Elements

1. Location of GLEs. The placement and design of GLEs associated with telecommunications elements shall comply with the requirements for GLEs set forth in Subsection A, and the following requirements of this Section.
2. Location of Small Cell Antennae: A small cell antenna is a device mounted on existing or proposed poles, the purpose of which is to receive and/or transmit digital data and relay this data to a central node or hub for further processing and distribution to a user base. A small cell antenna may be mounted on a new or existing pole, such as existing wooden Utility Company poles, wooden or metal light poles, or newly installed wooden or metal poles. Any antennae installed on existing Utility Company poles shall have the approval of the affected Utility Company in writing. A small cell antenna also requires radio equipment which may be mounted on the pole or set on the ground. For purposes of this Right-of-Way Manual, the term 'small cell antenna' shall include the antenna, pole, pole-mounted or ground-mounted radio equipment cabinet, and other associated equipment.

When considering the location of small cell antenna, the highest preference shall be

given to co-location of any proposed antennae on existing Utility Company poles. The location of any associated battery cabinets and other appurtenances shall, by attachment agreement with the affected Utility Company, be placed in accordance with the National Electric Safety Code and applicable requirements of the affected Utility Company.

Poles that are designed to support a small cell antenna may not exceed thirty-five (35) feet in height, exclusive of the antenna height. However, LMPWA recognizes that vertical site conditions may affect small cell operational efficiencies and that additional height may be necessary. When necessary, or if requested, LMPWA will evaluate each small cell on a case-by-case basis and adjust the height if necessary. Pole heights involving co-locations on poles owned by other utilities will be governed by the rules and design criteria of that Utility Company. Pole locations and their materials shall be reviewed and approved by Metro as outlined in this subsection. Requests for an exception to the terms of this paragraph may be considered by LMPWA on a case- by-case basis.

If co-location is not possible, either due to RF or other system design requirements or due to commercially reasonable economic requirements, proposed siting of small cell antennae shall comply with the Placement Standards set forth in Subsection A. By the nature of the type of service provided, Metro understands that locations of telecommunication elements are governed by customer density and demand. To that end, it is recognized that an evaluation process should be conducted based on the Placement Standards to establish proper siting to minimize visual/physical inconvenience on the general public.

Proposed small cell antennae including the pole and any appurtenances may not locate within one thousand (1,000) feet of any other existing small cell antennas. LMPWA recognizes that site conditions can affect radio frequency operations for certain types of equipment. As previously mentioned, LMPWA will review each small cell site on a case-by-case basis. Exceptions to this requirement will be considered during this review.

Prior to approval of any proposed small cell antennae, the Permittee shall submit a written explanation of how the proposed location comports with Placement Standards to LMPWA.

Nothing in this Right-of-Way Manual prevents Permittee's from negotiating with private property owners for placement of infrastructure within zoning and Historic District laws and standards.

3. Screening Required. GLEs mounted at ground level shall be required to be screened with location-appropriate materials. Screening design shall be approved by LMPWA. At the discretion of LMPWA, review of screening design may also include consultation with Develop Louisville's Planning and Design Services and Advanced Planning staff. Where landscaping material is installed as a screening technique, the Applicant shall maintain full responsibility for upkeep and maintenance of the landscaping material and shall replace it within one (1) month, or other period of time deemed reasonable in the sole discretion of LMPWA, in the event it dies or becomes diseased or damaged. If a Large GLE is located on or associated with a pole, LMPWA shall determine to what extent screening is

required for the pole, and any ground-mounted equipment installed to serve it shall be located as described in this paragraph.

