

CHAPTER 15
FRANCHISE AGREEMENTS
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(amended 9-20-2011)

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**CHAPTER 15
FRANCHISE AGREEMENTS**

Article I. Franchise Agreements

15.005. Franchise Agreements

The franchise agreements between the City of Ashland and various utility and service companies and agencies may be found as Appendices at the end of this code. All agreements not appearing as an Appendix, are on file in the City Clerks office and are adopted by reference and made a part hereof as fully and completely as if they were set forth herein in their entirety.

15.010. No Automatic Adjustments

Pursuant to Section 393.275, RSMo., and any and all other applicable authority, the City shall maintain the tax rate of its business license taxes on the gross receipts of electric utilities without reduction notwithstanding any periodic fluctuations in the tariffs of such utility corporations or any notice thereof including, but not limited to, notice sent under Section 393.275, RSMo. (amended 9-20-2011, Ordinance No. 906)

Article II. Utility Permits for Right-Of-Ways

15.105. Permit Required

Pursuant to the authority granted by section 67.1832 RSMo. any utility company, which does not have a franchise agreement with the City, desiring to dig in the public right-of-way shall first obtain a permit from the City Clerk. Said permit shall be applied for not less than thirty (30) days prior to the anticipated date on which work will begin. The City will process all applications within thirty days of receipt.

1. In cases of emergency, public utility right-of-way users may proceed with required work without a permit; however, the City shall require submission of the necessary information and permit fee following the emergency. State Law Reference-67.1832.2 (1) RSMo.
2. The right-of-way user shall restore the right-of-way and surrounding areas, including the pavement and its foundation to their original condition at the cost of the user. Should a user fail to comply within ten days following the completion of the permitted project, the City shall order the work to be completed by the City maintenance department or shall contract out for such services. The public utility right-of-way user shall be responsible to reimburse all reasonable and actual

restoration costs within thirty days of invoice. State Law Reference- 67.1834.1 RSMo.

3. Restoration work completed by the public right-of-way user shall be guaranteed by the user for a period of four years. State Law Reference-67.1834.1 RSMo.

15.110. Denial of Permit

The City may deny a permit to any public utility right-of-way user for, but not limited to, the following criteria:

1. Failure on the part of the user to provide all of the necessary requested information on the permit application.
2. Failure on the part of the user to return the right-of-way to its original condition after completion of past projects.
3. The City has provided for a reasonable, competitively neutral and nondiscriminatory alternative method for completing the requisite work that does not increase the cost of the project by more than ten (10) percent or result in a declination of service quality.
4. For reasons of public health and safety when such concerns are within the jurisdiction of the City, do not infringe upon the public utility's right of eminent domain of private property and denial is imposed on a competitively neutral and nondiscriminatory basis.
5. The area where work is requested is environmentally sensitive as defined by state statute or is identified as an historic district by local ordinance. State Law Reference 67.1836.1 (1)-(5)

15.115. Breaches of Permit, Cures

1. The City shall notify the user in writing of any substantial breach of the terms or conditions of the permit and the user shall address such breaches within ten days. The City shall reserve the right to revoke the permit of the user for failure to comply with the terms of the permit if the breach is not cured within the ten-day period. In the event that a permit is revoked the City shall not refund any permit fees and may impose a fine in the amount of any reasonable and actual costs associated with having the right-of-way restored to its original condition.
2. If a user's permit is revoked, the user may appeal the action to the Board of Aldermen in writing five (5) days prior to the next regularly scheduled City Council meeting. The matter will appear on the agenda and be reviewed by the Board of Aldermen. Decisions of the Board of Aldermen will be recorded and a

written decision will be mailed to the user's address of record as it appears on the permit application. Any appeal of the Board's actions will need to be addressed through mediation or binding arbitration pursuant to sections 67.1838.1 through 67.1838.4 RSMO.

3. Substantial breeches of permits shall include, but not be limited to the following actions:
 1. Material violations of the permit.
 2. Evasion or an attempt to evade material provisions of the permit or to perpetrate fraud or deceit upon the City or any of its citizens.
 3. A material misrepresentation of fact in the permit application.
 4. Failure to complete work by the deadline stipulated in the permit, unless an extension has been granted by the City or failure to complete the work is due to reasons beyond the user's control.
 5. Failure on the part of the user to correct, within ten (10) days work that does not conform to applicable national safety codes, industry construction codes, or local safety codes. State Law Reference-67.1836.1-67.1836.2 RSMo.

15.120. Permit, Fee

The entity requesting a permit shall pay a fee to cover the costs of the City in issuing the permit in an amount of \$200.00 plus any additional costs incurred from the City Engineer during his review of the application.