

**Louisville Metro
Public Works & Assets
RIGHT OF WAY GUIDE
AND
UTILITY POLICY**



FINAL
V: 10/28/2019

Forward

Louisville Metro Public Works' 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 Rights-of-Way. This latest edition not only updates the 2017 Utility Policy, it also provides guidance for all other types of permits and activities within the right-of-way that had not existed 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 has been established to provide a comprehensive, integrated reference outlining the terms and conditions for the care and use of the Louisville-Jefferson County Metropolitan (Metro) right-of-way. This document seeks to provide guidance to any potential user of the right of way 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, the required fees and associated penalties for non-compliance with the policy conditions as established herein. A potential user may be, but not limited to, any contractor, franchised or legislatively empowered utility companies, person or any legal business entity desiring to utilize the right of way.

In the case of, franchised or legally empowered utilities it is recognized that there is a need to accommodate these permitted users of the 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 policy attempts to strike a balance between the public need for efficient, safe transportation routes and 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 Metro's public right-of-way. Therefore, in order to address the 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
Telephone 502-574-5810

Section 1.02 Objectives

This document has four (4) primary objectives, those being:

- A. Permitting Use of Right of Way: Permits & Licenses: This objective is designed to facilitate utility and other work within the right-of-way through the implementation of a comprehensive permit and licensing process. See Part III, Permitting: Use of the Right of Way.
- B. Public Safety / Minimize Public Inconvenience: Metro must ensure that the public safety is maintained, and that public inconvenience is minimized by establishing time constraints for utility work, response time for utility repairs to the 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 cuts made to the pavement 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 Elements: Metro recognizes that certain work within its rights-of-way is necessary in order 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 will be presented in Part VIII, Facilitate Standards for Utility Elements. While working within Metro’s rights of way, Permittees shall meet all requirements of law, including but not limited to, the Americans with Disabilities Act (ADA), the Kentucky Department of Transportation (KYTC) Standard Designs, the Manual on Uniform Traffic Control Devices, Louisville ordinances, MSD Standards, Roadside Design Guide, Parks policies, and AASTHO.

To guide metro staff and Permittees in achieving the above stated objectives, the following policy has been prepared. The policy 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”). LMPWA will conduct periodic reviews of the policy 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 of Public Works is charged with the responsibility for insuring that any work in or other use of the right-of-way complies with the applicable Louisville Metro Code of Ordinances (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 Metro's rights-of-way is permitted at the discretion of the Louisville Metro Public Works & Assets Department (hereinafter referred to as “LMPWA”).

Part II. Definitions and Conditions

Section 2.01 Definitions

As used in this manual, the following terms will have the following definitions:

- A. Central Business District (CBD): The area from River Road to one block south of Broadway: Roy Wilkins east to Hancock Street.
- B. Day: Each day shown on the calendar.
- C. Encroachment: Unauthorized use and occupation of Metro’s public right of way or easements as for construction, signs, fences, misc. permanent structures, buildings pole banners, telecommunication infrastructure, utilities, parking storage, etc.

- D. Franchised Utility: A utility business entity that has entered into a Franchise Agreement with Metro for the installation and operation of its facilities within Metro's public right-of-way. Franchised Utilities make regular franchise fee payments to Metro for use of Metro's public right-of-way, in accordance with the applicable terms of the Franchise Agreement and the Louisville Metro's Code of Ordinances.
- E. Governmental Regulations: All applicable federal, state or local statutes, laws, ordinances, codes, rules, regulations, standards, executive orders, consent orders, and guidance from regulatory agencies, judicial decrees, permits, licenses or other governmental requirements of any kind.
- F. Improved right-of-way: public right-of-way that has been constructed to include, but not limited to, roadway, curb, gutter, sidewalk, street trees and utilities.
- G. LMPWA: Louisville Metro Public Works.
- H. Louisville Metro: The geographical boundaries of Louisville and Jefferson County Metro Government.
- I. Metro: For the purpose of this document, Louisville Metro, including Louisville Metro Public Works, Metro, or Metro Government will be known as Metro.
- J. MUTCD (Manual on Uniform Traffic Control Devices): <http://mutcd.fhwa.dot.gov/> 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.
- K. Penalty: A punitive measure imposed by Metro for a violation of a provision of Metro's Code of Ordinance, Right of Way Manual, Utility Policy and/or Franchise Agreement.
- L. Permitee: Any person (as defined below in item N) who has applied for and been issued a valid permit from LMPWA which grants access to the 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: Generally 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 spaces above and below.
- O. Sidewalk: The paved portion of Metro's public right-of-way intended for use by pedestrian traffic. Sidewalks are usually concrete. Unusual or decorative sidewalks are permitted by special agreement.
- P. Street: The portion of Metro's public right-of-way intended for use by vehicular traffic. Streets may be asphalt, concrete, or unimproved.
- Q. Street Furniture: Miscellaneous objects placed in the 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 those structures erected or placed by authorized public agencies for public safety and/or public welfare purposes.

