

Introduced by: City Manager Capela
Date: January 27, 2015
Public Hearing: February 10, 2015
Action: Passed
Vote: 6-0

CITY OF BETHEL, ALASKA

Ordinance #15-01

AN ORDINANCE BY THE BETHEL CITY COUNCIL ESTABLISHING CHAPTER 12.10 UTILITY PERMITS

THEREFORE BE IT ORDAINED by the City Council of Bethel, Alaska, that the Bethel Municipal Code shall be amended and revised as follows:

SECTION 1. Classification. This ordinance is of a permanent nature and shall become a part of the Bethel Municipal Code.

SECTION 2. Severability. If any provisions of this ordinance or application thereof to any person or circumstances are held invalid, the remainder of this ordinance and the application to the other persons or circumstances shall not be affected thereby.

SECTION 3. Establishing BMC Chapter 12.10 Utility Permit Chapter 12.10 is added to the Bethel Municipal Code as follows:

12.10.010 Definitions.

A. For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

1. "As-built" means a drawing indicating the utility facility with reference to legal property lines.
2. "Public way" means any public right-of-way, street, road, alley, section line easement (that is not maintained by the state of Alaska), public easement, public use easements, drainage easements, public utility easement (not to include private utility easements or easements dedicated to a certain utility), public traveled way, prescriptive right-of-way, and includes those areas used for road maintenance and snow storage or any other public right-of-way over which the borough exercises its jurisdiction.
3. "Utility" means either a person or corporation providing utility services, the utility service provided, or the physical utility or other facilities.

12.10.020 Use of public ways.

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Public utilities may obtain a permit to reasonably use public ways in the City of Bethel. Utilities shall be installed in utility easements to the extent practical.

12.10.030 Permit required.

A. A utility may not place, install or maintain a utility within a public way without a city issued utility permit.

B. Annual permits can be issued for:

1. Service connections, except where road crossings are to be open cut or trenched; and
2. Construction in public utility easements.

C. Temporary Permits can be issued for:

1. Removal, modification, or replacement of any City-owned facilities.
2. Relocation or modification of the existing facilities.
3. Closing a lane of traffic or requires traffic control.
4. Excavating of existing material or placement of fill materials or aggregate in the right of way.
5. The installation of facilities above or below ground for the purpose of expansion or upgrade.
6. Installing facilities, cable, wire, or lines in an existing conduit installed by another utility.

D. Emergency permit can be issued for:

1. Emergency repairs outside the normal business hours of the city of Bethel, when there is a condition of imminent danger to the health, safety, and welfare of property or persons located within the city including, but not limited to, damage to persons or property from natural or manmade consequences.

12.10.040 Application.

A. An application for a permit to use a public way for a utility use shall be submitted in writing to the Public Works Director on forms provided by the City.

B. The application shall contain the following information:

1. Name and location of the public way or ways for the permit being sought;

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2. Type of utility use intended;
3. Nature of any utility to be installed under the permit;
4. Length and location of any utility line to be installed;
5. Plans sufficient to show the applicant's existing utilities, property lines, approximate traveled roadways (except for service connect permits), proposed location, and design. Other utilities and terrain features must be shown where the applicant requests a non-standard utility location.

C. The City may annually require as-built drawings of the utility installations to assure compatibility of the utility locations.

D. The Public Works Director, or Designee, shall grant or deny the permit within 20 calendar days of receipt of the application. Permits issued may include reasonable conditions to protect the property and interests of the city, and the public's health, safety and welfare.

E. Utilities shall make reasonable effort to notify affected property owners prior to application.

12.10.050 Bond or indemnity deposit.

If the Public Works Director determines that there is a possibility of injury, damage or expense to the city, the easement or the public way, arising from an applicant's proposed use of any public way, the applicant for a permit under this chapter shall furnish to the city a surety bond, cash or certified check, payable to the city, to be in an amount not less than \$500.00. The deposit shall be in an amount determined by the public works director at the time of approving the application and shall be used to pay the cost plus overhead charges such as materials, labor or other costs of inspectors, surveys or other services performed by the city above those included within the permit fee, of restoring the street and removing any earth or other debris from the street, of the replacement of any utility interrupted or damaged, and of the completion of any work left unfinished, and any other expense the city may sustain in conjunction with the permitted work. In the case of a cash indemnity deposit, the balance, if any, after the deductions listed in this subsection, shall be returned to the applicant. If the deposit is insufficient the applicant will be liable for the deficiency.

