

**ORDINANCE NO:** 563

**AN ORDINANCE AMENDING COLE CAMP MUNICIPAL CODE CHAPTER 500 BY ADDING SECTIONS 515.010 TO 515.070, CONSTRUCTION IN RIGHT-OF-WAY.**

WHEREAS, the City Council of City of Cole Camp deems it appropriate to add to the existing section in our Cole Camp Municipal Code Section 515.010 to 515.070, Construction Right-of-Way;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COLE CAMP MISSOURI, AS FOLLOWS:

**Section 1. Add Construction in Right-of-Way as follows:**

**CHAPTER 515.010. Construction in Right-of-Way**

**Section 515.010. Definitions.**

The term “construction in right-of-way” whenever used in this chapter shall be held and construed to mean and include any surface, above surface and subsurface occupancy or use of any public right-of-way wherever located in the City of Cole Camp, and such subsurface use shall include any vault, bin, cellar, passageway, pipeline, tank, elevator, chute, or any other structure or improvement.

The term “commercial,” whenever used in this chapter, shall mean development associated with uses other than single-family and duplex.

The term “residential,” whenever used in this chapter, shall mean development associated with single family and duplexes.

**Section 515.020 Written Permission Required.**

- A. It is unlawful for any public or private utility (or their contractor), other public or semi-public entity, to use any public right-of-way for new construction, repair, or replacement purposes without written permission from the City of Cole Camp and without complying with the provisions of this chapter in relation thereto; provided that nothing herein contained shall apply to street maintenance work performed by the City of Cole Camp.

**Section 515.030. Permit Application – Information required.**

Application for permits herein provided for shall be filed with the City of Cole Camp Director of Public Works. Information required in the application includes:

- A. An accurate description of the right-of-way or portion thereof desired to be used as herein specified.
- B. The nature of the construction activity proposed to be taken in the right-of-way by the applicant.

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- C. The name and address of the applicant and any subcontractor(s) intended to perform the work
- D. The plans and specifications for any utility or structure desired to be constructed, erected, or maintained by the applicant in the right-of-way; and
- E. If the request is to construct a subsurface use of said right-of-way, a certificate of title or other document or indicia of title showing the applicant to be the owner of the premises abutting the right-of-way where the subsurface use or improvement is to be conducted or constructed.

**Section 515.040. Processing of Application.**

The Director of Public Works, or designee, shall cause each application to be examined to determine if it complies with the provisions of this chapter. The Director of Public Works and other City staff or elected officials of the City of Cole Camp may inspect the premises which are desired to be used. Photographic evidence of the current conditions of the pavement and related conditions of the right-of-way shall be taken to determine the current conditions of the area. This record is to be accompanied by notes including pavement and curbing conditions, drainage swale or storm sewer inlet conditions, or other improvements in the right-of-way for which the City of Cole Camp has maintenance and repair responsibilities.

If the Director of Public Works, or designee, determines that the application conforms to the requirements of this chapter, and reviewing City Departments determine that the proposed use of such public place will not unreasonably limit or encroach upon the public's right to travel upon the right-of way, or the ancillary right to occupy the right-of-way for utility purposes, the Director of Public Works, or designee, may approve the application. In approving the permit, the City Engineer and/or Director of Public Works, or their designee, may impose such reasonable conditions as are required to meet the standards set forth in this chapter and to protect the paramount rights-of-way for travel and to protect the safety of the traveling public, and other public purposes.