- R. Traveled Way: The portion of Metro’s public right-of-way reserved for vehicular traffic, exclusive of shoulders and auxiliary lanes.
- S. Unimproved right-of-way: public right-of-way that has been dedicated to public use but has no constructed improvements.
- T. Violation Notice: Written or verbal warning of a violation of the Code of Ordinance, ROW Manual, Utility Policy, or Franchise Agreement
- U. Utility Company: For the purposes of this document, companies supplying specific utility services, such as sewer, water, gas, electric and telecom, located within the public right-of-way.

Section 2.02 Conditions

A. Improved and Unimproved Metro’s 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

Metro’s public right-of-way may or may not be “improved” with a street (travel way), 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 Metro’s public right-of-way exist independent of any improvement or lack of any improvement. Ownership may be by fee, expressed dedication or easement.

3. Reference Manuals

The Department of Public Works has previously published documents that provide detailed technical information regarding specific issues. These include:

2016 Standard Specifications for Road & Bridge Construction
https://louisvilleky.gov/sites/default/files/public_works/pdf_files/2016_combined_standard_specifications.pdf

2019 Standard Drawings for Construction Within the Public Right-of-Way
https://louisvilleky.gov/sites/default/files/public_works/pdf_files/metro_standard_drawings-2019.pdf

B. Conflicts

In the event that some details in this manual or any attachments or Appendices to it, is in conflict with Louisville Metro’s Code of Ordinances, the Code of Ordinances shall

prevail. If there is a conflict between the Utility Franchise Agreement, Code of Ordinance and/or the Right-of-Way Manual, then the Franchise Agreement shall prevail.

Part III. Permitting: Use of the Right of Way

Section 3.01 General

Any work within the right-of-way that disturbs the 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 development of transportation, communication and other essential infrastructure resources that will utilize the right of way for the public good. In order to facilitate these infrastructure improvements and any other work within the 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 right-of-way is started, 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). Beyond normal work hours, utilities must notify Metro Emergency Management and MetroCall 311 of emergency work. During regular working hours, utilities report emergency work to LMPWA's Permit Division.

With on-line capability available, extensions and renewals will no longer be processed by LMPWA. It will be the responsibility of the Permittee to determine if a permit is about to expire or needs extending and to respond with 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 permit's application.

A. State Routes and Suburban Cities

Many roadways in the Metro area are maintained by the suburban cities, privately maintained or are maintained by the State. Prior to preparing the application package for LMPWA, the applicant is urged to check Lojic mapping to determine the entity who owns/maintains the roadways. LMPWA will assist with any questions in this process. Where applicable, the applicant, shall contact the suburban city to discuss their permit requirements. Likewise, there are several State routes that run through not only the central business district (CBD) but through the county as well. In those cases where work is planned on a State road (State right of way) the applicant shall contact the

KYTC District-5 office to determine permitting requirements and determine if joint permits are required. This should be done before any applications are sent 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 Olmstead parkway system, the applicant shall contact Louisville Metro Parks (LMP), notifying them of the 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 submit a permit application, including any exhibits, to LMP allowing two (2) weeks for review and approval. Following approval by LMP, an application is then sent to LMPWA which shall include the LMP permit as an attachment.

C. Working in Preservation Districts

In preservation districts the Permittee must be aware of type of road & sidewalk to determine type of repair or restoration needed. All areas within the designated historic preservation areas 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 preservation areas go to the following link:

<https://louisvilleky.gov/government/planning-design/historic-preservation-landmarks-and-overlay-districts>

The following are 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, restrictions for each. Where applicable, links to websites that contain additional information are also provided.