4. **FCC-RF Compliance Assessment.** Prior to approval of proposed small cell antennae, the Permittee shall submit to LMPWA an FCC-RF compliance assessment conducted by a third party, qualified to prepare such assessment, demonstrating that the proposed installation will comply with all federal RF exposure guidelines during all conditions of its operation. This assessment/study applies to proposed equipment in an area-wide deployment and is not required for each small cell site.
5. **Public Notice Requirements.** Before final approval for the location of any new small cell antenna, including its appurtenances as previously described herein, the Permittee, at its own expense, must provide written notification of its intent to install such equipment by first class mail to not only all property owners located within 150 feet of the proposed installation. The Permittee shall provide LMPWA and the affected Metro Council member with a copy of the notice and list to whom the notice was sent. The Permittee must also certify to LMPWA and the affected Metro Council member in writing that the notice was sent pursuant to the requirements of this section. When public notice is required because of this Section, Permittee's must also comply with the notice and meeting requirements in Section 3.13.

The notice shall include (a) an explanation of the purpose of the small cell antenna; (b) a description of the proposed location, including dimensions for the base and supporting pad, and a depiction of the general appearance; (c) information addressing public safety concerns related to RF emissions; and (d) contact information for the Permittee, including Permittee's email address and (e) a statement advising the property owner that if they have any concerns regarding the proposed installation they must email the Permittee and LMPWA at Al.Andrews@LouisvilleKY.gov within ten (10) business days after receipt of the notice.

If within ten (10) business days of receiving public notice, a Person or neighborhood associations and homeowners associations to which the property owner who received notice could belong due to their location submits an email to the Permittee and LMPWA, the Permittee must respond to that Person within (7) days of receiving said email and email a copy of Permittee's response to LMPWA

If after reviewing the Permittee's response, LMPWA informs Permittee that an in-person or virtual meeting is necessary, the Permittee shall host said meeting within fourteen (14) days of notice from LMPWA. No less than seven (7) days prior to said meeting, the Permittee shall provide notice of said meeting to all previously notified parties. At the meeting, the notified parties shall have an opportunity to ask questions or express concerns regarding the proposed Construction Activities. Permittee shall provide to LMPWA with a sign-in sheet, meeting minutes, and an explanation of any changes resulting from the meeting within five (5) days of the meeting.

No permit shall be issued for any small cell antenna or related appurtenance until twenty-one (21) days after the Permittee provides the certification to LMPWA that the notice required by this section was mailed and, if requested by LMPWA, a meeting was conducted.

6. **Aesthetic Considerations.** The Permittee shall provide lighting or other design elements and amenities as required by LMPWA to enhance the aesthetic appearance

and coordinate the proposed telecommunications elements with the surrounding environs. In Metro, small cell infrastructure must consider the aesthetics of the existing utilities and neighborhoods adjacent to proposed small cell locations prior to submitting an application. New small cells shall consider and make best efforts to match existing, adjacent streetscape character, as stated within these guidelines. In addition, when new small cell infrastructure is proposed to be installed within a Historic District (<https://louisvilleky.gov/government/planning-design/historic-preservation-urban-design>) that maintains a unique aesthetic, the Applicant must consider and propose infrastructure that most closely matches adjacent themed infrastructure to the maximum extent feasible. The characteristics of unique assemblies may include mast arms, decorative pole bases, architectural luminaires, mounting heights, pole colors, etc., that deviate from these guidelines.

In areas already served by overhead utilities within an alley, small cell infrastructure must also be located in the alley. No new small cell equipment will be permitted in front of residential properties if the area does not currently have overhead utilities or streetlights along the Public Right-of-Way frontage. Relief from this requirement will require a written statement from the Utility Company owning the existing poles within the alley that said poles will not accommodate the proposed small cell equipment.

