

RESOLUTION NO. 2018-1441

**A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF
ATCHISON COUNTY, KANSAS, ADOPTING POLICIES AND
PROCEDURES FOR THE CONSTRUCTION AND MAINTENANCE OF
IMPROVEMENTS IN THE COUNTY RIGHT-OF-WAY AND ADOPTING A
PROCEDURE BY WHICH UTILITIES MAY ACQUIRE PERMISSION
FOR USE OF COUNTY RIGHT-OF-WAY**

WHEREAS, increasing demand for placement and maintenance of facilities within county Right-of-Way by public and private utilities has resulted in increased use, and requests for use, of county Right-of-Way; and

WHEREAS, the Board of County Commissioners of Atchison County, Kansas finds that reasonable regulation on the placement and maintenance of facilities within county Right-of-Way is in the best interest of the citizens of Atchison County and will promote the public health, safety and welfare of Atchison County residents and others who use county roads and Right-of-Way;

WHEREAS, the Board of County Commissioners of Atchison County, Kansas has determined it is necessary, desirable, and in the best interest of the County to require a permitting process for utilities working in the public Right-of-Way.

WHEREAS, pursuant to the county's authority of home rule, as granted by K.S.A. 19-101a, the Board of County Commissioners of Atchison County, Kansas hereby adopts these regulations relating to the placement and maintenance of utilities within county Right-of-Way.

NOW, THEREFORE BE IT RESOLVED by the Board of County Commissioners of Atchison County Kansas as follows:

1. No person, firm, corporation, association, utility, or entity, shall enter upon the Right-of-Way of the County, or in any manner establish a physical presence on, upon, in or over the Right-of-Way of the City, for the purpose of installing, construction, maintaining, operating, repairing, removing, relocating, or performing any work on, or use any facilities or any part thereof in any Right-of-Way without written permission of the County.

2. Nothing in this Resolution shall be interpreted as granting any authority to construct, maintain or operate any facility or related appurtenance on property owned by the County outside the public Right-of-Way.

3. The County shall have the authority to prohibit the use or occupation of any portion of the public Right-of-Way by a provider due to a reasonable public interest necessitated by public health, safety and welfare so long as the authority is exercised in a competitively neutral manner and is not unreasonable or discriminatory.

4. The County shall process each valid and administratively complete application for use of the public Right-of-Way within thirty (30) days.

5. The County authorizes the Road and Bridge Supervisor to execute permits on behalf of the County.

6. The County Road and Bridge Supervisor shall develop forms for application for a utility permit, which shall include, at a minimum, the Applicant name, address, and contact information, as well as the identity of any sub-contractor to be used by Applicant.

7. Each Applicant shall furnish a completed location plan as an attachment to the County. This plan shall clearly identify road names, illustrate the proposed line, placement location in respect to RIGHT-OF-WAY and section line of the road(s) involved, and a description of the installation along the entire route. All plans shall be provided in electronic format. The work shall be completed within ninety (90) days after a permit is approved; otherwise the permit becomes null and void, unless an extension of time is approved.

8. The County may provide an inspector during the installation of all lines to ensure compliance with the Utility Permit. The utility facility owner shall provide reasonable cooperation.

9. The purpose of a utility permit is to manage the use of public road Rights-of-Way by public or private utility companies. However, private utility companies shall need to obtain authorization from the appropriate property owner for the establishment of their utilities. Public utility companies have been granted authority by law to place their utilities within public road Rights-of-Way as long as it does not interfere with or endanger travel on said roadway. Atchison County reserves the right to impose current county requirements when applicable to this project, but no such County requirement may be in conflict with any federal or state law, code or regulation.

10. Each Applicant shall conform to the following requirements:

- a. Each utility shall be installed and maintained in such a safe and proper condition that it will not interfere with or endanger travel upon the roadways.
- b. Buried utilities in Atchison County shall be set at a minimum depth of thirty-six (36) inches below ground level. The County may require additional depth in areas identified as being silted or scheduled for future excavation.
- c. Contractor shall notify Atchison County 24 hours prior to beginning work, and 24 hours before the completion of the work.
- d. Utilities shall not be placed over drainage structures.
- e. Construction signing shall be provided by the Applicant and shall comply with the Manual on Uniform Traffic Control Devices.

- f. One lane of traffic shall remain open at all times during the entire project. In extreme cases, the County will allow closure of the road for less than twenty-four, (24), hours if prior approval is obtained.
- g. Applicant will be responsible for notifying all emergency services, postmasters, and affected homeowners and school districts. Private entrances shall not be closed overnight and shall be opened for access as promptly as possible.
- h. Applicant shall provide the Kansas One-Call confirmation number upon request
- i. Within seven (7) days after the completion date or repair to an existing utility, all excess dirt or obstruction caused by the installation or repair must be removed.
- j. Areas within the RIGHT-OF-WAY damaged by the installation shall be repaired and restored to at least its former condition by the Applicant or the cost of the repair work caused to be performed by the County will be assessed against the Applicant. Any areas where vegetation is damaged shall be re-seeded utilizing vegetation similar to the surrounding areas. An established stand of vegetation shall be required.
- k. Erosion problems resulting from construction shall be resolved by the Applicant at the expense of the Applicant in a manner approved by the County.
- l. Methods of backfilling and compacting of open trenches and/or excavation shall be included in the permit, and will be subject to the approval of the County.
- m. All asphalt roads and Rural Secondary (RS) Routes will require road bores and utility encasement.
- n. A copy of the approved agreement shall be in the possession of the contractor during construction and presented upon request.

11. The County may halt the installation at any time if the Applicant's work does not meet the requirements set forth in the Utility Permit.

12. The Applicant, his successors, or assigns shall save this County harmless from any and all damages resulting from the negligence or non-compliance of the Applicant. A copy of a certificate of insurance naming this County as an additional insured for the permit work or proof of self-insurance shall be provided to the County prior to beginning of work. The minimum limits of liability under the insurance policy or the proof of self-insurance shall be \$1,000,000.

13. Failure to abide by the conditions in this permit may result in immediate suspension of this permit, resulting in immediate stoppage of all construction work until issues are corrected.

14. All previous installations and/or facilities currently within the County Right-of-Way shall also be subject to these requirements and stipulations when making alterations, maintenance, and repairs.

15. In the event the County deems it necessary to make alterations or improvements to the road RIGHT-OF-WAY after completion of the project, the Applicant shall, at its own expense, remove or relocate utilities to accommodate and conform to such improvements as directed by the County.

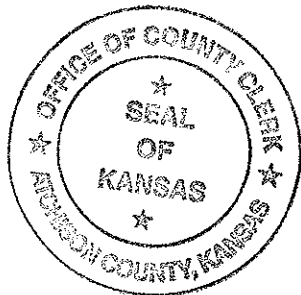
16. If there is an emergency necessitating response work or repair, any person, firm, corporation, association, utility, or entity which has been granted permission to occupy the public Right-of-Way may begin that repair or emergency response work or take any action required under the circumstances, provided that the person, firm, corporation, association utility, or entity notify the County Road and Bridge Department promptly after beginning the work and timely thereafter meets any permit or other requirement had there not been such an emergency.

ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS of Atchison County, Kansas, this 21st day of August, 2018.

By: Eric Noll
Eric Noll, Chairman

By: Henry W. Pohl
Henry W. Pohl, Commissioner

By: Jack Bower
Jack Bower, Commissioner



ATTEST:

Michelle Phillips
Michelle Phillips, Atchison County Clerk