Section 3.02 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: 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 pavement 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 right-of-way where disturbance within the right-of-way may occur.

Other types of work that may occur but are not limited to, 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 pot-holing.

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
- Road closure
- Excavation (in street or sidewalk or both)
- Any combination of the above

It should be noted that the above support activities are not considered as separate permits, rather they are considered as components of the Permit.

B. Requirements

At a minimum, the following is an overview of the information required for input into the LMPWA's on-line 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 road, etc.). Also please provide a reasonable 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 such as, but not limited to.
 - 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.
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 as to assist in assessing the effect 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 right of way.** See Section 3.12 for additional details.

In the event of a full road closure the Permittee must post closure signage to effected residents and businesses either 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 in the permit application.

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 receiving the permit 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 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.

Entities other than the Permittee that may be performing work in the 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 roadways and sidewalks remain clear of mud and dirt and are responsible for damages to roadways and sidewalks.
7. The Permittee is responsible for public safety at all times during the life of the permit and its extensions.
8. Complete road closures will not be permitted unless specific approval has been obtained from LMPWA.
9. Care must be taken to preserve and protect specimen 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 value of the tree lost, as calculated by a certified Arborist or landscape architect, unless death by other causes can be proven.

Louisville Metro reserves the right to require service extensions to vacant parcels of property for future development to preclude future disruption to the 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 574-3817 to obtain any necessary forms so 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 their discretion will issue bags for Meters. If work vehicles will be parking on site, the permit must be in the window and visible at all times. Bagging must be done 24hrs in advance of any work.

Section 3.03 Large Area Permit

A Description

Large area permits are 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 Right of Way Encroachment Permits described in 3.02, 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 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 on-line application process.

1. Applicant and any designated contact information.
2. Start and end date for placement and use of the right of way.
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 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 life of the permit.

Section 3.05 Pole Banner Permit

A Description

The purpose of the Pole Banner program in Louisville Metro is to promote cultural and civic events and provide aesthetic interest. The banner program will have 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.
- Give a unified look to the streets.

Banners will not be used to advertise individual businesses, sell merchandise, products or services or to 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 Pole Banner Program contact Public Works 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 72.038. At a minimum, the following is an overview of the information required for input into the LMPWA's on-line 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)

A Description

Handicap accessible parking zones are permitted through LMPWA and are reviewed for renewal on an annual basis. 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 that zone.

B Requirements and Responsibilities

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

1. All applicants must possess a valid disabled parking license plate, hanging placard or a disabled veteran's license plate before an applicant can submit an application.
2. Provide contact information for the applicant and where applicable the property owner. 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 the calendar year. Holders of an accessible parking zone 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 that their permit is renewed annually.

Section 3.08 Outdoor Restaurant Furniture/Street Furniture

A Description

As previously defined, Street Furniture includes outdoor restaurant furniture. Outdoor restaurant furniture may include but not be limited to seating, tables, plant containers, railings, that are placed in the public right of way, typically on the sidewalk. Currently these are permitted through the encroachment permitting process just described, 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 on-line application process. For additional information associated with outdoor restaurant furniture contact Public Works 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 number of tables, chairs, umbrella's, etc.
4. Upload picture or detailed drawing of the layout.
5. Upload an insurance certificate for general commercial liability for \$1M that names Louisville Metro Government as an additional insured.

To maintain the street furniture permit, an 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.

Section 3.09 Valet Parking

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 Metro’s public right-of-way in Conjunction with Permitted Private Property Construction

A. Requirements for additional Permit

An additional and separate permit from Metro’s Department of Public Works is not required if all of 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 Metro’s 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 right of way encroachment permit is issued by the Office of Construction Review.

B. Work within Metro’s public right-of-way

Prior to commencement of any work in the public right of way the Department of Public Works must be notified immediately prior to construction so that its inspectors may monitor and inspect the work within Metro’s 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 Develop Louisville's Planning and Design Services.