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12.10.060 Appeal.

A. Denial of a permit application by the Public Works Director may be appealed in writing to the City Manager within ten business days of written notice of the denial.

B. All appeals must include the following information:

1. The name, address, telephone number and fax number (if available) of the interested party filing the appeal;
2. The signature of the person authorized to file the appeal;
3. Identification of the permit denial being appealed;
4. A detailed statement of the legal or factual grounds for the appeal;
5. Copies of any relevant documents;
6. A clear and concise statement indicating the form of relief being requested;
7. Certification under oath that the appeal is made in good faith and that any supporting information is accurate and complete to the best of the person's knowledge and belief; and
8. An appeal fee in the amount listed in the most current City of Bethel Schedule of Rates. Charges and Fees shall be paid to the City and must be received by the deadline for filing the written appeal. This fee shall be refundable if the appellant prevails in the appeal to the City Manager.

C. Untimely or incomplete appeals will be automatically denied.

D. The City Manager shall respond, in writing, within twenty (20) business days. The decision of the manager shall be final.

12.10.070 Standards.

A. Utilities shall be located so as to assure compatibility with all present and anticipated future uses of the public way in which the utility is located. The following general standards shall apply:

1. Utilities shall be located outside of the traveled surface and maintenance area of the public way and shall be placed according to the standard utility location diagram established by the public works department, unless an alternate location is authorized by the permit.

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2. Location of the utility shall allow for maintenance of the public way and the utility.
3. Underground utilities shall be installed at the permitted depth to avoid hazards to the public and to allow for maintenance and improvements of the public way.
4. Surface utility fixtures shall be set back from existing or planned traveled surfaces and shall not be located so as to impair sight distance or create a physical obstacle or hazard.

B. Constructed utilities shall meet the most current standard published codes or regulations set forth below:

1. The National Electric Safety Code;
2. The Alaska Administrative Code, Title 17, Chapter 15, Utility Permits;
3. The Alaska Statutes, Chapters 2.15 and 2.25;
4. The Rural Utilities Service Construction Specifications;
5. The American Water Works Association Standards;
6. The Federal Department of Transportation Regulations, CFR 49; and
7. Any other applicable law, statute or regulation.

12.10.080 Existing Utilities.

A. Those utilities in existence as of January 1, 2015, constructed and installed in accordance with all statutes, codes and regulations applicable at the time of construction, may continue to exist and be maintained in public ways in the City subject to this section.

B. The release from compliance granted under this section does not create the presumption that the existing utility was properly installed. This release allows maintenance of existing utilities for their useful life, but does not authorize any change, upgrade or relocation of the utilities without obtaining a permit in accordance with this chapter.

C. This chapter does not affect permits issued prior to the effective date of the ordinance codified in this chapter.

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12.10.090 Relocation expenses.

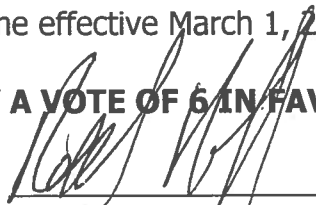
A. The cost of relocation of any utility located pursuant of a valid permit as required by the City for a public purpose shall be borne by the city, unless listed in subsection below.

B. A utility shall bear the cost of relocation in the following circumstances:

1. Any relocation required as a result of a violation of permit conditions at the time of the original construction; or
2. Installed by a utility without a valid permit; or
3. Installed at a location other than the location authorized in the permit; or
4. Because the utility does not otherwise meet the requirements of this chapter.

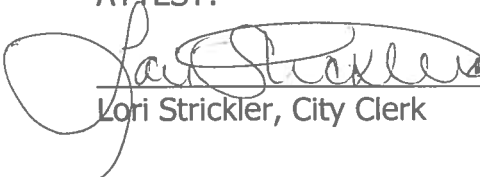
SECTION 5. Effective Date. This section shall become effective March 1, 2015.

ENACTED THIS 10 DAY OF FEBRUARY 2015, BY A VOTE OF 6 IN FAVOR AND 0 OPPOSED.



Richard Robb, Mayor

ATTEST:



Lori Strickler, City Clerk