

II. IMPLEMENTATION AUTHORITIES

The utility right-of-way requirements identified in the previous section are secured through a variety of public land regulation, private acquisition procedures, or can be reduced by certain design strategies.

1. LAND USE REGULATIONS

Road Right-of-Way

As described, many utilities are often incorporated within road rights-of-way. Utilities may use municipal road rights-of-way under the authority of either Anchorage Municipal Code 21.45.140 or Anchorage Municipal Code 24.60. The former provides sufficient area for the development of a road cross-section that encompasses an area for utilities, either within the road prism or within the right-of-way at the edge of the road and adjacent to private property. The latter gives the authority to the municipal department of Public Works to authorize the placement of a utility within a municipal road right-of-way through the issuance of a permit authorizing the specific terms of the utility installation. Importantly, the utility may be forced to relocate at its expense if municipal road construction or any other authorized construction requires the removal and relocation of the utility. The only instances where the Public Works Department is required to reimburse a utility that is relocated include:

- Where the utility was installed under a valid permit or agreement between the department and the utility that expressly provided for the distribution of costs of relocation between the two parties.
- Where the provisions of AMC 21.90.080 apply; this relates to the reimbursement of relocated utility facilities as part of road projects affected by the provisions of the Utility Undergrounding Ordinance.

Outside of major roadways identified for reconstruction or upgrade in AMATS planning documents, it has been difficult to foresee the need for road widening at the time of initial utility placement, and the provisions of AMC 24.60 have not been applied.

Different reimbursement policies and authorities apply to road projects under the jurisdiction of the State of Alaska Department of Transportation and Public Facilities. Alaska Statute 19.25.020 and .040 require the state to reimburse utilities affected by any change, removal, or relocation caused by highway construction if the utility permit allowing

said utility was issued more than five years before the highway contract for the road improvement. For this reason, the costs of utility relocations are generally an expense of the road construction if it is a state project--in contrast to municipal policy, which required these costs to (generally) be borne by the affected utility. A permit must be obtained from the department for any utility work within a state right-of-way pursuant to Section 17 of the Alaska Administrative Code (AAC), Chapter 25.

Private Property Areas

Where private property must be used for utility purposes, these areas have been reserved at the time of platting through the dedication of utility easements. Under AMC 21.80.050, the platting authority may "...require the dedication of utility easements when a utility company demonstrates a specific need for them." This section of the code indicates, however, that "...whenever possible, utilities shall be placed in dedicated rights-of-way." Interestingly, this code section sets dimensional requirements of a limited amount, and for only side and rear yards.

2. ACQUISITION OF EASEMENTS

When platting has already occurred, or when an additional, exclusive utility area is required, easements may be secured from property owner(s). Such easements may be either aerial or surface, and may be secured either through voluntary donation by the private property owner or through fee simple acquisition by the utility.

3. DESIGN

In those instances where it is not possible to secure an easement, where structures have already been constructed within private property, or where certain design objectives are to be realized, cantilever construction may be used. However, it should be noted that cantilever construction is not a desirable form, particularly when double circuiting must be used, because of the difficulty of maintenance work on the lines. As explained, such construction utilizes the road right-of-way in order to minimize easement requirements and impacts to adjacent, developed properties. A related technique involves the use of double-circuits; this entails the installation of two otherwise separate circuits on a single, common utility pole. This technique may be combined with cantilever tower construction to further reduce utility right-of-way needs. It should be noted that this practice is at the expense of system reliability and is generally avoided by the electric utilities unless no other alternative exists.

The use of these implementation strategies is directly related to the types of right-of-way requirements and constraints discussed in the previous section. Table 2-1 describes the principle authorities used in the majority of utility placement situations.

TABLE 2-1

**Relationship of Municipal Implementation Authorities
to Land Use Types**

<u>Land Attributes</u>	<u>AMC 24.60</u>	<u>AMC 21.80</u>	<u>Easement Acquisition</u>
Vacant, unplatted w/o road ROW		X	
Vacant, unplatted with road ROW	X	X ¹	
Vacant, platted w/o road ROW			X
Vacant, platted with road ROW	X		X ¹
Built-up, platted w/o road ROW			X ¹
Built-up, platted with road ROW	X		X ¹

Notes

¹ Assumes part of easement within private property.