Section 3.11 Maintenance of Traffic

Depending on the type of work covered under the utility permits discussed in Sections 3.02 and 3.03, a maintenance of traffic plan is developed around the proposed work. These permits may require any of the following to be considered in the development of a maintenance of traffic plan (MOT):

- Lane closure
- Sidewalk closure
- Road closure
- 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), 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 effected 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 days a week. All traffic control signs are to be removed from the work site immediately after work is completed. 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 these 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
- Remove signage from the sidewalk daily and not leave 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 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 the work zone has been made safe for vehicular and pedestrian traffic. **IN NO CASE WILL THE UTILITY COMPANY LEAVE CLOSURES (SIDEWALK, LANE, ROAD) IN EFFECT FOR MORE THAN TWO (2) BUSINESS DAYS IF NO WORK IS OCCURING WITHIN THAT ZONE.**

Section 3.12 Conditions of Permits

A. Compliance

1. Failure to comply with any of the conditions of permit is a violation of Louisville Metro’s Code of Ordinances and LMPWA’s policy 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 not complied with the 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; and

4. Permittees shall have the opportunity to cure the alleged non-compliant issue 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 Metro's public right-of-way is subject to inspection by Metro's Department of Public Works. At a minimum, the Permittee shall notify Metro's Department of Public Works Inspection Department 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 to inspection within 24 hours.

Permit inspector's name and contact number will 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 Metro's public right-of-way is obligated to maintain reasonable access to property abutting Metro's 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 the Department of Public Works. See Section 3.11 for details.

Any traffic control left in the 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 Metro's 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.

In an effort to minimize the negative effects of noise and traffic congestion caused by construction activities, time limitations may be imposed on construction activities as

stated in Chapter 99 of the LMCO.

F. Exceptions

Driveways, entrances to businesses, including, but not limited to, loading docks, work areas, parking areas and other methods for obtaining access to 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
3. After sufficient notice has been given to the effected businesses, property owner(s), resident(s)/ tenant(s).

G. Public Notification

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

Section 3.13 Public Notification, Signs & Identification

A. Public Notification and Site Identification

1. Whenever construction activities are to be performed in Metro's public right-of-way, the Director of Public Works may require the Permittee conducting activities pursuant to a permit to provide the public with reasonable notification of impending work.
2. Public notice shall be made to the affected neighborhood and businesses in the form of the placement and maintenance of appropriate signs in appropriate locations and/or notification in writing as required by Metro's Department of Public Works, in advance of the construction activities. The notification should include type of construction, dates and affected streets. **This will be a condition of the permit** for any activity within the public right-of-way that may reasonably be expected to:

Continue for more than 8 hours

Cause an unusual degree of noise or vibration

Involve the closure of a full street or direct access to a business

- Include an excavation within or the cutting or removal of asphalt or concrete pavement and/or sidewalk

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 Metro's 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 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 or mailings to advise affected residents and/or neighborhood/homeowners associations, as required by Metro’s Department of Public Works, of scheduled and active construction projects.

Section 3.14 Permit Denial

A permit application may be denied for the following reasons if deemed in the public’s interest;

1. Past due fees from prior permits.
2. Failure to return the 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.
5. Failure to provide required information.
6. The applicant is in violation of the provisions of this policy.

Part IV. Obstructions Regulated/License Agreements

Section 4.01 General Provisions Concerning Encroachments

It is unlawful to place, construct or maintain within the right of way 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, any street furniture or any other installation shall submit to LMPWA a signed application on a form provided by LMPWA. For outdoor restaurant seating, the current procedure is to apply through the right of way permitting process as discussed in Section 3.08. For all other permanent objects or installations in the 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 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 \$1M in general commercial liability insurance with Louisville Metro Government 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, whose amount is set by LMPWA. The bond shall survive for the life of the License Agreement.

Metro’ Code of Ordinances 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
3. Removing the Encroachment

B Potential Situations Involving License Agreements

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

Section 4.02 Signs, Awnings and Marqueses

Erecting and maintaining any awning, canopy, marquee, or sign structure attached to a building or free standing, that occupies space within Metro's 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 Metro's 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 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 Metro's 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 Metro's 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:

Certain 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 a Person desires to construct a Sidewalk in Metro's public right-of-way abutting that Person's property that is to be constructed from unusual or exotic material, is to be 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 Special

Agreement (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 and 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 Metro's public right-of-way, a License Agreement is required. Use of a bridge, tunnel, or passageway is limited solely to intermittent passage of pedestrians or vehicles, or for locating utilities. Encroachment space cannot be utilized as occupied space for Persons, for the transaction of business, advertising, or for storage of material.