7. All small cell infrastructure placed in the Public Right-of-Way shall be located in alignment with existing trees, Utility Company poles, and streetlights in a manner that does not impede, obstruct, or hinder operation of any emergency service, the usual pedestrian or vehicular access, or travel including to or from private properties and of legally parked vehicles or permitted items in the Public Right-of-Way.
8. All small cell infrastructure placed in the Public Right-of-Way must not be located along the frontage of a historic building; in a location or manner that substantially impacts the historic integrity of the property deemed historic on a federal, state, or local level and shall not create a new obstruction, unreasonable visual blight, or obstruction to primary property sight lines beyond that expected of other legally permitted Encroachments or Utility Company infrastructure in the Public Right-of-Way.
9. Any removal, pruning, or replanting of trees and vegetation in the Public Right-of-Way will require a permit from the Division of Community Forestry pursuant to 3.02(G).
10. The Permittee may exercise the option of using the services of a third party to assist in the location of any small cell antenna and associated appurtenances, however, the Permittee remains responsible for all areas addressed in this Right-of-Way Manual.
11. Fiber optic cable shall be placed in conduit(s) when located underground on arterial, collector, and local Streets. Likewise, cable installed in grass or dirt areas shall also be placed in conduit(s). LMPWA shall review and approve all routes, method, and materials for installation on Streets.
12. Removal of telecommunications elements. The Permittee shall immediately remove telecommunications elements that become redundant, unnecessary, or otherwise unused, or if the Permittee discontinues service in Louisville, fails to receive a renewal of any expired franchise or municipal facilities agreement from Metro, or is able to provide the service that required the installation of such elements using

technology that does not require above ground installation. At the sole discretion of the Director, a bond in addition to that required by LMCO Section 116.03(F)(1) may be posted to cover the costs of future removal of telecommunications elements. Such bond shall be set in an amount to cover removal as well as reconstruction costs and shall be administered by LMPWA.

Section 8.02 Microtrenching Alternative

A. General

Microtrenching is a low-impact slot-cut trenching method that enables quick installation of underground fiber in trenches that are narrower and shallower than typical open trenches currently used in the industry.

The Director, or designee, may approve use of microtrenching requests for specifically approved areas. Microtrenching shall follow the Microtrenching Specifications found at <https://louisvilleky.gov/government/public-works>. Any proposed microtrenching option must not proceed until LMPWA has reviewed and provided written approval with comments to the Permittee. Any deviation from these specifications may be considered on a case-by-case basis by LMPWA. Specific deviations regarding depth is discussed in Subsection B.

B. Supplementary Requirements

All requirements of the Right-of-Way Manual shall be complied with except as specifically permitted in this section. Requests that involve placement of cable/conduit within the asphalt pavement at depths shallower than required in the Microtrenching Specifications and as shown on the standard drawing, must comply with the following supplementary requirements for microtrenching within pavement areas.

1. Metro may allow “microtrenching construction” in the Public Right-of-Way at a depth and configuration that is mutually acceptable to the Applicant and Metro.
2. At no cost to Metro, the Applicant shall provide permanent on-going maintenance to the fiber routes in the Project Areas. Maintenance shall include providing materials and labor to properly maintain pavement, Sidewalks, curbs, curbs and gutters, and softscape areas (dirt and grass) in good condition pursuant to this Right-of-Way Manual.
3. The Applicant must replace any fiber/conduit, including the Applicant’s and all other fiber/conduits damaged or destroyed due to any paving/resurfacing activities at no cost to Metro. This also includes those activities necessary for Metro to maintain drainage infrastructure.
4. The Applicant must replace any fiber/conduit, including the Applicant’s and all other fiber/conduits, damaged or destroyed in the softscape areas (dirt shoulders, grassed utility strip, etc.) at no cost to Metro.
5. Metro will not be responsible for any damage to the cable/conduit resulting from Utility Company construction activities by Applicant or its contractors and others in the approved areas.
6. The Applicant will post a performance bond in a form and an amount to be determined by Metro. Said bond shall be in force for five years from the completion date of the project. At the sole discretion of Metro, the bond amount may be reduced

over this period.