**Section 515.050. Indemnity Deposit on Approved Applications For Permit.**

If the Director of Public Works, or designee, determines that there is a probability of expense to the City arising from the applicant's proposed use of public right-of-way, the applicant shall deposit with the Director of Public Works a cash deposit. The amount of the indemnity deposit shall be determined by the Director of Public Works, or designee, at the time of approving the application, and shall be governed by the anticipated amount and extent of expense to the City repair the right-of-way to its prior condition as determined by the Director of Public Works, or designee. Such indemnity deposit shall be used to pay the cost, plus 15 percent thereof, of inspections, surveys, plans, and restoring the right-of-way to its previous conditions including:

- A. Restoring the street;
- B. Removing any earth or other debris from the street;



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- C. Replacing any utility interrupted or damaged; or completing any work left unfinished;
- D. Filing an indemnity agreement with the City, if such an agreement is required within the permit; and
- E. Any other expenses the City may sustain in conjunction with the permitted work. The balance of the cash indemnity deposit, if any, after the foregoing deductions, shall be returned to the applicant. If the indemnity deposit is insufficient, the applicant will be liable for the deficiency. If the Director of Public Works, or designee, determines that engineering studies must be made prior to the approval of any application for permit, the cost of such study shall be paid for by the applicant, or deducted from his indemnity deposit.

The Director of Public Works, or designee, may require the applicant to file with the City a surety bond approved as to substance and form by the City Attorney. Said bond shall run for the full period of the permit, in a sum to be determined by the Director of Public Works, or designee, to be an amount commensurate with the subject matter of the permit. Such permits shall require that the applicant shall faithfully maintain such installation in a safe and secure condition. Further, the applicant and any of its contractors shall faithfully comply with all the terms of the permit and all the provisions of this and all other ordinances of the City, and shall faithfully perform the removal of, or reimburse the City for, the cost of returning such right-of-way to the same or better condition as though such installation had not existed, upon the revocation or voluntary termination of the permit.

**Section 515.060. Indemnity To Save The City Harmless From Claims.**

The City of Cole Camp may require the applicant to file with the Director of Public Works, prior to the effective date of any permit, a Commercial and/or Residential General Liability policy or Surety Bond using the most current version of such insurance or bond, issued by a company duly licensed to do business in the state of Missouri. The required policy or bond must be in effect for the duration of the permit. Coverages provided by the insurance policy or bond shall represent the amount of costs that the City would incur to repair or replace any improvements to the right-of-way that were disturbed or damaged as a result of the construction conducted by the applicant and/or its contractors or subcontractors. This is not intended to replace any other liability coverage that may be required by the City or that the applicant may require of its contractor and/or subcontractors.

**Section 515.070. Revocation of permits and removal of development.**

All permits and/or development granted under the provisions of this chapter may, in any case, be revoked by the Director of Public Works, or designee, upon 30 days' notice, or without notice in case any such use or occupation of the right-of-way shall become dangerous, insecure, or unsafe, or shall not be constructed, maintained, or used in accordance with the provisions of this chapter. The development shall be removed at the expense of the permittee and/or adjacent property owner.

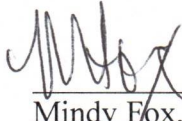
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If any such structure, obstruction, use, or occupancy is not discontinued and/or repaired on notice to do so by the Director of Public Works, the City may file a claim against the permittee's cash deposit or surety bond forthwith to remove such structure or obstruction from such place, or make such repairs upon such structure or obstruction as may be necessary to render the same secure and safe, at the expense of the permittee or successor, and such expense, together with the cost of its collection, may be collected in the manner provided by law.

Section 2. All Ordinances or parts of Ordinances in conflict herewith are hereby amended to conform to this Ordinance.

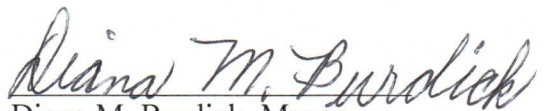
Section 3. This ordinance shall take effect and be in full force from and after its passage by the Board of Aldermen and approval by the Mayor.

READ THE FIRST TIME THIS 29<sup>th</sup> DAY IN MAY 2024  
READ AND PASSED THIS 29<sup>th</sup> DAY OF May, 2024  
AYES 4 NAYS 0 ABSENT/NOT VOTING 0


  
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Mindy Fox,  
President of the Board of Aldermen



Approved by the Mayor of said City this 29<sup>th</sup> day of May 2024.

  
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Diana M. Burdick, Mayor

ATTEST:

  
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Dawn Paul, City Clerk