Section 4.06 Private Utilities/Telecommunications

Utilities' use of and operations within the right of way are controlled by franchise agreements and would not require a License Agreement. Utilities considered include but are not limited to: LG&E, Louisville Water Co., MSD, AT&T, Charter, Verizon, etc.

Part V. Commercial Activity within Metro's public right-of-way

Section 5.01 Vending

A. Permit Required

Buying and selling goods within Metro' public right-of-way is prohibited except by

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

B. Blocking 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 4 feet must be maintained along the sidewalk at all times pursuant to LMCO 97.072.

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

Unattended vending machines or similar devices may not be located within Metro's public right-of-way.

Section 5.03 News and Information Distribution Boxes and Corrals

The placement of news and information distribution boxes in Metro's public right-of-way must be placed pursuant to LMCO Chapter 97.

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 Metro's public right-of-way without first obtaining a permit from LMPWA.

B. Identification

Every news and information distribution boxes must display the name, address and telephone number of the Person responsible for its placement, maintenance, and repair, pursuant to Chapter 97 of the LMCO for 'News and Information Distribution Boxes'.

C. Encroachments into sidewalk and street

No news and information distribution boxes may 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 of the applicable Metro's public right-of-way.

D. Obstruction

No news and information distribution boxes may be located where it presents a dangerous condition or obstruction, or 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. Guidance on placement, number, size and maintenance are found in LMCO Section 97.076.

F. Affixation to Property

No news and information distribution boxes may be chained or fastened to any property 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

Placement of individual vending devices is covered in LMCO Section 97.076(H).

H. Maintenance

Each news and information distribution boxes must be maintained in a state of good repair at all times pursuant to Chapter 97 of the LMCO for 'News and Information Distribution Boxes'.

I. Abandoned News and Information Distribution Boxes

Any news and information distribution boxes placed upon Metro's public right-of-way that appears, in the sole determination of the Director of Public Works or his/her designee, to have been unused in that location for at least 45 Days will be considered abandoned.

The abandoned news and information distribution boxes will be subject to all removal or other remedial procedures provided for in Chapter 97 of Metro's Code of Ordinances 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.
- 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 right of way will not be permitted.

Section 5.05 Utility Boxes within Metro’s public right-of-way

See Part VIII of this document for details.

Section 5.06 Dockless Vehicles: Scooters and eBikes

Dockless Vehicles may be considered as; (1) A bicycle, an electric bicycle, or an electric motor-assisted scooter, pursuant to the definitions set forth in Chapter 74 of the Louisville Code of Ordinances which can be located and checked-out without interacting with a human, (2) An electric motor-assisted scooter with no more than two ten-inch or smaller diameter wheels that has handlebars, 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 Metro’s 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 Metro rights-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, sufficient space being provided 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 Guide and Utility Policy 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 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 be in the window and visible at all times. 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 Public Works 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 sufficient 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 which 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. – 8:00 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 Public

Works 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

These are those 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 least a single lane shall be provided for two-way traffic with a flagman available for control.

Permanent restoration shall occur within two (2) weeks except as outlined in the Permit. When 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 their 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 by LMPWA, or any other Metro entity, of an unsafe opening, 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 so designated in writing by the Director.

Salvage Requirements for work in the Metro area: Brick paver salvage is required throughout Louisville Metro per LMCO 97.095. For salvage activities in the Metro area including preservation and Overlay Districts the Permittee must be aware of type of

street, sidewalk & curbing to determine type of repair or restoration needed. All areas within Metro including the designated historic preservation and Overlay District areas must be repaired using like materials and restored to its original condition. For information on historic preservation and Overlay District areas you can go to the following link: <https://louisvilleky.gov/government/planning-design/historic-preservation-landmarks-and-overlay-districts>.

Work in a Restricted District: Pursuant to LMCO Section Chapter 53, all work in District A must comply with the provisions of LMCO Chapter 53.

The Permittee shall provide and maintain safeguards, safety devices and protective equipment and take any other needed actions as may be 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 this 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 Louisville Metropolitan Sewer District (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 or passed through an approved sediment-trapping device, or both, 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 Preservation District (LOJIC.org) or Designated Local Landmark (https://louisvilleky.gov/sites/default/files/planning_design/landmarks_and_historic_pres/individual_landmarks_list_1.14.19.pdf) need to consider the type of equipment and method of construction being used.