7. At the sole discretion of the Director or designee, a bond in addition to that required by LMCO Section 116.03(F)(1) may be posted to cover the costs of future removal of telecommunications elements installed under the conditions of this subsection. Such bond shall be set in an amount to cover removal as well as reconstruction costs and shall be administered by LMPWA.
8. The Applicant agrees to conform to Metro's standard specifications and the terms in this Right-of-Way Manual. Any changes shall be at the sole discretion of Metro.
9. The Applicant shall conduct an inspection of the approved areas on years one, three, and five. Subsequent inspections thereafter may be coordinated between the Applicant and Metro. After each inspection, the Applicant shall provide inspection reports for each approved area that details the results of the inspections. Metro shall participate in the inspections as it deems necessary.
10. The Applicant shall indemnify and hold Metro harmless from any and all liabilities, losses, claims, settlement payments, costs and expenses, damages, Penalties, fines, attorney's fees, and other amounts resulting from: (a) Construction, operation, and maintenance activities associated with the Applicant's fiber optic network located within the approved areas and (b) Maintenance and repair activities associated with any public assets as previously described.
11. Metro reserves the right to terminate the associated activities within each or all the approved areas without cause after thirty (30) days written notice or for cause immediately at any time. Any outstanding costs, debt, or other financial commitments related to the Project shall be the sole responsibility of Applicant. Upon cancellation, the terms of this agreement more specifically, the maintenance obligations of Applicant, shall survive.

Section 8.03 Cable TV: RESERVED

Part IX Penalties for Violation of the Public Right-of-Way

Section 9.01 Penalties

Violators of the rules and regulations described in this Right-of-Way Manual may be subject to the Penalties set forth in LMCO Chapters 53, 97, 156, and where applicable Chapter 116. This section provides that, among other things, the violator may be subject to one or more of the following Penalties:

- A. Fine of up to \$1,000.00 per day per violation.
- B. The revocation or suspension of a license, permit, or franchise agreement for access to the Public Right-of-Way, subject to notice and opportunity to cure, and all other due process procedures as set forth in applicable Metro's Code of Ordinance(s) and all other agreements between the parties. A Person may appeal the revocation, suspension of a license, permit, or franchise agreement for access to the Public Right-of-Way to the Director.
- C. The issuance of a stop work order by LMPWA shall prevent work by the Person/Utility Company on the public Streets or Sidewalks, the Public Right-of-

Way, or any associated private projects in Metro until the conditions outlined in the stop work order are met.

Notwithstanding the foregoing, a stop work order issued by Metro shall be the sole remedy available to Metro in the event a Utility Company violates the rules described in this Right-of-Way Manual.

Section 9.02 Legal actions against violators of Public Right-of-Way

The imposition of any of the foregoing Penalties does not prevent Metro from taking any other administrative or legal actions allowed under applicable regulations or seeking any other relief that may be granted under applicable law.

Section 9.03 Repeated Violations

If a violation is continuous with respect to time, each day the violation continues may be treated as a separate offense.

Section 9.04 Enforcement

Notice of Violation – If Metro believes that a Person has not complied with the conditions of permit or a term in the LMCO, Metro shall notify the Person in writing of the exact nature of non-compliance pursuant to LMCO Chapters 53, 97, 156, and where applicable, Chapter 116.

- A. Persons shall have the opportunity to respond to the notice of violation contesting the assertion of non-compliance; and
- B. Persons shall have the opportunity to cure the alleged non-compliant issue prior to the invocation of any Penalties contained in the foregoing section.

Part X Appendices

Appendix A: Street Banner Program Standards & Guidelines

[Street Banner Program Guidelines](#)

Appendix B: PARC Parking Meter Bagging Standards & Guidelines

[Request a Meter Bagging](#)

Appendix C: Street Furniture Guidelines

2012 Street Furniture Policy Standards & Guidelines Final (update pending)

Appendix D: Valet Parking Guidelines

DRAFT guideline not published as of this date

Appendix E: Handicap Parking Zone Guidelines

[Accessible & Handicap Parking Zone Guidelines](#)

Appendix F: Loading Zone Guidelines

[Loading Zone Guidelines](#)