Operation of heavy construction equipment, particularly pile drivers and other impact devices such as pavement breakers, creates 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 Preservation 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

The inspection process is the primary instrument by which LMPWA seeks to protect the 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 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 are unique. Design criteria and construction standards cannot address every situation but, in order to maintain some form of consistency, these standards have been developed. In most cases, they provide the minimum acceptable standards for construction or repair. Consequently, when strictly applied, they will provide the minimally acceptable product. Therefore, this criterion has been developed to maintain the same integrity of the street pavement and subsurface condition prior to its being cut for utility installations.

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

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 right-of-way. Permittees who fail to comply with these standards risk exclusion from performing future right-of-way work.

Surface tolerances for street repairs should 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 that which existed prior to construction. The following provisions will serve as guidelines for work in Metro:

A. Pavement Excavation/Trenching:

Before any digging commences in pavement, the pavement shall be saw cut around the perimeter of the proposed trench. Pavement cuts shall be filled with compacted select material. Either concrete or asphalt will be placed to match at a minimum the existing street cross section.

Select material shall be placed in an excavation 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 has been placed, the asphalt cutback shall be made. The cutback will extend 1 foot minimum on each side of the opening and will 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 roadway 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:

All public streets will be overlaid when any of the following conditions apply:

- 1 When any underground facility is installed in the street and is parallel to the centerline of the 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 right-of-way line of an intersecting street, the overlay shall extend to said 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 and is perpendicular to the 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 right-of-way line of an intersecting street, the overlay shall extend to said 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 right-of-way line of each intersecting street. Restoration shall be done by LMPWA with LMPWA being 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 LMPWA Electrical Maintenance (hereinafter referred to as "EM") Shop at (502)574-3261 forty- eight (48) hours prior. EM will locate buried loop detection devices so as to protect them from damage. Any Permittee that damages a loop detector will 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 which are removed by Permittee shall be replaced by the Permittee before restoration will be considered complete. The inspector will notify the Permittee of the product (traffic paint, thermoplastic, raised pavement markers, lane tape) and applications, and 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 Metro sidewalks be observed after the work has been completed, the Permittee shall be notified in writing to perform the 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 utility work. 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 repair being necessary, 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 curb and gutter is replaced, it will be restored to the nearest joint. Match existing curb elevations and ensure constant grade and positive drainage. Expansion material will be used at joints. Should the work include removal of a section which 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 markings on Metro roadways and sidewalks that remain after construction is a source of concern to Metro. It is understood that multiple requirements for utility 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 have a tendency to remain in place for an indefinite time. Therefore, Metro's policy is that marks shall be large enough and frequent enough so as to be seen by the Permittee but not so as to become graffiti on the pavements, curbs, and sidewalks. Only spray chalk shall be used. At its sole discretion LMPWA may require utility 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. Un-landscaped 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.

Trees will not be removed or heavily pruned in the course of programmed utility work without prior review by Metro's arborist.

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

J. Landscaped Areas

Metro has done extensive landscaping in areas of Metro, principally in medians of arterial streets. When work is planned in one of these planted areas, it is the Permittee's responsibility to contact the Metro Arborist two (2) days prior to the start of work for consultation and possible removal/replacement of plantings. LMPWA will determine procedures to be followed for maintenance of the plants and their policies will govern.

In cases where above-ground work needs to be screened or where existing plant materials must be replaced, the Permittee will 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

Areas such as Historic Preservation Districts, Historic Registries, Overlay Districts and historical alleys consisting 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 when working in these areas. All work under the pavements in these areas will require prior coordination with LMPWA.

L. Parks and Parkways

Louisville Metro Parks is committed to the preservation, protection and enhancement of Louisville Metro parks and parkways and general guidelines for work in those parks and parkways is provided at the following link: <https://louisvilleky.gov/government/parks>

M. Brick Paver Salvage

Brick masonry pavers that are 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 (LMCO 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 a review by MSD for possible mitigation requirements. It is the Permittee's responsibility to educate itself on the location of sensitive areas. The Louisville Jefferson Information Consortium (LOJIC) has interactive maps showing these areas within Metro limits.

O. Alternative to Final Paving:

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

A Permittee may choose to utilize this alternative with the concurrence of the Director of Public Works. If approved by LMPWA, the permittee shall enter into an Agreement with LMPWA. An Agreement form is provided by calling Public Works 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 their request, in writing to the Director of Public Works.

In those cases where a permittee has installed any underground facilities in the intersection of two or more streets, it will be mandatory that LMPWA restore the intersection. The permittee shall likewise reimburse LMPWA for these costs in accordance with the terms of the Agreement described above.

Section 7.03 Moratorium on Street Cuts/Excavations

In streets that are less than five (5) years old LMPWA reserves the right to deny any street excavation or require repairs that are over and above these specifications. LMPWA recognizes that certain types of work which are specific to each utility may require work to take place on newly paved roads or streets with the above criteria. Metro may at the discretion of the Director, permit excavations on a case-by-case basis. Conditions that may be allowed include but are not limited to:

- Emergencies,
- Installation, repair or replacement of services,
- Other work may be requested and reviewed on a case-by-case basis as the discretion of the Director but does not obligate approval.

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

Part VIII. Facilitate Standards for Utility Elements

As outlined in Part III, of this document, Metro recognizes that progress benefits all Metro citizens and that progress must be tempered with the careful and responsible use of the Metro ROW. The catalyst for its use, permits and licenses, has been discussed in Part III. Specific policy standards for utilities, to include; water, sewer, electric, gas and telecommunications will be presented in this Part.

The following standards apply.

Section 8.01 Standards for Typical Utility Elements

The following information provides location and configuration standards for utilities for new developments and redevelopments, existing rights-of-way, easements, and Metro Capital projects. This section also addresses the requirements for telecommunication elements proposed to occupy and function within the right-of-way. The goal is to standardize and document Metro requirements regarding the placement of utility and telecommunication elements in accordance with applicable Metro standards, ordinances, regulations, long-range plans, and current accepted utility standards.

A. Utility Elements

1. **Meters:** Where practical, water meters are to 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 those poles installed to support a small cell antenna and, where required, associated attached appurtenances, consideration should be given to clear zones as designated by the Roadside Design Guide. See Section B. hereof 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.
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 shall also review any proposed changes to existing overhead utilities in existing 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 relocations.
4. **Sewer cleanouts:** Sewer cleanouts will be provided per MSD specifications and located at the 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, 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 shall 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 crossings. Installing facilities directly over and parallel to water mains shall be avoided.
8. Ground Level Elements (hereinafter referred to as “GLEs”): GLEs are those 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.

GLE's 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 below in Subsection B of this Section. 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. GLE's proposed outside of the CBD likewise will be reviewed on a case-by-case basis in accordance with the conditions found in Subsection B, below.

With the exception of 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 Arborist prior to installation. The Permittee shall be 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 shall be required to be metered to the extent they require an independent power supply, and the responsible Permittee shall pay any service charges, meter fees, lighting and maintenance fees and other expenses associated with connecting to the municipal power provider.

Utilities and companies engaged in the installation and maintenance of communications equipment (collectively, “Applicants”) 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 their construction.

11. Placement Standards: Placement of Small Cell Antennae and GLE's in the right of way requires a balanced approach. During the site selection process, the Permittee is encouraged to coordinate Small Cell and GLE locations based on these basic overall criteria:

- Aesthetics; as it relates to the placement of poles/GLE's 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 and as such, flexibility must be designed into the system.
- Proactive contact and coordination with HOA's, citizens groups and where applicable, overlay districts.

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

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

This is not an all-encompassing list and 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 right-of-way or utility 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 structures and related appurtenances must be placed in accordance with AASTHO (American Association of State Transportation and Highway Officials) Roadside Design Guide. Furthermore, utility structures and associated appurtenances may not create a sight distance obstruction and should not be placed at mid-block locations.

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 Section A. above, and the additional 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 poles, wooden or metal light poles, or newly installed wooden or metal poles. Any antennae installed on existing utility poles shall have the approval of the affected utility 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 Metro Utility Policy, 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 poles. The location of any associated battery cabinets and other appurtenances shall, by attachment agreement with the affected utility, be placed in accordance with the National Electric Safety Code and applicable requirements of the affected local utility.

Poles that are designed to support a Small Cell antenna may not exceed thirty-five (35) feet in height, exclusive of the antenna height. LMPWA recognizes however that vertical site conditions may affect Small Cell operational efficiencies and that additional height may be necessary. Where 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. 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 Section A. above. It is understood that locations of telecommunication elements are, by the nature of the type of service they provide, 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 antenna. 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 to LMPWA a written explanation of how the proposed location comports with the Placement 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 Public Works. At the discretion of Public Works, 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 Public Works, in the event it dies or becomes diseased or damaged. If a Large GLE is located on or associated with a pole, Public Works 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 small cell antenna, including its appurtenances as previously described herein, the Permittee shall, at their own expense, provide written notification by first class mail to all property owners located within 150 feet of the proposed installation of the Permittee's intent to install such equipment. The permittee shall also provide to LMPWA and the effected Metro Council member a copy of the notice and a list of everyone to whom the notice was mailed. The permittee shall also certify to LMPWA and the effected Metro Council member in writing that the notice was sent pursuant to the requirements of this section.

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 and a statement advising the property owner that he or she may contact the Permittee within fourteen (14) days after receipt of the letter to discuss any questions or concerns.

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.

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.
7. 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 policy.
8. Fiber optic cable shall be placed in conduit(s) when located underground on arterial, collector and local roadways. Likewise, cable installed in grassed or dirt areas shall also be placed in conduit(s). LMPWA shall review and approve all routes, method, and materials for installation on Metro roadways.
9. 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 Chapter 116, 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 of Public Works, 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 shall not proceed until LMPWA has reviewed and provided written approval and 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, below.

B. Supplementary Requirements

All requirements of the Public Works and Assets Utility Policy 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, shall comply with the following supplementary requirements for microtrenching within pavement areas.

1. Metro may allow “microtrenching construction” in the right of way at a depth and configuration that is mutually acceptable to 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 in good condition pavement, sidewalks, curbs, curbs and gutters and softscape areas (dirt and grass) per Public Works and Assets Utility Policy.
3. The Applicant, at no cost to Metro shall replace any fiber/conduit, including the Applicant’s and all other fiber/conduits that are damaged or destroyed due to any paving/resurfacing activities. This also includes those activities necessary for Metro to maintain drainage infrastructure.
4. The Applicant shall replace at no cost to Metro, any fiber/conduit, the Applicant’s and all other fiber/conduits, damaged or destroyed in the softscaped areas (dirt shoulders, grassed utility strip, etc.).
5. Metro will not be responsible for any damage to the cable/conduit resulting from utility 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, 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 the Metro standard specifications and the terms in the Utility Policy. 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. Applicant shall provide inspection reports for each approved area after each inspection that details the results of the inspections. Metro shall participate in the inspections as it deems necessary.

10. 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; 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 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 Metro’s public right-of-way

Section 9.01 Penalties

Violators of the rules and regulations described in this manual may be subject to the penalties set forth in Chapters 53, 97 and where applicable, Chapter 116 of Metro’s Code of Ordinances. This section provides that, among other things, the violator may be subject to one or more of the following penalties:

- A. A Fine of up to \$1000.00 per day per violation.
- B. The revocation or suspension of a license, permit or franchise agreement for access to Metro’s public right-of-way, subject to notice, and opportunity to cure and all other due process procedures as set forth in applicable Metro Code of Ordinance(s) and all other applicable agreements between the parties. A Person may appeal the revocation, suspension of a license, permit or franchise agreement for access to Metro’s public right-of-way to the Director of Public Works.
- C. The issuance of a stop work order by LMPWA shall prevent work by the Person/Utility Company on the public streets or sidewalks, Metro’s 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 franchised utility violates the rules described in this manual.

Section 9.02 Legal actions against violators of Metro 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

- A. If a violation is continuous with respect to time, each day the violation continues may be treated as a separate offense.
- B. Violations that are continuous with respect to time are a public nuisance and may be abated by injunctive or other equitable relief and by such other means as are provided by law. The imposition of a penalty does not prevent equitable relief.

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 Ordinance, Metro shall notify the Person in writing of the exact nature of non-compliance. pursuant to Metro Code of Ordinance Chapters 53 and 97.

- A. Persons shall have the opportunity to respond to the Violation Notice 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 (To be added)

Appendix A: Street Banner Program Standards & Guidelines

Appendix B: PARC Parking Meter Bagging Standards & Guidelines

Appendix C: Street Furniture Guidelines

Appendix D: Valet Parking Guidelines

Appendix E: Handicap Parking Zone Guidelines

Appendix F: Loading Zone Guidelines